

AGENDA

Thursday, August 4, 2016 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2016-76

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. PRESENTATION *(Following are items of interest to the citizens of the County)*

1. Presentation recognizing 2016 NACo Achievement Award program (Tracy Moreland, Public & Government Affairs)

II. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

III. PUBLIC HEARING *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. Resolution Referring the Ballot Measure Renewing the Current County Sheriff's Public Safety Local Option Levy to the County Clerk for Publication and Placement on the November 8, 2016 Ballot (Sheriff Craig Roberts, Stephen Madkour, County Counsel)

IV. CONSENT AGENDA *(The following Items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Work Sessions. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

1. Approval of an Agency Service Agreement with Lifeworks, NW for Assertive Community Treatment Programs – *Behavioral Health*
2. Approval of an Intra-Agency Agreement with Clackamas County Children, Youth and Families Division for Alcohol and Drug Prevention Strategies for Families – *Behavioral Health*

B. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*

C. Department of Employee Services

1. Approval of the Clackamas County Deferred Compensation Plan and the Housing Authority of Clackamas County Deferred Compensation Plan

D. County Counsel

1. Approval of an Intergovernmental Agreement between Clackamas County and Multnomah County for a HIPPA Compliance Specialist

E. Business & Community Services

1. Approval of Allocation Certification Agreement with the Oregon State Marine Board for Maintenance Assistance Program (MAP) 2016-17 Funding

V. NORTH CLACKAMAS PARKS & RECREATION DISTRICT

1. Approval of an Intergovernmental Agreement with Clackamas Community College for Education and Enrichment Services for the Milwaukie Center

VI. COUNTY ADMINISTRATOR UPDATE

VII. COMMISSIONERS COMMUNICATION

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. www.clackamas.us/bcc/business.html



August 4, 2016
Board of County Commissioners
Clackamas County

Members of the Board:

Presentation recognizing 2016 NACo Achievement Award program staff

Purpose/Outcomes	Recognizing Clackamas County programs and staff who earned National Association of Counties (NACo) 2016 Achievement Awards.
Fiscal Impact	\$300 in application fees (\$60 per submission)
Funding Source	PGA General Fund
Duration	N/A
Previous Action	None
Strategic Plan Alliance	Building Public Trust Through Good Government
Contact Person	Tracy Moreland, Community Relations Specialist – PGA 503-655-8520

BACKGROUND

Public and Government Affairs is pleased to present to the Board of County Commissioners several county departments honored by the National Association of Counties (NACo) with a 2016 Achievement Award. NACo awards recognize effective and innovative programs that contribute to and enhance county governments throughout the United States.

The following awards were presented to Clackamas County:

Adoption of Land Use Regulations for Marijuana-Related Businesses

Category: Planning

In November 2014, Oregon voters legalized the use of marijuana for recreational use effective July 1, 2015. The statewide licensing of recreational marijuana businesses was scheduled to begin Jan. 4, 2016. That gave Clackamas County just six months to determine what, if any, land use regulations they wanted to adopt related to marijuana. Commissioners directed Planning and Zoning Division staff to begin developing new regulations for marijuana land use that involves the community members. This award honors those efforts.

RiverHealth Stewardship Program

Category: Environmental Protection and Energy

RiverHealth is a grant-funded program implemented by Water Environment Services in 2013 to help improve the health of Clackamas County Service District No. 1 watersheds. Over the past three years – with the involvement of more than 20,000 volunteers at 300 project sites – the program has offered opportunities to enhance the health and wildlife habitat in new and innovative ways.



GARY SCHMIDT
DIRECTOR

PUBLIC AND GOVERNMENT AFFAIRS
PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

Clackamas County Citizen Academy

Category: Civic Education and Public Information

In 2015, Commissioners and County Administration approved the formation of a Citizen Academy to encourage Clackamas County residents to learn more about the programs and services offered by their local county government and foster participation in county government.

The Citizen Academy concept was researched by a cohort of county employees participating in an internal leadership program, and was created to augment the county's citizen involvement program.

Leaders in Sustainability

Category: Community and Economic Development

Leaders in Sustainability program offers customized on-site assistance to businesses seeking to prevent waste, reduce energy and water consumption, use fewer toxic products, and support employees and their community. The certification process identifies best practices, and each newly-certified business is publicly recognized as a Leader in Sustainability for their efforts. As of March 2016, 29 businesses have been certified, and another 30 are going through the certification process.

A Safe Place Family Justice Center

Category: Criminal Justice and Public Safety (BEST IN CATEGORY)

A Safe Place Family Justice Center for Clackamas County opened in December 2013 and is a partnership between public and non-profit agencies co-located under one roof providing services to victims and their children fleeing domestic violence, sexual violence, elder abuse, and stalking. Services are free of charge and include safety planning, assistance with filing court protective orders, accessing emergency shelter, civil legal services, food resources, housing and counseling.

Not only was A Safe Place Family Justice Center honored with a NACo Achievement Award – it was given the distinction of Best in Category, out of more than 30 programs in Criminal Justice and Public Safety from counties across the U.S.

RECOMMENDATION

Public and Government Affairs is pleased to help the Board recognize these departments for their excellence and hard work. Congratulations to all the staff involved.

Respectfully submitted,

Gary Schmidt
Director, Public and Government Affairs



August 4, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller

Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
Assistants

Resolution Referring the Ballot Measure Renewing the Current County
Sheriff's Public Safety Local Option Levy to the County Clerk for Publication
And Placement on the November 8, 2016 Ballot

Purpose/Outcomes	Refer ballot measure to County Clerk for publication
Dollar Amount and Fiscal Impact	Revenues of approximately \$65 million over the course of five years
Funding Source	Property Tax Funded Local Option Levy – 24.8 cents per \$1,000 of assessed value
Duration	Five years, from 2017-2022
Previous Board Action	The Board has referred the Public Safety Local Option Levy has been referred to the voters in 2006 and 2011.
Strategic Plan Alignment	Ensure safe, healthy and secure communities Build public trust through good government
Contact Person	Stephen L. Madkour, County Counsel

BACKGROUND:

On November 7, 2006 Clackamas County voters approved a five-year Public Safety Local Option Levy in the amount of \$0.248 per \$1,000 of assessed value. In 2011, the levy was referred to the voters and was renewed.

The revenues raised by the levy are targeted towards:

1. Maintaining 84 Jail Beds and 30 Corrections Deputies;
2. Maintaining 18 Sheriff's Patrol Deputies and nine Detectives; and
3. Continue Expanded Drug Enforcement Program to combat methamphetamine abuse, property crimes, identity theft, child abuse and child neglect.

The proposed measure seeks a renewal for an additional five years, until 2022, allowing the Sheriff's Office to continue the programs and functions made possible by the original 2006 Local Option Levy and renewed by the 2011 levy.

RECOMMENDATION:

Staff respectfully requests that the Board of County Commissioners adopt the attached Resolution Referring the Ballot Measure Renewing the Current County Sheriff's Public Safety Local Option Levy to the County Clerk for publication and placement on the November 8, 2016 ballot.

Respectfully submitted,

Stephen L. Madkour
County Counsel

In the Matter of Referring a
Ballot Measure Renewing the
Current County Sheriff Public
Safety Local Option Levy

Resolution No.

WHEREAS, in 2006 the voters of Clackamas County approved the Public Safety Option Levy for a duration of 5 years. In 2011 the voters approved the renewal of that same levy. The levy is now scheduled to expire in 2017; and

WHEREAS, the continuation of the services provided from the revenues raised from the levy, which are estimated to be \$11 million annually, are of critical importance to the public's safety in Clackamas County; and

WHEREAS, the existing Public Safety Local Option Levy can be renewed for a period of five years from 2017-2022 without an increase in taxes; and

WHEREAS, the voters of Clackamas County should be allowed to vote on renewal of the Public Safety Option Levy during the November 2016 election.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that:

1. A Ballot Measure is hereby referred to the voters of Clackamas County regarding the renewal of the current County Sheriff public safety local option levy substantially in the form attached hereto as Exhibit A and related explanatory statement, subject to ministerial correction by staff.
2. An election shall be held in Clackamas County on Tuesday, November 8, 2016.
3. The County hereby authorizes the Chair, the County Administrator, and County Counsel or their designees to submit, sign, and otherwise take all necessary action to effectuate the foregoing and to file the ballot title with the County Clerk for publication.

DATED this 4th day of August, 2016.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

BALLOT TITLE

CAPTION (10 Words):

Renewal of Current County Sheriff Public Safety Local Option Levy

QUESTION (20 Words):

Shall Clackamas County fund law enforcement; maintain rate of 24.8 cents per \$1,000 assessed value for five years beginning 2017-2022? This measure renews current local option taxes.

SUMMARY (175 Words):

This measure does not increase taxes. It renews the expiring Public Safety Levy approved by voters in 2011. Renewing the existing levy will allow the Clackamas County Sheriff's Office to:

- Maintain funding for 84 jail beds opened since the initial passage of the levy and 30 jail deputies. This has reduced the number of prisoners released early into the community.
- This measure would continue funding for approximately 18 sheriff's patrol deputies and nine detectives that help keep neighborhoods and communities safe in every part of Clackamas County.
- Continue Sheriff's expanded drug enforcement program to arrest drug traffickers and those involved in drug-related crimes such as identity theft, property crimes, child abuse, and child neglect. Levy support has allowed the Sheriff's office enhanced drug enforcement program to take numerous children into protective custody.

This measure would cost 24.8 cents per \$1000 of assessed value. The cost would be approximately \$4.13 per month, or \$49.56 per year, on a \$200,000 home. It is estimated the proposed rate would raise \$11.88 million in 2017-18, \$12.35 million in 2018-19, \$12.85 million in 2019-20, \$13.36 million in 2020-21, and \$13.89 million in 2021-22.

**CLACKAMAS COUNTY EXPLANATORY STATEMENT FOR VOTERS' PAMPHLET
FOR RENEWAL OF THE PUBLIC SAFETY LOCAL OPTION LEVY**

Passage of this measure would renew the existing Public Safety Local Option Levy approved by the voters in 2011, began in 2012 and set to expire in 2017.

A yes vote on Measure X-XXX would not increase taxes.

A yes vote on Measure X-XXX would:

- Maintain 84 jail beds and 30 jail deputies;
- Retain approximately 18 Sheriff's patrol deputies and nine detectives; and
- Continue the Sheriff's expanded drug enforcement program.

The renewed levy is limited to the five-year fiscal period from 2017 through 2022. Future renewals of this levy would not occur without voter approval. The money raised by this measure must be used exclusively for the law enforcement purposes stated in the Ballot Title.

The revenues generated by this measure would:

Maintain 84 jail beds in the Clackamas County Jail that were opened since the initial passage of the levy. Funding for these 84 jail beds has reduced the number of prisoners released early into the community.

Maintain funding for approximately 18 Sheriff's patrol deputies, nine detectives and 30 jail deputies.

Continue Sheriff's expanded drug enforcement program to arrest drug traffickers and those involved in drug-related crimes such as identity theft, property crimes, child abuse, and child neglect.

A no vote on Measure X-XXX would:

- Close 84 jail beds;
- Increase the number of prisoners released early into the community;
- Eliminate approximately 57 Sheriff's deputies;
- Eliminate Sheriff's expanded drug enforcement program.

This measure would cost 24.8 cents per \$1000 of assessed value. The cost would be approximately \$4.13 per month, or \$49.56 per year, on a \$200,000 home. It is estimated the proposed rate would raise \$11.88 million in 2017-18, \$12.35 million in 2018-19, \$12.85 million in 2019-20, \$13.36 million in 2020-21, and \$13.89 million in 2021-22.

Explanatory Statement Furnished by Clackamas County Board of Commissioners

Authorized Signature

Date: _____, 2017

August 4, 2016

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an Agency Service Agreement with Lifeworks, NW for
Assertive Community Treatment Programs

Purpose/Outcomes	To provide non-fidelity Assertive Community Treatment programs (ACT) to Clackamas County residents enrolled with Health Share of Oregon for their Oregon Health Plan (OHP) benefits
Dollar Amount and Fiscal Impact	The contract maximum is \$750,000.00
Funding Source	Oregon Health Authority - no County General Funds are involved.
Duration	Effective July 1, 2016 and terminates on June 30, 2017
Previous Board Action	This is the renewal of contract #7220. The previous agreement was approved by the Board of County Commissioners on June 26, 2014 - agenda item 062614-A25
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division – 503-742-5305
Contract No.	7778

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of an Agency Service Agreement with Lifeworks NW for providing non-fidelity Assertive Community Treatment programs (ACT) to residents who are eligible members of HealthShare, OHP. The Behavioral Health Division has partnered with Lifeworks NW for behavioral health services since 2005.

This contract is retroactive to date awaiting approval and signature from contractor. The contract is effective July 1, 2016 and continues through June 30, 2017.

Counsel reviewed and approved this agreement on June 27, 2016

RECOMMENDATION:

Staff recommends the Board approval of this contract and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing and Human Services

AGENCY SERVICE CONTRACT

Contract # 7778

This Agency Service Contract is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY," and **LIFEWORKS NW** Hereinafter called "AGENCY." Throughout this contract and all exhibits, the term "DEPARTMENT" shall refer to and mean the State of Oregon, Oregon Health Authority, and "this agreement" means Contract #7782 and all exhibits.

CONTRACT

1.0 Engagement

COUNTY hereby engages AGENCY to *Assertive Community Treatment (ACT) services* as more fully described in Exhibit B, Scope of Work, attached hereto and incorporated herein.

2.0 Term

Services provided under the terms of this contract shall commence on **July 1, 2016** and shall terminate **June 30, 2017** unless terminated by one or both parties as provided for in paragraph 6.0 below.

3.0 Compensation and Fiscal Records

3.1 Compensation. COUNTY shall compensate AGENCY as specified in Exhibit C, Compensation. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

Maximum contract payment to AGENCY shall not exceed **\$750,000.00**

3.2 Withholding of Contract Payments. Notwithstanding any other payment provision of this contract, should AGENCY fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until AGENCY submits required reports, performs required services, or establishes to COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of AGENCY.

3.3 Financial Records. AGENCY and its subcontractors shall maintain complete and legible financial records pertaining in whole or in part to this contract. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines. Financial records and supporting documents shall be retained for at least six (6) years or such period as may be required by applicable law, following final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to AGENCY were in excess of the amount to which AGENCY was entitled, AGENCY shall repay the amount of the excess to COUNTY.

3.4 Access to Records and Facilities. COUNTY, DEPARTMENT, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of AGENCY that are directly related to this contract, the funds paid to AGENCY hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, and transcripts. In addition, AGENCY shall permit authorized representatives of COUNTY and DEPARTMENT to perform site reviews of all services delivered by AGENCY hereunder.

3.4.1 AGENCY shall maintain up-to-date accounting records that accurately reflect all revenue by source, all expenses by object of expense, and all assets, liabilities and equities consistent with Generally Accepted Accounting Principles and Oregon Administrative Rules. AGENCY shall make reports and fiscal data generated under and for this agreement available to COUNTY upon request.

3.4.2 COUNTY may conduct a fiscal compliance review of AGENCY as part of compliance monitoring of this agreement. AGENCY agrees to provide, upon reasonable notice, access to all financial books,

documents, papers and records of AGENCY which are pertinent to this agreement to ensure appropriate expenditure of funds under this agreement. COUNTY shall monitor compliance with COUNTY's financial reporting and accounting requirements.

3.4.3 AGENCY may be subject to audit requirements. AGENCY agrees that audits must be conducted by Certified Public Accountants who satisfy the independence requirement outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct), the Oregon State Board of Accountancy, the independence rules contained within Governmental Auditing Standards (1994 Revision), and rules promulgated by other federal, state and local government agencies with jurisdiction over AGENCY.

3.4.4 AGENCY shall establish and maintain systematic written procedures to assure timely and appropriate resolution of review or audit findings and recommendations. AGENCY shall make such procedures and documentation of resolution of audit findings available to COUNTY upon request.

4.0 Manner of Performance

4.1 Compliance with Applicable Laws and Regulations and Special Federal Requirements. AGENCY shall comply with all Federal, State, local laws, rules, and regulations applicable to the work to be performed under this contract, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit D, paragraph 9. Compliance with Applicable Law, attached hereto and incorporated herein by this reference. AGENCY shall comply with Oregon Administrative Rule (OAR) 410-120-1380, which establishes the requirements for compliance with Section 4751 of Omnibus Budget Reconciliation Act (OBRA) 1991 and ORS 127-649, Patient Self-Determination Act.

4.1.1 AGENCY must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of AGENCY'S warranty, in this Contract that AGENCY has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state shall also constitute a material breach of this Contract. Any violation shall entitle AGENCY to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- i. Termination of this Contract, in whole or in part;
- ii. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to AGENCY, in an amount equal to COUNTY'S setoff right, without penalty; and
- iii. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of AGENCY'S breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.
- iv. These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

4.2 Precedence. A requirement listed both in the main boilerplate of this contract and in an exhibit, the exhibit shall take precedence.

4.3 Subcontracts. AGENCY shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from COUNTY.

4.4 Independent AGENCY. AGENCY certifies that it is an independent AGENCY and not an employee or agent of COUNTY, State, or Federal Government as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of AGENCY.

4.5 Tax Laws. The AGENCY represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

- i. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- ii. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, to AGENCY'S property, operations, receipts, or income, or to AGENCY'S performance of or compensation for any work performed by AGENCY;
- iii. Any tax provisions imposed by a political subdivision of this state that applied to AGENCY, or to goods, services, or property, whether tangible or intangible, provided by AGENCY; and
- iv. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

5.0 General Conditions

5.1 Indemnification. AGENCY agrees to indemnify, save, hold harmless, and defend COUNTY, its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demand attributable in whole or in part to the acts or omissions of AGENCY, and AGENCY's officers, agents, and employees, in performance of this contract.

AGENCY shall defend, save, hold harmless and indemnify the State of Oregon, AMH and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of AGENCY, or its agents or employees under this contract.

If AGENCY is a public body, AGENCY's liability under this contract is subject to the limitations of the Oregon Tort Claims Act.

5.2 Insurance. During the term of this agreement, AGENCY shall maintain in force, at its own expense, each insurance noted below:

5.2.1 Commercial General Liability

Required by COUNTY Not required by COUNTY

AGENCY shall obtain, at AGENCY's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/\$3,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute it.

5.2.2 Commercial Automobile Liability

Required by COUNTY Not required by COUNTY

AGENCY shall also obtain at AGENCY's expense, and keep in effect during the term of the Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$2,000,000.

5.2.3 Professional Liability

Required by COUNTY Not required by COUNTY

AGENCY agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$3,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including

loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.

5.2.4 Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the AGENCY's insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of this contract.

5.2.5 Additional Insured Provisions. The insurance, other than the professional liability insurance, Workers' Compensation, and Personal Automobile Liability insurance, shall include "Clackamas County, its commissioners, agents, officers, and employees" as an additional insured.

5.2.6 Notice of Cancellation. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days' notice of cancellation provision shall be physically endorsed on to the policy.

5.2.7 Insurance Carrier Rating. Coverages provided by AGENCY must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

5.2.8 Certificates of Insurance. As evidence of the insurance coverage required by this contract, AGENCY shall furnish a Certificate of Insurance to COUNTY. No contract shall be in effect until the required certificates have been received, approved and accepted by COUNTY. The certificate will specify that all insurance-related provisions within this contract have been complied with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

5.2.9 Primary Coverage Clarification. AGENCY's coverage will be primary in the event of a loss.

5.2.10 Cross Liability Clause. A cross-liability or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by this contract.

5.3 Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and AGENCY that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY by execution of this agreement consents to the in personal jurisdiction of said courts.

5.4 Amendments. The terms of this contract shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by AGENCY and COUNTY.

5.5 Severability. If any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this contract shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support of the activity contracted herein except as set forth in this contract.

5.8 Oregon Constitutional Limitations. This contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provision herein, which would conflict with such law, is deemed inoperative to that extent.

5.9 Oregon Public Contracting Requirements. Pursuant to the requirements of ORS 279B.020 and ORS 279B.220 through 279B.235 the following terms and conditions are made a part of this contract:

5.9.1 AGENCY shall:

- i. Make payments promptly, as due, to all persons supplying to AGENCY labor or materials for the prosecution of the work provided for in this contract.
- ii. Pay all contributions or amounts due the Industrial Accident Fund from such agency or sub-contractor incurred in performance of this contract.
- iii. Not permit any lien or claim to be filed or prosecuted against COUNTY on account of any labor or material furnished.
- iv. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If AGENCY fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to AGENCY or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing COUNTY may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due AGENCY by reason of this contract.

5.9.3 No person shall be employed for more than ten (10) hours in any one day, or more than forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279A.055, the employee shall be paid at least time and one-half pay:

- i. for all overtime in excess of eight (8) hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday;
- ii. for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
- iii. for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

5.9.4 AGENCY shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under person services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.5 As required by ORS 279B.230, AGENCY shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of AGENCY, of all sums that AGENCY agrees to pay for the services and all moneys and sums that AGENCY collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.

5.9.6 Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126. AGENCY shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

5.10 Ownership of Work Product. All work products of the AGENCY which result from this contract are the exclusive property of COUNTY.

5.11 Integration. This contract contains the entire agreement between COUNTY and AGENCY and supersedes all prior written or oral discussions or agreements.

5.12 Successors in Interest. The provisions of this contract shall not be binding upon or inure to the benefit of AGENCY's successors in interest without COUNTY's explicit written consent.

6.0 Termination

6.1 Termination without Cause. This contract may be terminated by mutual consent of both parties, or by either party, upon ninety (90) days' notice, in writing or delivered by certified mail or in person.

6.2 Termination with Cause. COUNTY may terminate this contract effective upon delivery of written notice to AGENCY, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. The contract may be modified to accommodate a reduction in funds.

6.2.2 COUNTY has evidence that AGENCY has endangered or is endangering the health or safety of clients, staff or the public. AGENCY shall ensure the orderly and reasonable transfer of care in progress with consumers and shall work with COUNTY staff to accomplish the same.

6.2.3 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of AGENCY, or the lapse relinquishment, suspension, expiration, cancellation or termination of AGENCY's insurance as required in this contract.

6.2.4 AGENCY's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage AGENCY's affairs, or the judicial declaration that AGENCY is insolvent.

6.2.5 AGENCY fails to perform any of the other provisions of this contract, or fails to pursue the work of this contract in accordance with its terms, and after written notice from the COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.2.6 Debarment and Suspension. COUNTY shall not permit any person or entity to be an AGENCY if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 45 CFR part 76). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and AGENCYS declared ineligible under statutory authority other than Executive Order No. 12549. COUNTY shall require all AGENCYS with awards that exceed the simplified acquisition threshold to provide the required certification regarding their exclusion status and that of their principals prior to award.

6.3 Notice of Default. COUNTY may also issue a written notice of default (including breach of contract) to AGENCY and terminate the whole or any part of this contract if AGENCY substantially fails to perform the specific provisions of this contract. The rights and remedies of COUNTY related to default (including breach of contract) by AGENCY shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

6.4 Transition. Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

7.0 Notices

If to AGENCY:

Lifeworks NW.
14600 NW Cornell Road
Portland, OR 97229

If to COUNTY:

Clackamas County Behavioral Health Division
Attention: Contracts and Credentialing Analyst
2051 Kean Road, #154
Oregon City, OR 97045

This contract consists of seven (7) sections plus the following exhibits and attachments which by this reference are incorporated herein:

- Exhibit A Definitions
- Exhibit B Scopes of Work
- Exhibit C Compensation
- Exhibit D Reporting Requirements
- Exhibit E Statement of General Conditions

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed by their duly authorized officers.

LIFEWORKS NW

By:

CE Dunkle-Weyrauch
Mary Monnat, CEO-President
Connie Dunkle-Weyrauch, CFO
VP of Finance

Date _____
14600 NW Cornell Road
Street Address
Portland, OR 97229
City/State/Zip
(503) 645-3581 Ext: 2349 / (503) 684-1425
Phone / Fax

CLACKAMAS COUNTY

Commissioner: John Ludlow, Chair
Commissioner: Jim Bernard
Commissioner: Paul Savas
Commissioner: Martha Schrader
Commissioner: Tootie Smith

Signing on Behalf of the Board:

Richard Swift, Director
Health, Housing and Human Services Department

Date _____



EXHIBIT A DEFINITIONS

Whenever used in this Agency Services Agreement, the following terms shall have the meanings set forth below:

AMH: State of Oregon, Department of Human Services, Addictions and Mental Health

AGENCY: entity contracted by COUNTY

Allowable Costs: costs described in OMB Circular A-87 except to the extent such costs are limited or excluded by other provisions of this contract

CCO: Coordinated Care Organization is an entity that has been certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care services

Community Outcome Management and Performance Accountability Support System (COMPASS): the AMH project to implement a new contracts system, roll out an optional free electronic health records systems (OWITS), and enhance the collection of data through MOTS

Contract: this Agency Services Contract between COUNTY and AGENCY for the provision of services

COUNTY: Clackamas County Behavioral Health Division

Covered Services: medically appropriate services specified in OAR 410-141-3120, "Operations and Provision of Health Services" and limited in accordance with OAR 410-141-3420, "Billing and Payment" for OHP Members. The term "Covered Services" may be expanded, limited, or otherwise changed pursuant to the Clackamas County Health Share of Oregon/Clackamas Participation Agreement and OARs. Covered Services may also refer to authorized services provided to uninsured, indigent clients.

DEPARTMENT: AMH contracts with COUNTY to establish and finance community mental health and addition programs; COUNTY, in turn, subcontracts certain services to AGENCY

DHS: Department of Human Services of the State of Oregon

Federal Funds: funds paid to AGENCY under this contract that are received from an agency, instrumentality or program of the Federal government of the United States

Health Share of Oregon: a Coordinated Care Organization serving Oregon Health Plan enrollees of Clackamas, Multnomah and Washington Counties.

Individual: an individual accessing publicly funded behavioral health services who is either an OHP Member or is determined eligible for services as an uninsured, indigent individual.

Mental Health Services: treatment services for individuals diagnosed with serious mental health illness, or other mental or emotional disturbance posing a danger to the health and safety of themselves or others

Medicaid: Federal funds received by OHA under the Title XIX of the Social Security Act and Children's Health Insurance Program Funds administered jointly with Title XIX funds as part of State medical assistance program by OHA

Mis-expenditure: money, other than an over-expenditure disbursed to AGENCY by COUNTY under this agreement and expended by AGENCY that:

- (a) is identified by the Federal government as expended contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money, for which the Federal government has requested reimbursement by the State of Oregon and whether in the form of a Federal determination of improper use of Federal funds, a Federal notice of disallowance, or otherwise; or

- (b) is identified by the COUNTY, State of Oregon or OHA as expended in a manner other than that permitted by this agreement, including without limitation, any money expended by AGENCY, contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money; or
- (c) is identified by the COUNTY, State of Oregon or OHA as expended on the delivery of a service that did not meet the standards and requirements of this agreement with respect to that service

Measures and Outcomes Tracking System (MOTS): the AMH data system that stores client data submitted by AGENCY and/or COUNTY

OAR: Oregon Administrative Rules duly promulgated by the Oregon Health Authority and as amended from time to time.

OHA: the State of Oregon, acting by and through its Oregon Health Authority.

OHP Member: an individual found eligible by a division of the Oregon Department of Human Services to receive services under the OHP (Oregon Health Plan) Medicaid Demonstration Project or State Children's Health Insurance Program and who is enrolled with COUNTY as Health Share of Oregon/Clackamas.

Oregon Web Infrastructure for Treatment Services (OWITS): is 1) an optional free electronic health records system available to Counties and their Providers to submit the MOTS data, and 2) a system to manage the AMH services

Primary Source Verification: verification from the original source of a specific credential (education, training, licensure) to determine the accuracy of the qualifications of an individual health care practitioner. Examples of primary source verification include, but are not limited to, direct correspondence, telephone verification and internet verifications.

Third Party Resources: any individual, entity, or program that is, or may be, liable to pay all or part of the cost of any Covered Service furnished to an OHP Member, including but not limited to: private health insurance or group health plan; employment-related health insurance; medical support from absent parents; workers' compensation; Medicare; automobile liability insurance; other federal programs such as Veteran's Administration, Armed Forces Retirees and Dependent Act, Armed Forces Active Duty and Dependents Military Medical Benefits Act, and Medicare Parts A and B; another state's Title XIX, Title XXI or state-funded Medical Assistance Program; and personal estates.

Valid Claim: an invoice, in the form of a CMS 1500 claim form, submitted for payment of covered health services rendered to an eligible client that is submitted within the required 120 days from the date of service or discharge and that can be processed without obtaining additional information from the provider of the service or from a third party. A valid claim is synonymous with the federal definition of a clean claim as defined in 42 CFR 447.45(b).

EXHIBIT B SCOPES OF WORK

1. Program Description

Non-fidelity Assertive Community Treatment programs for adults ages 18 and up with diagnoses of nonorganic psychosis, bipolar or long-term depression; with severe functional impairments; who may have complicating medical conditions, co-occurring substance abuse disorders and/or a developmental disability; and who have avoided or not responded well to traditional outpatient mental health care and psychiatric rehabilitation services.

Assertive Community Treatment services is provided by an interdisciplinary team that ensures service availability 24 hours a day, 7 days per week and is prepared to carry out a full range of treatment functions wherever and whenever needed. The AGENCY must have a low staff to client ratio (not to exceed 1:15) and a "whatever it takes" community-based service delivery approach. Services will be flexible, adapting to each person's changing needs and personal recovery goals. Individual are referred to the Assertive Community Treatment team when it has been determined that the individual's needs are so pervasive and/or unpredictable that they cannot be met effectively by any other combination of available community services.

Service components of a non-fidelity Assertive Community Treatment model shall include:

- Initial and on-going assessments
- Psychiatric services
- Case management
- Employment and housing assistance
- Family support and education
- Substance abuse services
- Other supports and services critical to the individual's ability to live independently in the community

To increase each individual's success in community living, the AGENCY will operate in close collaboration with families, providers of physical health care, psychiatric inpatient units, alcohol and drug treatment services, law enforcement and justice, housing, social services, shelter services, employment services and educational programs. AGENCY will ensure staff attendance and coordination with Treatment Courts for any clients enrolled in Drug Court or Mental Health Court.

The AGENCY will include activities designed to: promote symptom stability and appropriate use of medication; restore personal, community living and social skills; promote and maintain physical health; establish access to entitlements, housing, work, and social opportunities; and promote and maintain the highest possible level of functioning in the community.

Measurable outcomes will be jointly negotiated between COUNTY and AGENCY at a future date.

1. Program Performance Measures.

At a minimum, AGENCY shall track the performance measures identified below and detailed in program instructions prepared by COUNTY and incorporated into this agreement by reference.

Program Goal	Performance Measure	Target # or %	Monthly Source
Maintain required access for routine, urgent and emergent appointments	Percent of individuals receiving routine initial appointments within 14 days of request	Target: 100%	Provider access reports Secret shopper calls Anecdotal information from clients and other partners, crisis lines
Ensure adequate and timely follow-up care for consumers after discharge from a hospital for mental illness	Percent of consumers who have an ambulatory mental health visit within seven (7) days of hospital discharge	Target: 90%	HSO Claims Data
Improve outcomes by the use of Treat to Target tools	Percent of consumers that have reached the target number of treatment sessions with positive outcomes Percent of consumers served that are evaluated using an outcomes measurement instrument.	Target: 50% Target: 50%	ACORN data or new treat to target outcome measures developed and implemented by Health Share of Oregon.

AGENCY shall participate with the COUNTY in evaluation of contracted project/service outcomes, satisfaction surveys, or performance, and to make available all information required by such evaluation process. This includes providing COUNTY with data necessary to verify consumer counts, service provision, and outcome measures.

EXHIBIT C COMPENSATION AND BUDGET

1. Compensation

COUNTY shall compensate AGENCY for satisfactorily performing services as specified in Exhibit B as follows:

Maximum contract payment to AGENCY shall not exceed **\$750,000.00** for the period of **July 1, 2016 through June 30, 2017**, less any revenue from Medicare, open card, or private insurance.

AGENCY will be paid a capacity payment for a total of **50 consumers** to be served by the ACT team. Consumers will be covered by either Health Share of Oregon-Clackamas, Clackamas Indigent Services, or OHP Open Card. This will replace Fee for Service payments for those services.

Payment shall be full compensation for work performed, services rendered, and all labor, materials, supplies, equipment, travel expenses, mileage, and incidentals necessary to perform the work and services.

The estimated requirements funding for these services is subject to the limitations and requirements detailed in this agreement.

2. Method of Payment

AGENCY shall submit monthly **itemized invoices** reflecting the total true program cost less program revenue for the month prior. The invoice shall include the contract # **7778**, and the total amount due for capacity payment for the prior month. AGENCY shall attach to the invoice a list of current clients and their insurance coverage. Invoice shall include documentation of true costs, less any program revenue. AGENCY shall use the invoice template provided to them (Attachment 2).

Submit Invoices to:

Clackamas County Behavioral Health Division
Attn: Accounts Payable
2051 Kaen Road, 154
Oregon City, Oregon 97045

Or electronically to:

BHAP@co.clackamas.or.us

When submitting electronically, designate AGENCY name and contract # **7778** in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided COUNTY has approved the service specified on the invoice, COUNTY shall pay the amount requested to AGENCY.

EXHIBIT E STATEMENT OF GENERAL CONDITIONS

1. Interpretation and Administration of Agreement

AGENCY acknowledges that this agreement between COUNTY and AGENCY is subject to the underlying Health Share of Oregon/Clackamas Risk Accepting Entity Participation Agreement between Health Share of Oregon and COUNTY, the Health Plan Services Contract between the Oregon Health Authority and Health Share of Oregon, the Oregon Revised Statutes concerning the Oregon Health Plan, and other applicable Oregon statutes and administrative rules concerning mental health services. If AGENCY believes that any provision of this agreement or COUNTY's interpretation thereof is in conflict with Federal and State statutes or regulations, AGENCY shall notify COUNTY in writing immediately.

AGENCY agrees to provide medically necessary services within the scope of its practice and license (hereinafter referred to as "services") to individuals assessed as having an eligible mental health condition specified in the Oregon Health Plan "Prioritized List of Mental Health Conditions", can benefit from those services, and as described below when authorized by COUNTY's treatment authorization process. AGENCY shall provide services in accordance with OAR 410-141-3120 "Operations and Provision of Health Services"; OAR 410-141-3420 "Billing and Payment"; and all DHS Rules in OAR Chapter 309 and any other administrative rules to which AGENCY is subject, as such rules may be amended from time to time. These laws, rules and regulations, are incorporated by reference herein to the extent that they are applicable to this agreement and required by law to be so incorporated. Services provided under this agreement are to be within the scope of AGENCY's licenses and certification, and the licenses, certifications and training of its employed and contracted staff providing direct services.

2. General Performance Standards

COUNTY shall monitor services provided by AGENCY and has the right to require AGENCY's compliance with OHA and Health Share of Oregon established standards and other performance requirements relative to the quantity and quality of service and care, access to care, and administrative and fiscal management, and with all obligations and conditions stated in this agreement. AGENCY will notify COUNTY immediately in writing regarding issues related to access to care or any other potential violation of the conditions stated in this agreement.

a) Licenses and Certifications

By signing this agreement, AGENCY assures that all licenses and certifications required by statute or administrative rule are and will remain current and valid for all of AGENCY's employees and independent AGENCYs providing direct service and for all of AGENCY's facilities in which services are provided. AGENCY assures that it is certified under OAR 309-012-0130 – 309-012-0220 or licensed under ORS Chapter 443 by the State of Oregon to deliver specified services. AGENCY will promptly notify COUNTY of the initiation of any action against any licenses or, if applicable, against any certifications by any certifying boards or organizations as well as any changes in AGENCY's practice ownership or business address, along with any other problem or situation that may relate to the ability of AGENCY to carry out the duties and obligations of this contract.

b) Eligibility and Authorization of Services

AGENCY shall verify eligibility and enrollment of clients prior to providing and billing for service and obtain authorization for the provision of covered services as necessary and appropriate according to COUNTY policies and procedures. AGENCY shall participate in the COUNTY concurrent review process. AGENCY understands that authorization for services will be based upon this review process.

c) Quality Assurance and Utilization Review

AGENCY shall cooperate with, and participate in, COUNTY's quality assurance and utilization review programs. AGENCY shall also participate in Health Share of Oregon quality initiatives as developed. Further, AGENCY shall have a planned, systematic, and ongoing process for monitoring, evaluating and improving the quality and appropriateness of Covered Services provided to clients.

AGENCY shall work with COUNTY staff to ensure that authorized services provided by AGENCY to clients are the most appropriate and cost efficient, and least restrictive. AGENCY staff shall make records available to COUNTY staff on site upon reasonable notice for purposes of utilization review.

- d) Contractual Compliance
AGENCY shall ensure that all providers and staff employed or contracted by AGENCY who provide services to clients or are otherwise engaged in activities under this agreement are fully aware of and in compliance with the terms and conditions of this agreement.
- e) Provider Appeal Process
AGENCY shall have the right to appeal actions by COUNTY or decisions concerning interpretation of the Health Share of Oregon/Clackamas Risk Accepting Entity Agreement as they apply to this agreement. Appeals shall be made in writing.

Appeals related to administrative or clinical decisions and all other matters shall be made to COUNTY Administration within thirty (30) calendar days of the date of the action being appealed. A decision shall be issued within twenty-one (21) business days of receipt of the written appeal. An appeal of that decision can be made in writing to the Director of Clackamas County Behavioral Health Division within fourteen (14) business days of the date of the decision. The Director will issue a decision within twenty-one (21) business days, and that decision will be final.

3. Clinical Standards

- a) Clinical Guidelines
AGENCY shall adopt clinical guidelines that inform mental health practitioners, clients, family members and advocates with evidence-based information about mental illness and appropriate treatment options. Clinical guidelines should be based on a systematic evaluation of research evidence; be designed to assist, rather than dictate, clinical decision-making; and are to be applied on a case-by-case basis. Such guidelines should provide recommendations for appropriate care based on scientific evidence and professional consensus; support for professional standards, quality improvement activities and education; and a basis for comparing current practice to evidence-based best practices. AGENCY shall make such guidelines available to COUNTY upon request.
- b) Outcome Measure
AGENCY shall adopt the use of a measure of clinical outcomes that demonstrates a change in client status following an episode of treatment. The measurement tool adopted shall identify changes in symptoms, functioning, quality of life, adverse events or satisfaction. AGENCY shall make information about outcome measures used available to COUNTY upon request.
- c) Coordination of Care
AGENCY shall develop, implement and participate in activities supportive of a continuum of care that integrates mental health, addiction and physical health interventions in ways that are seamless and whole to the client. Integration activities may span a continuum ranging from communication to coordination to co-management to co-location to the fully integrated, person-centered health care home.
 - i) To insure appropriate coordination of services to enrolled individuals, AGENCY shall collaborate with allied agencies in the local service area, including but not limited to primary care clinics, housing authorities, chemical dependency agencies, juvenile justice, school districts, and Department of Human Resources, Child Welfare programs. AGENCY will make every effort to obtain a signed Release of Information at the onset of treatment, notifying the service partner in writing of preliminary diagnosis and prescribed medications, notifying of any major changes or medical complications that occurred during the course of treatment and notifying upon termination of treatment.
 - ii) AGENCY shall coordinate with COUNTY on referral of clients to specialty behavioral health services or to a higher intensity of service. Specifically:
 - (1) AGENCY shall coordinate with COUNTY on both admission and discharge of clients to psychiatric acute care or sub-acute psychiatric care. AGENCY shall coordinate with COUNTY and the acute or sub-acute care provider on discharge planning and the development of community resources to aid in the timely discharge and community placement of the client. AGENCY shall assure an appointment with an appropriate provider within seven (7) days of discharge from acute care, sub-acute care or psychiatric residential treatment care.

- (2) AGENCY shall coordinate with COUNTY on referral of clients to crisis respite services, particularly as those services are used to divert the admission of the client to acute care.
- (3) AGENCY shall refer clients for a Level of Service Intensity Determination Screening when a higher intensity of service appears warranted.
- (4) AGENCY shall coordinate with COUNTY to obtain Long Term Care Determination for appropriate clients.

d) Crisis Response

AGENCY will be responsible for twenty-four hour, seven days a week crisis response for their enrolled individuals. AGENCY shall establish and follow a system for appropriate and timely response to emergency needs of individuals. During the period of service, AGENCY shall respond to all enrolled client emergencies. "Emergency" shall mean the sudden onset of a mental health condition manifesting itself by acute symptoms and one or more of the following circumstances are present:

- (1) the client is in imminent or potential danger of harming himself or others as a result of an eligible condition;
- (2) the client shows symptoms, e.g., hallucinations, agitation, delusions, etc., resulting in impairment in judgment, functioning and/or impulse control severe enough to endanger his or her own welfare or that of another person; or
- (3) there is an immediate need for Services as a result of, or in conjunction with, a very serious situation such as an overdose, detoxification, potential suicide or violence.

AGENCY will have a system of crisis response to individuals enrolled in their program. At a minimum, AGENCY will have a clinician available by phone for consultation at all times. This clinician shall be familiar with the case or shall have the ability to contact clinician(s) familiar with the case.

AGENCY shall provide 24-hour, seven day per week telephone or face-to face crisis support coverage as outlined in OAR Chapter 309. Crisis services must include 24 hour, seven days per week capability to conduct, by or under the supervision of a QMHP, an assessment resulting in a Service Plan that includes the crisis services necessary to assist the individual and family to stabilize and transition to the appropriate level of care.

e) Standards of Care

COUNTY promotes resilience in and recovery of the clients it serves. COUNTY supports a system of care that promotes and sustains a client's recovery from a mental health condition by identifying and building upon the strengths and competencies within the person to assist them in achieving a meaningful life within their community. Consistent with these values, AGENCY shall:

- i) Provide services in a manner that assures continuity and coordination of the health care services provided to each client;
- ii) Accept clients for treatment on the same basis that AGENCY accepts other clients and render services to clients in the same manner as provided to AGENCY's other clients. AGENCY shall not discriminate against clients because of source of payment, race, ethnicity, gender, gender identity, gender presentation, sexual orientation, national origin, ancestry, religion, creed, marital status, familial status, age, except when program eligibility is restricted to children, adults or older adults, source of income, disability and diagnosis;
- iii) Provide clients with access to services without undue delay and as soon as necessary in light of the member's mental health condition. AGENCY shall comply with access standards as set forth in OAR 410-141-3220 "Accessibility";
- iv) Conduct its practice and treat all clients using that degree of care, skill and diligence which is used by ordinarily careful providers in the same or similar circumstances in the provider's community or a similar community (see ORS 677.095);
- v) Ensure that clients are served in the most normative, least restrictive, least intrusive and most cost effective level of care appropriate to their diagnosis and current symptoms, degree of impairment, level of functioning, treatment history, and extent of family and community supports;

- vi) Advise or advocate on behalf of clients in regard to treatment options, without restraint from COUNTY;
- vii) AGENCY shall employ a system of internal review to evaluate the care being provided within the agency, to modify service plans, adjust level of care being provided and consider duration of treatment. AGENCY will have a system of internal utilization management to assure that services are provided within the authorization maximum dollar amount, when applicable;
- viii) AGENCY shall have written policies and procedures related to consumer complaints as referenced in OAR Chapter 309; and
- ix) Agency shall notify COUNTY immediately in writing regarding issues related to access to care or any other potential violation of the requirements in the Scope of Work.

4. Encounter Submissions

a) Usual and Customary Charges

AGENCY shall bill COUNTY according to their Usual and Customary fee schedule. AGENCY shall base their Usual and Customary charges on a cost study that is updated annually.

b) Compensation

AGENCY shall be reimbursed at the COUNTY reimbursement rates in effect as of the date of service or billed charges, whichever is less.

c) Third Party Resources and Coordination of Benefits

AGENCY shall bill and collect from liable third party resources prior to billing COUNTY. If both the third party resource and COUNTY reimburse AGENCY for the same service, COUNTY shall be entitled to a refund for the exact amount of duplicate payment received by AGENCY.

AGENCY shall be responsible for maintaining records in such a manner so as to ensure that all moneys collected from third-party resources on behalf of clients may be identified and reported to COUNTY on an individual client basis. AGENCY shall make these records available for audit and review consistent with the provisions upon request.

If AGENCY has knowledge that a client has third-party health insurance or health benefits, or that either client or AGENCY is entitled to payment by a third party, AGENCY shall immediately so advise COUNTY.

Pursuant to OAR 410-141-3160, "Integration and Care Coordination", COUNTY reserves the right to coordinate benefits with other health plans, insurance carriers, and government agencies. COUNTY may release medical information to such other parties as necessary to accomplish the coordination of benefits in conformity with the Health Insurance Portability and Accountability Act (HIPAA) 45 CFR 164 and 42 CFR Part 2. Coordination of benefits shall not result in compensation in excess of the amount determined by this agreement, except where State laws or regulations require the contrary.

d) Encounter Data

AGENCY shall submit to COUNTY accurate and complete encounter data in the form of a CMS 1500 claim form for each contact with a client. To encounter data and receive payment, when applicable, AGENCY shall submit a CMS 1500 claim form to COUNTY's Third Party Administrator, Performance Health Technology Ltd (PH Tech). AGENCY shall use its best efforts to supply encounter data once a month, and shall in all cases, supply encounter data no later than 120 calendar days after a contact with a client in accordance with OAR 410-141-3420, "Billing and Payment". Each encounter claim shall include such information as required in the Health Share of Oregon/Clackamas Risk Accepting Entity Participation Agreement and meet specifications as a Valid Claim. AGENCY shall use the most current DSM Multi-Axial Classification System. DSM codes shall be reported at the highest level of specificity.

Claims may be submitted to PH Tech in either paper or electronic format.

PH Tech shall pay AGENCY on behalf of COUNTY, by the 45th business day after a valid claim is received, fee-for-service payments as specified in section 1 above. COUNTY shall have no obligation to make payment to AGENCY if AGENCY fails to obtain a valid authorization to provide services, fails to verify eligibility for Covered Services and the individual is not an eligible client on the date of service,

if the services provided are not Covered Services, or if AGENCY fails to submit fee-for-service bills within 120 calendar days of the date of service. The timely filing requirement is extended to 12 months when there is a Third Party Resource as the primary payer and to 12 months when Medicare is primary. To be considered for payment, claims resubmission requests submitted by AGENCY must be received by PH Tech within 120 days of the date of the first denial.

e) Non-Covered Services

AGENCY shall follow OAR 410-141-3420, "Billing and Payment", when submitting fee-for-service claims for services provided to OHP Members that are not Covered Services.

f) Payment in Full

Except as expressly provided below, payments to AGENCY made by COUNTY for services provided under the terms of this agreement shall constitute payment in full. OAR 410-141-3420, "Billing and Payment", AGENCY shall not bill, charge, seek compensation, remuneration or reimbursement from, or have any recourse against OHA or any client for services contracted hereunder, either during the term of this agreement or at any time later, even if COUNTY becomes insolvent. This provision shall not prohibit collection for non-covered services that may be the responsibility of the client or any permitted co-pays, co-insurance, deductibles or any other cost sharing, if any and as applicable. AGENCY may bill and collect separately for those costs which are lawfully the responsibility of the client. When combined with all sources of payment, COUNTY's payment to AGENCY shall not exceed the reimbursement amount in effect as of the date of service.

g) Overpayments

Any payments made by COUNTY to which AGENCY is not entitled under the terms of this agreement shall be considered an overpayment and shall be refunded by AGENCY within thirty (30) calendar days of the discovery, in accordance with OAR-410-120-1280, "Billing" and OAR 410-120-1397, "Recovery of Overpayments to Providers – Recoupments and Refunds". AGENCY must not seek payment from clients for any covered services, except any coinsurance, co-payments, and deductibles expressly authorized by OAR-410-120 or OAR-410-141. A client cannot be billed for services or treatment that have been denied due to provider error (e.g. required documentation not submitted, prior authorization not obtained, non-covered diagnosis, etc.).

5. Staff Standards

a) COUNTY delegates to AGENCY the credentialing and re-credentialing of employed and contracted staff, volunteers and interns who provide and/or oversee services to clients under this agreement. Pursuant to OAR 410-141-3120 "Operations and Provision of Health Services", AGENCY must, at a minimum, obtain and verify documents that provide evidence of primary source verification of credentials as follows:

- (i) Appropriate education and academic degrees, as required;
- (ii) Licenses or certificates, as required;
- (iii) Relevant work history or qualifications, as required;
- (iv) Completion of a successful criminal history records check through the Background Check Unit, a Shared Service of the Department of Human Services and the Oregon Health Authority and compliant with ORS 181A.200. and OAR 943-007-0001 to 943-007-0501;
- (v) Positive clearance by the National Practitioner Data Bank;
- (vi) Positive clearance through the General Services Administration System for Award Management (SAM) at time of hire and monthly thereafter; and
- (vii) Positive clearance through the Office of Inspector General's List of Excluded Individuals/Entities at time of hire and monthly thereafter.

AGENCY shall not permit any person to provide services under this agreement if that person is listed on the non-procurement portion of the General Service Administration's SAM in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension" (2 CFR Part 180).

In addition, AGENCY shall not permit any person to provide services under this agreement who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 "Program Integrity – Medicare and State Health Care Programs Subpart B". AGENCY may not submit claims for services provided after the date of such exclusion, conviction or termination.

AGENCY assures that all AGENCY employees and independent AGENCYs providing direct service under this agreement will work within the scope of their credentials and any applicable licensure or registration, or criteria for certification if not required to be licensed or registered pursuant to OAR 410-141-3120. AGENCY shall not allow services to be provided by an employee or independent AGENCY who does not have a valid license or certification required by state or federal law.

AGENCY ensures that all personnel providing services to clients under this agreement are properly trained and qualified to render the services they provide. AGENCY shall arrange for continuing education of personnel rendering services under this agreement as necessary to maintain such competence and satisfy all applicable licensing, certification or other regulatory requirements.

COUNTY reserves the right to review, upon reasonable notice and at AGENCY's site, the actual documents describing the credentials of AGENCY's employees and independent AGENCYs for purposes of verification.

6. Recordkeeping

a) Clinical Records, Access and Confidentiality

(i) Clinical Records.

AGENCY shall ensure maintenance of recordkeeping consistent with OAR 410-141-3180, "Record Keeping and Use of Health Information Technology." The clinical record shall fully document the mental condition of the client and the services received by the client under this agreement. All clinical records relevant to this agreement shall be retained for at least seven (7) years after the date of clinical services for which claims are made, encounters reported, final payment is made, or all pending matters are closed, whichever time period is longer. If an audit, litigation, research and evaluation, or other action involving the records is started before the end of the seven-year-period, the records must be retained until all issues arising out of the action are resolved or until the end of the seven-year-period, whichever is later.

(ii) Government Access to Records.,

At all reasonable times, AGENCY and its subcontractors shall provide the Center for Medicare and Medicaid Services (CMS), the Comptroller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice Medicaid Fraud Unit, Oregon Department of Human Services Office of Payment Accuracy and Recovery, OHA, COUNTY and all their duly authorized representatives the right of access to AGENCY's financial (including all accompanying billing records), clinical/medical, and personnel records that are directly pertinent to this agreement in order to monitor and evaluate cost, performance, compliance, quality, appropriateness and timeliness of services provided, and the capacity of AGENCY to bear the risk of potential financial losses. These records shall be made available for the purpose of making audit, examination, excerpts and transcriptions. AGENCY shall, upon request and without charge, provide a suitable work area and copying capabilities to facilitate such a review or audit.

(iii) Confidentiality and Privacy of Records. The confidentiality of information concerning clients is subject to State and Federal guidelines, including but not limited to State (ORS 179.505 through 179.507, ORS 192.502, ORS 411.320, ORS 433.045(3)) and Federal (42 CFR Part 2, 42 CFR Part 431, Subpart F, 45 CFR 205.50) confidentiality laws and regulations. AGENCY and COUNTY shall not use, release, or disclose any information regarding a client for any purpose not directly connected with the administration of this agreement or under Title XIX of the Social Security Act, except with the written consent of the client or, if appropriate, the client's parent or guardian, or unless otherwise authorized by law. AGENCY shall ensure that its agents, employees, officers and subcontractors with access to client records understand and comply with this confidentiality provision.

- (iv) Release of Information. AGENCY shall assure that COUNTY and any other cooperating health service providers have access to the applicable contents of the client's clinical record when necessary for use in the diagnosis or treatment of the client, to the extent such access is permitted by law. AGENCY shall release mental health service information requested by COUNTY or a provider involved in the care of a client within ten (10) business days of receiving a signed release. Except as provided in ORS 179.505(9), AGENCY shall provide the client or the client's legal guardian access to client's record and provide copies within ten (10) business days of any request for copies.
- (v) External Review. AGENCY shall cooperate with OHA by providing access to records and facilities for the purpose of an annual external, independent professional review of the quality outcomes and timeliness of, and access to, services under this agreement in accordance with 42 USC Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2); and 42 CFR 457.950(a)(3).

Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving OHP assistance and shall furnish such information to any State or federal agency responsible for administering the OHP program regarding any payments claimed by such person or institution for providing OHP Services as the State or federal agency may from time to time request. 42 USC Section 1396a (a) (27); 42 CFR 431.107(b) (1) & (2); and 42 CFR 457.950(a) (3).

b) Financial Records

AGENCY shall establish and maintain policies and procedures related to financial management and financial records consistent with Generally Accepted Accounting Principles. AGENCY shall make such policies and procedures available to COUNTY upon request.

AGENCY shall maintain up-to-date accounting records that accurately reflect all revenue by source, all expenses by object of expense, and all assets, liabilities and equities consistent with Generally Accepted Accounting Principles and Oregon Administrative Rules. AGENCY shall make reports and fiscal data generated under and for this agreement available to COUNTY upon request.

COUNTY shall conduct a fiscal compliance review of AGENCY as part of compliance monitoring of this agreement. AGENCY agrees to provide, upon reasonable notice, access to all financial books, documents, papers and records of AGENCY which are pertinent to this agreement to ensure appropriate expenditure of funds under this agreement. COUNTY shall monitor compliance with COUNTY's financial reporting and accounting requirements.

AGENCY may be subject to audit requirements. AGENCY agrees that audits must be conducted by Certified Public Accountants who satisfy the Independence requirement outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct), the Oregon State Board of Accountancy OAR 801-030-0005, the independence rules contained within Governmental Auditing Standards (2011 Revision), and rules promulgated by other federal, state and local government agencies with jurisdiction over AGENCY.

AGENCY shall establish and maintain systematic written procedures to assure timely and appropriate resolution of review or audit findings and recommendations. AGENCY shall make such procedures and documentation of resolution of audit findings available to COUNTY upon request.

Limited Scope and Full Audits shall be completed within nine (9) months of the close of AGENCY's fiscal year. Audit reports, including the Management Letter associated with the audit shall be submitted to COUNTY within two weeks from the date of the report. Failure to submit required audit reports and Management Letters shall be cause for withholding of contract payment until audits are submitted.

7. Reporting

a) Abuse Reporting

AGENCY shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if AGENCY were a mandatory abuse reporter. If AGENCY is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. AGENCY shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

- b) Behavioral Health Electronic Data System
AGENCY shall participate in the Oregon Health Authority (OHA)'s Enhanced Data Capture for all clients receiving Covered Services under this agreement. AGENCY shall submit all data to OHA via formats approved by OHA. AGENCY shall submit data in accordance with OHA timelines.
- c) Delivery System Network (DSN) Provider Capacity Report
AGENCY shall submit a DSN Provider Capacity report to COUNTY within thirty (30) days of the effective date of this agreement, identifying all staff and independent AGENCYS who will provide services to clients under this agreement. In addition, the DSN Provider Capacity Report shall be updated and resubmitted monthly to COUNTY.
- d) Access to Care
AGENCY shall submit the online regional access report to COUNTY in the prescribed format by the 15th of the month following services delivered.
- e) Critical Incidents
AGENCY shall report all critical incidents. A critical incident is an unexpected occurrence that occurs on the premises of a program, or one that involves program staff and/or a service delivery activity which results in: death or serious physical or psychological injury, or the risk thereof; clear and present risk to public safety; major illness or accident; act of physical aggression; any other unusual incident that presents a risk to health and safety. Critical incidents also include the death of any clients.

8. Monitoring

- a) Agreement Compliance Monitoring
COUNTY and OHA shall conduct agreement compliance and quality assurance monitoring related to this agreement. AGENCY shall cooperate with COUNTY and OHA in such monitoring. COUNTY shall provide AGENCY twenty (20) business day's written notice of any agreement compliance and quality assurance monitoring activity that requires any action or cooperation by AGENCY. Notice of monitoring shall include the date the monitoring shall occur, names of individuals conducting the monitoring, and instructions and requests for information.

Should AGENCY found to be out of compliance with any requirement of this agreement, the following actions may be taken by COUNTY until the issue is resolved:

- Request a conference of the parties to determine the need for technical assistance
- Require a corrective action plan
- Disallow referral of new clients to AGENCY
- Put AGENCY on probationary status and suspend billing authority

Should the issue remain unresolved, COUNTY may consider AGENCY in breach and may terminate this agreement.

- b) External Quality Review
AGENCY agrees to participate with COUNTY in any evaluation project or performance report as designed by COUNTY or applicable State or Federal agency. AGENCY shall make all information required by any such evaluation project or process available to COUNTY or COUNTY's designee within thirty (30) business days of request.

9. Fraud and Abuse

AGENCY shall comply with, and as indicated, cause all employees and subcontractors to comply with, the following requirements related to fraud and abuse. All elements of this Fraud and Abuse exhibit apply to services provided to uninsured, indigent individuals with the exception of reports to the Medicaid Fraud Control Unit (MFCU) which do not apply to indigent services.

- a) General
AGENCY, its employees and subcontractors shall comply with all provisions of the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any Oregon laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in 42 USC 1320a-7b).

AGENCY, its employees and subcontractors shall comply with Oregon laws pertaining to false claims including the following: ORS 411.670 to 411.690 (submitting wrongful claim or payment prohibited; liability of person wrongfully receiving payment; amount of recovery); ORS 646.505 to 646.656 (unlawful trade practices); ORS chapter 162 (crimes related to perjury, false swearing and unsworn falsification); ORS chapter 164 (crimes related to theft); ORS chapter 165 (crimes involving fraud or deception), including but not limited to ORS 165.080 (falsification of business records) and ORS 165.690 to 165.698 (false claims for health care payments); ORS 659A.199 to 659A.224 (whistle blowing); OAR 410-120-1395 to 410-120-1510 (program integrity, sanctions, fraud and abuse); and common law claims founded in fraud, including Fraud, Money Paid by Mistake and Money Paid by False Pretenses.

AGENCY shall include information in its employee handbooks or other appropriate documents on laws described above, regarding the rights of employees to be protected as whistleblowers.

AGENCY shall further have policies and procedures for detecting and preventing fraud, waste and abuse that shall, at a minimum, include a process for monitoring and auditing files, claims and staff performance.

Entities receiving \$5 million or more annually (under this contract and any other OHP contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and Abuse policies and procedures and inform employees, AGENCYs and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 USC § 1396a (a) (68).

Certify when submitting any claim for the provision of OHP services that the information submitted is true, accurate and complete. AGENCY shall acknowledge AGENCY's understanding that payment of the claim will be from Federal and State funds and that any falsification or concealment of a material fact may be prosecuted under Federal and State laws.

b) Fraudulent Billing and False Claims

AGENCY will report verified and suspected cases of fraud and abuse to the Medicaid Fraud Control Unit (MFCU) and COUNTY within five (5) business day of discovery.

If it is determined that services billed by AGENCY were fraudulently billed, or that a false claim was submitted, or that an instance of abuse has occurred, the following disciplinary actions may be taken by COUNTY:

- If abuse is determined, consider restitution of funds based on the severity of the abuse identified.
- If fraud is determined or a false claim verified, require restitution of funds.
- If the action identified is determined to be non-intentional, require a corrective action plan.
- Put AGENCY on probationary status and suspend billing authority until the issue is resolved
- Termination of this agreement.

COUNTY shall promptly refer all verified cases of Medicaid fraud and abuse to the MFCU, consistent with the Memorandum of Understanding between the State of Oregon Department of Human Services and the MFCU. COUNTY shall also refer cases of suspected Medicaid fraud and abuse to the MFCU prior to verification.

c) Participation of Suspended or Excluded Providers

AGENCY shall ensure that Covered Services may not be provided to clients by the following persons (or their affiliates as defined in the Federal Requisition Regulations):

- (i) Persons who are currently suspended, debarred or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issues pursuant to Executive Order 12549 or under guidelines implementing such order; and

- (ii) Persons who are currently excluded from Medicaid participation under section 1128 or section 1128A of the Act; and
- (iii) Persons who are currently excluded from providing services under the Oregon Medical Assistance Program.

d) Examples of fraud and abuse that support referral to the MFCU and COUNTY

AGENCY who consistently demonstrates a pattern of intentionally reporting encounters or services that did not occur. A pattern would be evident in any case where 20% or more of sampled or audited services are not supported by documentation in the clinical records. This would include any suspected case where it appears that the provider knowingly or intentionally did not deliver the service or goods billed;

AGENCY who consistently demonstrates a pattern of intentionally reporting overstated or up coded levels of service. A pattern would be evident by 20% or more of sampled or audited services that are billed at a higher-level procedure code than is documented in the clinical records;

Any suspected case where the AGENCY intentionally or recklessly billed COUNTY more than the usual charge to non-Medicaid recipients or other insurance programs;

Any suspected case where the AGENCY purposefully altered, falsified, or destroyed clinical record documentation for the purpose of artificially inflating or obscuring his or her compliance rating or collecting Medicaid payments otherwise not due. This includes any deliberate misrepresentation or omission of fact that is material to the determination of benefits payable or services which are covered or should be rendered, including dates of service, charges or reimbursements from other sources, or the identity of the client or provider;

Providers who intentionally or recklessly make false statements about the credentials of persons rendering care to clients;

Providers who knowingly charge clients for services that are covered services or intentionally balance-bill a client the difference between the total fee-for-service charge and COUNTY's payment to the AGENCY, in violation of OHA rules.

e) Reporting suspected and verified cases of fraud or abuse

When a verified case of fraud or abuse exists, AGENCY will report the following information to the MFCU and COUNTY within five (5) business day of discovery of the suspected activity:

- Provider Name, Oregon Medicaid Provider Number, address and phone
- Type of provider
- Source and nature of complaint
- The approximate range of dollars involved
- The disposition of the complaint when known
- Number of complaints for the time period.

Contact Information

Report to: Medicaid Fraud Control Unit (MFCU)
Phone: (971)673-1880
Fax: (971)673-1890
Address: 1515 SW 5th Ave., Suite 410, Portland, OR 97201

Contact Information

Report to: Clackamas Behavioral Health Division
Contact: Compliance Officer
Phone: (503)742-5335
Fax: (503)742-5304
Address: 2051 Kaen Road, Suite 154, Oregon City, OR 97045

10. Compliance with Applicable Law

AGENCY shall comply and, as indicated, cause all employees and s subcontractors to comply with the following Federal requirements. For purposes of this agreement, all references to Federal and State laws are references to Federal and State laws as they may be amended from time to time.

a) Miscellaneous Federal Provisions

AGENCY shall comply and cause all subcontractors to comply with all federal laws, regulations and executive orders applicable to this contract or to the delivery of work. Without limiting the generality of the foregoing, AGENCY expressly agrees to comply and cause all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to this contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) 45 CFR Part 84 which implements , Title V, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of CMHPs, including without limitation, all federal laws requiring reporting of client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to this contract and required by law to be so incorporated. No federal funds may be used to provide work in violation of 42 USC 14402.

b) Equal Employment Opportunity

If this contract, including amendments, is for more than \$10,000, then AGENCY shall comply and cause all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

c) Non-Discrimination

AGENCY shall comply with all federal and State laws and regulations including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities) the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, and all amendments to those acts and all regulations promulgated thereunder. AGENCY shall also comply with all applicable requirements of State civil rights and rehabilitation statutes and rules.

AGENCY shall comply with and cause its subcontractors to comply with the integration mandate in 28 CFR 35.130(d), Title II of the Americans with Disabilities Act and its implementing regulations published in the Code of Federal Regulations.

d) Advance Directives

AGENCY shall provide adult clients with written information on Advance Directive policies and include a description of Oregon law. The written information provided by AGENCY must reflect changes in Oregon law as soon as possible, but no later than 90 days after the effective date of any change to Oregon law. AGENCY must also provide written information to adult clients with respect to the following:

- (i) Their rights under Oregon law;
- (ii) AGENCY's policies respecting the implementation of those rights, including a statement of any limitation regarding the implementation of Advance Directives as a matter of conscience.
- (iii) AGENCY must inform clients that complaints concerning noncompliance with the Advance Directive requirements may be filed with OHA.

e) Drug Free Workplace

AGENCY shall maintain and cause all subcontractors to maintain a drug-free workplace and shall notify employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in AGENCY's workplace. AGENCY shall establish a drug-free awareness program and provide each employee to be engaged in the provision of services under this agreement

with information about its drug-free workplace program. AGENCY will further comply with additional applicable provisions of the Health Share of Oregon Core Contract.

f) Clinical Laboratory Improvement

If applicable to Scope of Work, AGENCY shall and shall ensure that any Laboratories used by AGENCY shall comply with the Clinical Laboratory Improvement Amendments (CLIA 1988), 42 CFR Part 493 Laboratory Requirements and ORS 438 (Clinical Laboratories, which require that all laboratory testing sites providing services under this agreement shall have either a Clinical Laboratory Improvement Amendments (CLIA) certificate of waiver or a certificate of registration along with a CLIA identification number. Those Laboratories with certificates of waiver will provide only the eight types of tests permitted under the terms of their waiver. Laboratories with certificates of registration may perform a full range of laboratory tests.

g) Clean Air, Clean Water, EPA Regulations

If this agreement, including amendments, exceeds \$100,000 then AGENCY shall comply and cause all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, DHHS and the appropriate Regional Office of the Environmental Protection Agency. AGENCY shall include and cause all v to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractors to comply with the federal laws identified in this section.

h) Energy Efficiency

AGENCY shall comply and cause all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. 6201 et seq. (Pub. L. 94-163).

i) Resource Conservation and Recovery

AGENCY shall comply and cause all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

j) Audits

AGENCY shall comply and, if applicable, cause a subcontractors to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations."

k) Truth in Lobbying

AGENCY certifies, to the best of the AGENCY's knowledge and belief that:

- (i) No federal appropriated funds have been paid or will be paid, by or on behalf of AGENCY, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- (ii) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, AGENCY shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

- (iii) AGENCY shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients and subcontractors shall certify and disclose accordingly.
- (iv) This certification is a material representation of fact upon which reliance was placed when this contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this agreement imposed by Section 1352, Title 31, of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

l) Conflict of Interest Safeguards

AGENCY and its subcontractors shall have in effect safeguards, including, but not limited to, policies and procedures against conflict of interest with any State of Oregon Department of Human Services employees or other agents of the State who have responsibilities relating to this agreement. These safeguards must be at least as effective as the safeguards specified in Section 27 of the Office of Federal Procurement Policy Act (41 USC 423) and must include safeguards to avoid conflicts that could be prohibited under 18 USC 207 or 208 if the Department of Human Services employee or agent was an officer or employee of the United States Government. For purposes of implementing policies and procedures required in this section, AGENCY shall apply the definitions in the State Public Ethics Law as if they applied to AGENCY for "Actual conflict of interest," ORS 244.020(1), "potential conflict of interest," ORS 244.020(14), and "client of household," ORS 244.020(12).

AGENCY shall not offer to any DHS or OHA employee (or any relative or member of their household) any gift or gifts with an aggregate value in excess of \$50 during a calendar year or any gift of payment of expenses for entertainment. "Gift" for this purpose has the meaning defined in ORS 244.020(6) and OAR 199-005-0001 to 199-005-0035.

"AGENCY" for purposes of this section includes all AGENCY's affiliates, assignees, subsidiaries, parent companies, successors and transferees, and persons under common control with the AGENCY; any officers, directors, partners, agents and employees of such person; and all others acting or claiming to act on their behalf or in concert with them.

AGENCY shall apply the definitions in the State Public Ethics Law, ORS 244.020, for "actual conflict of interest", "potential conflict of interest", "relative" and "member of household".

m) HIPAA Compliance

The parties acknowledge and agree that each of OHA and AGENCY is a "covered entity" for purposes of privacy and security provisions of the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA). OHA and AGENCY shall comply with HIPAA to the extent that any work or obligations of OHA arising under this agreement are covered by HIPAA.

AGENCY shall develop and implement such policies and procedures for maintaining the privacy and security of records and authorizing the use and disclosure of records required to comply with this agreement and with HIPAA. AGENCY shall comply and cause all subcontractors to comply with HIPAA and all the HIPAA provisions listed in the Health Share of Oregon Core Contract.

HIPAA Information Security. AGENCY shall adopt and employ reasonable administrative and physical safeguards consistent with the Security Rules in 45 CFR Part 164 to ensure that Member Information shall be used by or disclosed only to the extent necessary for the permitted use or disclosure and consistent with applicable State and federal laws and the terms and conditions of this agreement. Security incidents involving Member Information must be immediately reported to DHS' Privacy Officer.

August 4, 2016

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of an Intra-Agency Agreement with
Clackamas County Children, Youth and Families Division for
Alcohol and Drug Prevention Strategies for Families

Purpose/Outcomes	This agreement provides alcohol and drug prevention strategies for families within Clackamas County struggling with substance use disorders.
Dollar Amount and Fiscal Impact	Contract maximum value is \$179,375.00
Funding Source	Oregon Health Authority 2015-2017 Community Mental Health Program (CMHP) Intergovernmental Agreement #147783, specifically Alcohol & Drug (A&D) Prevention Services funds. No County General Funds are involved.
Duration	Effective July 1, 2016 and terminates on June 30, 2017
Previous Board Action	The Board last reviewed and approved this agreement on November 25, 2015, Agenda item 112515-A2
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Interim Director 503-742-5305
Contract No.	7716

BACKGROUND:

The Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing & Human Services Department requests the approval of an Interagency Agreement with the Children, Youth and Families Division (CYFD) to provide strategies for alcohol and drug abuse prevention for families.

This IAA is retroactive due to confirming with the State of Oregon on requirements for this pass through federal funding to CYFD and the required internal reviews. . It is effective July 1, 2016 and terminates on June 30, 2017

This IAA has a maximum contract value of \$179,375.00. This agreement has been reviewed and approved by County Counsel on July 21, 2016

RECOMMENDATION:

Staff recommends the Board approve this agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services Department

INTRA-AGENCY AGREEMENT
BETWEEN
CLACKAMAS COUNTY HEALTH, HOUSING AND HUMAN SERVICES
BEHAVIORAL HEALTH DIVISION
AND
CLACKAMAS COUNTY HEALTH, HOUSING AND HUMAN SERVICES
CHILDREN, YOUTH, AND FAMILIES DIVISION

AGREEMENT # 7716

I. PURPOSE:

This agreement between **Clackamas County Behavioral Health Division** herein referred to as “BHD” and **Clackamas County Children, Youth and Families Division** herein referred to as “CYFD” serves as agreement to pass through A&D 70 funding from the Oregon Health Authority herein referred to “OHA” to CYFD to provides alcohol and drug prevention strategies working with families of Clackamas County.

II. SCOPE OF WORK

CYFD agrees to:

- A. Provides the leadership and management of the Clackamas County Prevention Coalition (CCPC) to reduce alcohol and drug misuse among 12-25 year olds;
- B. CCPC efforts will integrate best practice planning & reporting processes as adopted by the Oregon Addictions and Mental Health Division (e.g. Social –Ecological Domains, Service Populations, Institute of Medicine, Center for Substance Abuse, and Prevention Risk Categories to report program activities;
- C. Focus Population – 12-25 years of age, IOM category: Universal, Selective and Indicated;
- D. Allowable Funded Activities – CSAP Strategies: Information Dissemination (Health Promotions, Media Campaigns, Positive Community Norms Campaign, Curricula Dissemination), Prevention Education, Alternative Activities (After School Programs, Mentoring), Community Based Processes (Coalition Support), and Environmental Approaches (Public Policy Efforts) and
- E. Report Outcome Data sets to Oregon Prevention Data System which could include:
 - (i) Oregon Healthy Teen Survey (OHT) results,
 - (ii) Student Well Survey (SWS) results and
 - (iii) Pre/Post Survey from program participants.
- F. CYFD agrees that its agents and employees shall maintain the confidentiality of any client identifying information, written or otherwise, with which they may come in contact, in accordance with all applicable provisions of state and federal statutes, rules and regulations, and shall comply with the same in the event of requests for information by any person or federal, state or local agency. In addition, the CYFD acknowledges the existence of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, 45 CFR Parts 160-164, and agrees that CYFD and CYFD’s agents and employees will comply with all applicable requirements of HIPAA related to the confidentiality of client records or other client identifying information.

G. Comply with any and all reporting requirements.

BHD agrees to:

A. Pass through funding awarded through OHA to CYFD.

B. Ensure compliance with any and all reporting requirements

III. REPORTING REQUIREMENTS

CYFD will provide monthly progress reports that track the number of clients receiving services and submit a progress report to Oregon Prevention Database. CYFD will notify BHD upon submission of each progress report by forwarding a copy of the report to BHD with the monthly Interfund request.

IV. COMPENSATION

Compensation shall consist of the following components:

A. CYFD will be compensated monthly based on actual expenditures for the programs listed.

The total compensation for programs supported by A&D 70 pass through funds and administered by CYFD is:

(1) Drug/Alcohol Prevention Services: **\$120,000.00**

a) Northwest Family Services - \$72,000

b) Todos Juntos - \$48,000

(2) Mentoring: **\$10,000.00**

a) Estacada School District - \$10,000

(3) Coalition Oversight: **\$40,407.00**

a) CYF – \$40,407

(4) Administrative Overhead: **\$8,968.00**

a) CYF- \$8,968

Total A&D 70 Funds: Prevention Plan **\$179,375.00**

B. The total compensation to CYFD under this agreement shall not exceed **\$179,375.00**

C. CYFD will submit monthly Interfund requests with itemized reimbursement expenditure invoice attached to BHD for a transfer of funds. Invoices must describe all work performed with particularity, including by whom it was performed and must itemize and explain all expenses for which reimbursement is claimed. BHD will transfer funds to CYFD through an Interfund based on the request and supporting documentation. CYFD will submit progress reports, expenditure reports and Interfund requests to:

Behavioral Health Division
Attention: Accounts Payable
BHAP@co.clackamas.or.us

V. LIASON RESPONSIBILITY

Mary Rumbaugh (503)-742-5305 will act as liaison from BHD.

Rodney Cook (503)650-5677 will act as liaison from CYFD.

VI. TERM OF AGREEMENT

This agreement becomes effective **July 1, 2016**, and will continue through until **June 30, 2017**. This agreement is subject to early termination by either of the parties when thirty (30) days' written notice has been provided to the other party.

ATTACHEMENT 1



Mary Rumbaugh, Director
 Behavioral Health Division

INTERFUND INVOICE

Agency/Contractor <u>Children, Youth and Families</u>	Invoice Month/Year: _____
Address: <u>2051 Kaen Rd</u>	Contract #: <u>7716</u>
<u>Oregon City, OR 97045</u>	Submit electronically to:
Contact Person: <u>Rodney Cook, Director</u>	<u>BHAP@co.clackamas.or.us</u>
Phone Number: <u>503-742-5677</u>	

Budget Category	Budget	Current Draw Request	Previously Requested	Balance
Drug & Alcohol Prevention- Northwest Family Services	\$ 72,000.00			\$ 72,000.00
Drug & Alcohol Prevention -Todos Juntos	\$ 48,000.00			\$ 48,000.00
Mentoring- Estacada School District	\$ 10,000.00			\$ 10,000.00
Coalition Oversight- CFYD	\$ 40,407.00			\$ 40,407.00
Administrative Overhead-CYFD	\$ 8,968.00			\$ 8,968.00
	\$ 179,375.00	\$ -	\$ -	\$ 179,375.00

Total Amount Current Interfund

PAYMENT TERMS: CYFD will submit monthly Interfund requests with itemized reimbursement expenditure in-voice attached to BHD for a transfer of funds. Invoices must describe all work performed with particularity, including by whom it was performed and must itemize and explain all ex-penses for which reimbursement is claimed. BHD will transfer funds to CYFD through an Interfund based on the request and supporting documentation.

CERTIFICATION: I certify that this report is true and correct to the best of my knowledge and that all expenditures reported have been made in accordance with the budget and other provisions contained in Intra-Agency Agreement #7716

Prepared by: _____

Authorized Signer: _____ Date: _____

CLACKAMAS COUNTY BEHAVIORAL HEALTH DIVISION
ACCTS PAYABLE
 2051 Kaen Rd, Suite 154 Oregon City, OR 97045
 Direct Line: (503)742-5335
 Fax: (503)742-5312
BHAP@co.clackamas.or.us

For Admin Use ONLY:
 241-4332-08931-36006-431919

DRAFT

Approval of Previous Business Meeting Minutes:

July 7, 2016

July 14, 2016

(draft minutes attached)

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at

<http://www.clackamas.us/bcc/business.html>

Thursday, July 7, 2016 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. CITIZEN COMMUNICATION - NONE

II. PUBLIC HEARING

1. **Board Order No. 2016-70** to Proceed with Construction of a Local Improvement District (LID) for Street and Storm Drainage Improvements on Starview Lane
Ken Kent, Department of Transportation & Development, Engineering presented the staff report.

Chair Ludlow announced this is a public hearing and asked if anyone wishes to speak, seeing none he closed the public hearing and asked for a motion.

MOTION:

Commissioner Bernard: I move we approve the board order to Proceed with Construction of a Local Improvement District (LID) for Street and Storm Drainage Improvements on Starview Lane.

Commissioner Savas: Second.

~Board Discussion~

Clerk calls the poll.

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye – it passes 5-0.

III. CONSENT AGENDA

Chair Ludlow asked the Clerk to read the consent agenda by title, he then asked for a motion.

MOTION:

Commissioner Smith: I move we approve the consent agenda.

Commissioner Schrader: Second.

Clerk calls the poll.

Commissioner Smith: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Commissioner Bernard: Aye.

Chair Ludlow: Aye – the motion passes 5-0.

A. Health, Housing & Human Services

1. Approval of a Renewal Revenue Intergovernmental Agreement with the City of Lake Oswego for Medical Direction for the Fire Department and Communications Center – *Public Health*
2. Approval of Amendment #3 to the Intergovernmental Agreement with Multnomah County, for a Public Health Officer – *Public Health*
3. Approval of a Renewal Grant Agreement with the US Department of Housing and Urban Development, Continuum of Care Program, for the Homeless Management Information System – *Housing & Community Development*

B. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*

IV. WATER ENVIRONMENT SERVICES

(Service District No. 1, Tri-City Service District & Surface Water Management Agency of Clackamas County)

1. Board Order Authorizing Refund Revenue Bonds to Reduce Debt Service Expense for Clackamas County Service District No. 1

V. COUNTY ADMINISTRATOR UPDATE

<http://www.clackamas.us/bcc/business.html>

VI. COMMISSIONERS COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

MEETING ADJOURNED – 10:31 AM

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. www.clackamas.us/bcc/business.html

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at

<http://www.clackamas.us/bcc/business.html>

Thursday, July 14, 2016 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

Chair Ludlow announced we are now accepting applications for the 2016 Small Grants. For information on these grants and how to apply please visit the web page at:

<http://www.clackamas.us/bcc/smallgrants.html>

A video was shown regarding a recipient of the 2015 Small Grant.

I. CITIZEN COMMUNICATION - NONE

II. CONSENT AGENDA

Chair Ludlow asked the Clerk to read the consent agenda by title, he then asked for a motion.

MOTION:

Commissioner Smith: I move we approve the consent agenda.
Commissioner Bernard: Second.
Clerk calls the poll.
Commissioner Bernard: Aye.
Commissioner Smith: Aye.
Commissioner Schrader: Aye.
Commissioner Savas: Aye.
Chair Ludlow: Aye – the motion passes 5-0.

A. Health, Housing & Human Services

1. Approval of Amendment No. 1 to the Intergovernmental Agreement No. 148674 with the State of Oregon, Department of Human Services, for the Operation of the JOBS Program – *Community Solutions*
2. Approval of a Grant Agreement from the U.S. Department of Housing and Urban Development, Supportive Housing Program for the Rent Well Rapid Re-Housing Program – *Social Services*
3. Approval of a Grant Agreement from the U.S. Department of Housing and Urban Development, Continuum of Care Program for the Jackson Place Program to Provide Transitional Housing and Services for the Homeless – *Social Services*
4. Approval of a Grant Agreement from the U.S. Department of Housing and Urban Development, Continuum of Care Program for the HOPE Leasing Program for the Purpose of Providing Permanent Housing – *Social Services*

B. Elected Officials

1. Approval of Previous Business Meeting Minutes – BCC

C. Juvenile Department

1. Approval of a Grant Award as a Sub-Recipient for the University of Oregon's Restorative Justice in Schools Program for the Comprehensive School Safety Initiative

III. DEVELOPMENT AGENCY

1. Approval of a First Amendment to the Disposition and Development Agreement with La Noue Development LLC for real Property Acquisition

IV. WATER ENVIRONMENT SERVICES

(Service District No. 1, Tri-City Service District & Surface Water Management Agency of Clackamas County)

1. Approval to Renew an Agreement to Furnish Engineering Services to Clackamas County Service District No.1, with Richwine Environmental, Inc. for Wastewater Process Engineering and Technical Assistance
2. Approval to Renew an Agreement to Furnish Engineering Services to Tri-City Service District with Richwine Environmental, Inc. for Wastewater Process Engineering and Technical Assistance

V. COUNTY ADMINISTRATOR UPDATE

<http://www.clackamas.us/bcc/business.html>

VI. COMMISSIONERS COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

MEETING ADJOURNED – 10:40 AM

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EVELYN MINOR-LAWRENCE
DIRECTOR

DEPARTMENT OF EMPLOYEE SERVICES
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

August 4, 2016

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of the Clackamas County Deferred Compensation Plan and the
Housing Authority of Clackamas County Deferred Compensation Plan

Purpose/Outcome	Approval of the Plan Documents to amend the Clackamas County Deferred Compensation Plan and the Housing Authority of Clackamas County Deferred Compensation Plan
Dollar Amount and Fiscal Impact	\$0
Funding Source	N/A
Duration	Effective January 1, 2016
Previous Board Action/Review	Approved as part of the collective bargaining process
Strategic Plan Alignment	Builds public trust through good government
Contact Person	Kristi Durham, Benefits Manager, 503-742-5470

BACKGROUND:

In the last round of negotiations with AFSCME and the Employees Association, the County and the unions agreed to automatic enrollment in the Deferred Compensation plan for new employees. We are required to document this change in the official Plan Documents. The resulting updates to the Plan Documents require formal approval by the Board of County Commissioners.

RECOMMENDATION:

Staff recommends the Board approve the changes to the Clackamas County Deferred Compensation Plan and the Housing Authority of Clackamas County Deferred Compensation Plans.

Respectfully submitted,

Kristi Durham
Benefits Manager

Clackamas County

Deferred Compensation Plan

**Amended and Restated
Effective January 1, 2016**

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ARTICLE 1 INTRODUCTION

The County of Clackamas, Oregon (“Employer”) hereby amends and restates this Deferred Compensation Plan (“Plan”), effective January 1, 2016, pursuant to Section 457 of the Internal Revenue Code of 1986, as amended (“Code”). The primary purpose of the Plan is to enable the Employer’s employees to enhance their retirement security by permitting them to enter into agreements with the Employer to defer compensation (both on a pre-tax and after-tax basis), receive Employer contributions (if any) and receive benefits at retirement, death, termination of employment, and for financial hardships due to unforeseeable emergencies.

Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement for services between the Participant and the Employer, nor shall it be deemed to give a Participant any right to be retained in the employ of, or under contract to, the Employer. Nothing herein shall be construed to modify the terms of any employment contract or agreement for services between a Participant and the Employer.

ARTICLE 2 DEFINITIONS

- 2.1 Account.** The Account (and subaccounts) established for each Participant pursuant to Section 5.1.
- 2.2 Alternate Payee.** A Participant’s spouse, former spouse, child, or other dependent who acquires an interest in the Participant’s Account pursuant to a court decree of annulment or dissolution of marriage or of separation, or a court-approved settlement agreement incident to annulment or dissolution of marriage or of separation. Where the context so requires, reference to the “Participant” in this Plan shall be deemed to include an Alternate Payee.
- 2.3 Approved Institution.** Any organization that has been recommended by the Committee and approved by the Employer to provide services or Investment Product(s) to the Employer under the Plan.
- 2.4 Beneficiary.** The person(s), trust(s) or estate(s) entitled to receive benefits under the Plan upon death of a Participant in accordance with a suitable designation of Beneficiary filed with the Employer (or its delegate) and subject to applicable law.

- 2.5 Code.** The Internal Revenue Code of 1986, as amended from time to time, and including all valid regulations adopted pursuant to the Code.
- 2.6 Committee.** The committee appointed by the Employer as provided in Article 11 below to administer the Plan and perform administrative functions for the Plan as specified by the Employer.
- 2.7 Compensation.** All cash compensation paid to an Employee for employment services rendered to the Employer including salary, wages, fees, commissions, bonuses and overtime pay that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Code Sections 125, 132(f), 401(k), 403(b) or 457(b) (including an election under Article 3 to defer Compensation under this Plan).
- 2.8 Deferrals.** The amount of Compensation deferred by a Participant to the Plan, consisting of Elective Deferrals and effective January 1, 2014, Roth 457(b) Contributions.
- 2.9 Designated Institution.** As designated by the Employer, any Approved Institution whose Investment Product is used for purposes of measuring the benefits due that Participant pursuant to the Plan.
- 2.10 Elective Deferral.** Deferrals of Compensation made by the Employer to the Plan on a voluntary pre-tax basis pursuant to a Participation Agreement entered into by a Participant.
- 2.11 Eligible Deferred Compensation Plan.** An Eligible Deferred Compensation Plan within the meaning of Code Section 457(b).
- 2.12 Eligible Employee.** An Employee who has been appointed to a budgeted, allocated position and who is regularly scheduled to work at least twenty (20) hours per week, or for at least eighteen and three-quarters (18.75) hours in a Job Share status, and is scheduled to be in a paid status for twelve (12) months per year.
- 2.13 Eligible Individual.** Any Eligible Employee, any elected official, and any individual performing services for the Employer pursuant to an Employment Agreement, who performs services for the Employer for which Compensation is paid and who meets the criteria set forth in Section 3.1.

2.14 Employee. An individual who performs services for the Employer as a common-law employee.

2.15 Employer. Clackamas County, a political subdivision of the state of Oregon.

2.16 Employment Agreement. A written agreement between the Employer and an Employee pertaining to the Employee's performance of services for the Employer in exchange for remuneration.

2.17 Includible Compensation. An Employee's actual wages as reported in box 1 of Form W-2 for the Employer, but increased (up to the dollar maximum) by any Compensation reduction election under Code section 125, 132(f), 402(g)(3) or 457(b). The amount of Includible Compensation is determined without regard to any community property laws.

Pursuant to Section 1.457-4(d)(1) of the Income Tax Regulations, Includible Compensation will include any payments made to a Participant who has had a Severance from Employment, provided that the Includible Compensation is paid by the later of 2½ months after the Participant's Severance from Employment or the end of the calendar year that contains the date of such Participant's Severance from Employment.

In addition, pursuant to Section 1.457-4(d)(1) of the Income Tax Regulations, Includible Compensation will include payments made to an individual who does not currently perform services for the Employer by reason of qualified military service (as defined in Code Section 414(u)(5)) to the extent those payments do not exceed the amount the individual would have received if the individual had continued to perform services for the Employer rather than enter qualified military service.

Includible Compensation will not include any Employee pick-up contributions described in Code Section 414(h)(2).

2.18 In-Plan Roth Rollover. A rollover contribution to the Plan that consists of a distribution from an Elective Deferral Account, a 457(b) Rollover Account or a non-457(b) Rollover Account under the Plan that the Participant rolls over to the Participant's In-Plan Roth 457(b) Rollover Account in the Plan, in accordance with Code Section 402A(c)(4).

2.19 Investment Product. Any product issued by or obtained from an Approved Institution for the purpose of investing amounts deferred or contributed under the Plan.

2.20 Normal Retirement Age.

- (a) The Normal Retirement Age shall be 70½, unless the Participant makes an election under Section 2.20(b) below.
- (b) The Participant may, at any time prior to Severance from Employment or prior to the use of the Catch-up Limitation provision described in Section 4.2, elect in writing in the form established or approved by the Employer a Normal Retirement Age that is not earlier than the earlier of age 65 or the earliest age at which the Participant has the right to retire and receive unreduced retirement benefits from the Employer's basic pension plan and not later than the date the Participant attains age 70½.

2.21 Participant. Any Eligible Individual who fulfills the eligibility and enrollment requirements of Article 3.

2.22 Participation Agreement. A written agreement between the Employer and a Participant in a form satisfactory to the Employer setting forth certain provisions and elections relating to the Plan, establishing the amount of Compensation to be deferred, specifying whether the elected Deferral is an Elective Deferral or, effective January 1, 2014, a Roth 457(b) Contribution, incorporating the terms and conditions of the Plan, and establishing the Participant's participation in the Plan. Enrollments and enrollment changes made through electronic means, such as the Employer's employee self service portal, or a contracted third party administrator's web site shall be deemed to meet the definition of this section.

2.23 Payout Request. A written agreement between the Employer and a Participant in a form satisfactory to the Employer setting forth the manner and method of paying benefits under the Plan.

2.24 Plan. The Clackamas County Deferred Compensation Plan effective December 15, 1977, as amended. The effective date of this amended and restated Plan is January 1, 2016.

2.25 Plan Year. The twelve (12) month period beginning January 1 and ending December 31.

2.26 Roth 457(b) Contributions. Deferrals that are: (1) made by the Employer to the Plan pursuant to a Participation Agreement entered into by a Participant, which qualifies as a "designated Roth Contribution" within the meaning of code section 402A; (2) irrevocably designated by the Participant at the time of the cash or deferred election as a Roth 457(b) Contribution that is being made in lieu of all or a portion of the Elective Deferrals the Participant is otherwise eligible to make under the Plan; and (3) treated by the Employer as

includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a "cash or deferred" election.

2.27 Severance from Employment. The Participant ceases to be employed by the Employer that maintains the Plan.

ARTICLE 3 PARTICIPATION IN THE PLAN

3.1 Eligibility. Any Eligible Individual to whom Compensation is paid and who executes a Participation Agreement, or is deemed to have executed a Participation Agreement pursuant to the automatic enrollment provisions, is eligible to participate in the Plan.

3.2 Enrollment/Deferrals.

- (a) An Eligible Individual may become a Participant and agree to make Deferrals by entering into a Participation Agreement. Effective January 1, 2014, any such election to defer Compensation shall specify whether such Deferrals are to be Elective Deferrals or Roth 457(b) Contributions or a combination thereof; in the absence of any such specification, the Participant's Deferrals shall be deemed to be Elective Deferrals. The effective date of participation in the Plan shall be no sooner than the first day of the calendar month immediately following the latest of the date (i) an individual becomes an Eligible Individual; (ii) the execution and processing of a Participation Agreement with respect to that individual; or (iii) the execution and processing of any required agreements with the Designated Institution(s) selected by the Participant for investment of the Participant's Account.
- (b) At the time of entering into or modifying the Participation Agreement hereunder to make Deferrals or at the time of reentry following a withdrawal under Article 7, a Participant must agree to defer a minimum amount of \$338 annually.
- (c) All Deferrals made under the Plan are fully vested and nonforfeitable at all times.
- (d) A Participant who elects to make Deferrals may modify the Participation Agreement to change the amount deferred only for a subsequent calendar month and only if the new Participation Agreement has been executed and processed prior to the first day of the month during which it is to be effective. The effective date of the modified

Participation Agreement shall be the later of: (i) the first day of the calendar month immediately following the execution and processing of the modified Participation Agreement; (ii) the date specified in the Participation Agreement; or (iii) the last day of the waiting period described in Section 7.3, if applicable.

- (e) A Participant may suspend further Deferrals with respect to Compensation not yet earned by submitting a revised Participation Agreement. The revocation of a Deferral election will be effective on the first day of the calendar month immediately following the execution and processing of the written revocation of participation. Amounts previously deferred shall be paid only as provided in this Plan. Any Employer-provided contributions made under the Plan may not be revoked by the Participant.
- (f) A Participant who is subject to the limitation on Deferrals under Section 7.3, has revoked his or her Participation Agreement as set forth in Section 3.2(d), or who returns to perform services for the Employer after a Severance from Employment, may again become a Participant in the Plan and agree to make Deferrals of Compensation not yet earned by submitting a new Participation Agreement as provided in Section 3.2(a).

3.3 Employer Contributions.

- (a) Subject to the limitations set forth in Article 4, the Employer may contribute to the Plan on behalf of Participants the amounts set forth in Attachment A.
- (b) Employer contributions shall be made to the Plan each payday for the pay period in which the services to which the contribution relates were performed. Participants on whose behalf an Employer contribution is made to the Plan are not permitted to receive the Employer contribution as current Compensation.
- (c) Employer contributions are fully vested and nonforfeitable immediately upon payment to the Plan.
- (d) In the event that a Participant who is both making Deferrals under Section 3.2 and receiving an Employer contribution under Section 3.3 exceeds the limits set forth in Article 4, the amount in excess of the limit will be refunded to the Participant as soon as administratively practicable. The refund shall be made first from amounts contributed by the Participant as Deferrals under Section 3.2 in the amount necessary to comply with the limits set forth in Article 4. If the contributions made on behalf of

the Participant still exceed the limits set forth in Article 4, then the Employer contribution will be reduced until the contributions to the Plan on behalf of the Participant comply with the limits set forth in Article 4.

3.4 Transfers from Eligible Deferred Compensation Plans. The Plan will accept incoming transfer of amounts previously deferred under another Eligible Deferred Compensation Plan if (1) the transferor plan provides for the transfer of such amounts, and (2) the Participant has a benefit equal to the amount immediately after the transfer at least equal to the amount under the Plan immediately before the transfer. The Employer may require such documentation from the transferor plan as it deems necessary to effectuate the transfer in accordance with Treasury Regulations Section 1.457-10(b) and to confirm that the transferor plan is an Eligible Deferred Compensation Plan within the meaning of Treasury Regulations Section 1.457-2(f). The amount so transferred will be credited to the appropriate sub-account under the Participant's Account and will be held, accounted for, administered and otherwise treated in the same manner as amounts as held in the transferor plan, except that the transferred amounts will not be taken into consideration for purposes of Code Section 457 (b)(2) for the year of transfer.

3.5 Automatic Enrollment in the Plan.

- (a) Collective Bargaining Agreement Requiring Automatic Enrollment.** If the County and a labor organization representing a unit of County employees agree in collective bargaining, new Eligible Employees of that unit will be deemed automatically to have executed a Participation Agreement with an effective date of the first of the month following two (2) full months of employment.
- (b) Advance Notice.** An Eligible Employee will be provided the required advance notice of automatic enrollment pursuant to Code Section 414(w), including the amount of contributions that will be made, the employee's right to change the amount of contributions, the employee's right not to have automatic contributions made, a description of how the contributions will be invested, and when such contributions may be distributed. The notice shall be provided within a reasonable period before such time when the automatic provision will become first applicable to an Eligible Employee.

- (c) **Opting Out of Automatic Enrollment.** A Participant may opt out of automatic enrollment at any time by completing a Participation Agreement or by providing written notice of the election not to have any amount withheld from his or her Compensation.
- (d) **Permissible Withdrawals.** A Participant may elect the return of automatic deferrals if the request is made in writing within 90 days from the date of the first deduction.
- (e) **Deferral Amount.** The amount deferred from an Eligible Employee's Compensation shall be the amount specified in the applicable collective bargaining agreement, provided that the requirements of Code Section 414(w) are satisfied, including the requirement that the percentage of pay deferred will be uniform for employees with the same years of employment.

ARTICLE 4 LIMITATIONS ON AMOUNT DEFERRED

- 4.1 Annual Maximum.** The maximum amount of Compensation that may be deferred under this Plan (the "Normal Limit") for a Participant's taxable year (except as provided in Sections 4.2 and 4.3) is the lesser of the applicable dollar amount within the meaning of Code Sections 457(b)(2)(A) and 457(e)(15)(A), as adjusted for the cost-of-living in accordance with Code Section 457(e)(15)(B) or 100% of the Participant's Includible Compensation.
- 4.2 Catch-Up Limit.** For each one or more of the Participant's last three (3) taxable years ending prior to but not including the year of such Participant's Normal Retirement Age, as elected by the Participant pursuant to or otherwise defined in Section 2.20, the limitation set forth in Section 4.1 shall be increased to the lesser of:
- (a) two (2) times the amount described in Section 4.1; or
 - (b) The sum of:
 - (1) The Normal Limit set forth in Section 4.1 for the taxable year, plus
 - (2) The amount of the Normal Limit for any prior taxable year or years since January 1, 1979, less the amount of Compensation actually deferred under the Plan for such prior taxable year or years.

For purposes of this Section 4.2, a prior taxable year can be taken into account only if:

- (1) The Participant was eligible to participate in the Plan or any similar prior plan of the same Employer during any portion of any prior taxable year since January 1, 1979; and
- (2) The Compensation deferred, if any, under such plan or the Plan during such prior taxable years was subject to a maximum deferral limitation as required by Code Section 457.

A Participant may elect to utilize the Catch-Up Limitation with respect to only one (1) Normal Retirement Age (as defined in Section 2.20) in this Plan or any other Eligible Deferred Compensation Plan notwithstanding the fact that the Participant utilizes the Catch-Up Limitation in less than all of the three (3) eligible years. This Section 4.2 shall not apply in any Plan Year in which Section 4.3 applies because the maximum deferral limit under Section 4.1, when combined with the limit under Section 4.3, is higher than the limit under this Section 4.2.

4.3 Age 50 Catch-Up Limit. A Participant who will have attained the age of 50 before the close of the Plan Year, and with respect to whom no other Deferrals may be made to the Plan for the Plan Year by reason of the limitation of Section 4.1, may enter into a Participation Agreement to make Deferrals in addition to those permitted by Section 4.1 in an amount not to exceed the lesser of (1) the applicable dollar amount as defined in Code Section 414(v)(2)(B), as adjusted for the cost-of-living in accordance with Code Section 414(v)(2)(C), or (2) the excess (if any) of (i) the Participant's Includible Compensation for the year, over (ii) any other elective deferrals of the Participant for such year which are made without regard to this Section 4.3. The age 50 catch-up contribution is subject to adjustment for cost of living increases under Code Section 414(v)(2)(C).

An additional contribution made pursuant to this Section 4.3 shall not, with respect to the year in which the contribution is made, be subject to any otherwise applicable limitation contained in Code Section 402(g), or be taken into account in applying such limitation to other contributions or benefits under the Plan or any other plan. This Section 4.3 shall not apply in any Plan Year in which Section 4.2 applies because the maximum deferral limit under Section 4.2 is higher than the maximum deferral limit under Section 4.1, when combined with the limit under this Section 4.3.

- 4.4 Another Eligible Deferred Compensation Plan.** If the Participant is or has been a participant in one or more other Eligible Deferred Compensation Plans, then this Plan and all such other plans shall be considered one plan for purposes of applying the foregoing limitations of this Article 4. For this purpose, the Employer shall take into account any other such Eligible Deferred Compensation Plan maintained by the Employer and shall also take into account any other such Eligible Deferred Compensation Plan for which the Employer receives from the Participant sufficient information concerning his or her participation in such other plan.
- 4.5 Cash Method of Accounting.** For purposes of applying the limitations in Sections 4.1, 4.2 and 4.3, Compensation deferred under the Plan for a pay period shall be treated as deferred as of the pay day for that pay period.

ARTICLE 5 ACCOUNTS

- 5.1 Participants' Accounts.** A separate bookkeeping Account shall be maintained for each Participant. Within each Account, one or more sub-accounts may be established including (1) an Elective Deferral Account, (2) a Roth 457(b) Contributions Account, (3) a 457(b) Rollover Account, (4) a non-457(b) Rollover Account, (5) a Roth 457(b) Rollover Account, (6) a Roth non-457(b) Rollover Account, (7) a Rollover of In-Plan Roth non-457(b) Rollover Account, and/or (8) In-Plan Roth 457(b) Rollover Account.
- (a) Each Account shall be credited with the amount of the Participant's Compensation deferred under Section 3.2 and with any amount transferred to this Plan with respect to the Participant as provided in Sections 14.1 or 14.3.
 - (b) Each Participant's Account shall be debited with the amount of any payment to the Participant under this Plan, with any amount transferred to a separate account for an Alternate Payee with respect to the Participant as needed, and with any amount of the Participant's Account transferred to another plan as provided in Section 14.2.
 - (c) At such dates and frequency as are reasonably determined by the Employer, a Participant's Account also shall be credited with the amount of income and gain allocable to the Account and also shall be debited with the amount of loss, expenses, and charges allocable to the Account.

- (d) A written report of the status of each Participant's Account shall be furnished to the Participant at least annually.

5.2 Investments. Each Account shall be invested as directed by the Participant or Alternate Payee in such one or more Investment Products as are determined and approved by the Committee and allowed by Oregon law.

- (a) The amount of each Account shall be invested in such one or more of those approved Investment Products as are designated by the Participant or Alternate Payee in a manner approved by the Employer.
 - (1) A Participant's or Alternate Payee's investment designation shall apply to the amount of the Participant's or Alternate Payee's Account after the Participant's or Alternate Payee's death until the Beneficiary makes an investment designation in a manner approved by the Employer.
 - (2) A Participant's investment designation with respect to any portion of the amount of the Participant's Account transferred to an Alternate Payee's Account shall apply to the amount of the Alternate Payee's Account until the Alternate Payee makes an investment designation in a manner approved by the Employer.
- (b) Investment designations shall be implemented as soon as administratively feasible, subject to any restrictions imposed by the Designated Institution.
- (c) Neither the Employer nor the Committee shall be liable to any Participant, Beneficiary, Alternate Payee, or other person for any loss due to the Employer's determination and approval of Investment Products, due to the Employer's failure to monitor the performance of those approved Investment Products, or due to the investment performance of amounts invested in those approved Investment Products, unless committed in bad faith, intentionally, or with reckless indifference to the interest of the Participant, Beneficiary, Alternate Payee, or other person.

5.3 Expenses and Charges. The Committee shall determine the reasonable expenses of the Employer and the Committee that are associated with the deferral of Compensation under this Plan, investing the amount of Accounts, or administering this Plan, and also shall determine the expenses and charges associated with the Investment Products designated by the Participant, Beneficiary, or Alternate Payee. The Employer may charge such expenses and charges to and among Participants', Beneficiaries', and Alternate Payees'

Accounts in such manner as the Employer determines equitable. However, general expenses of the Employer may not be charged to this Plan or to Accounts.

ARTICLE 6 BENEFITS

6.1 General Benefit Terms.

- (a) Benefits payments to a Participant or Beneficiary shall be made according to the manner and method of payment as elected in the Payout Request, which election may be changed by a Participant or a Beneficiary as appropriate and as allowed by the Plan at any time.
- (b) Subject to the restrictions on choice of benefit contained in paragraphs 6.1(c) and (d), 6.4 and 6.5, the options available for selection by the Participant or Beneficiary as the manner and method of payment are:
 - (1) Lump sum(s);
 - (2) Periodic payments for a designated period;
 - (3) Periodic payments for life;
 - (4) Periodic payments for life with a guaranteed minimum number of payments;
 - (5) Periodic payments for the life of the Participant with continuation of the payments or a percentage of the payments for the lifetime of the Participant's spouse;
 - (6) Such other options as a Designated Institution may, in its sole discretion, offer to the Participant prior to the commencement of benefits.

Periodic payments may be monthly, quarterly, semiannually, or annually. For life annuity contracts, the amount of each payment may be fixed or may fluctuate with the performance of the Investment Products.

- (c) If participant's account balance is less than \$5,000, a distribution may be made in a lump sum to the participant within sixty-one (61) days after the close of the year in which the participant has separated from service.
- (d) In determining the amount of benefit payments, the minimum incidental death benefit rule of Code Section 401(a)(9)(G) must be satisfied. To the extent that the payment

required under this rule is greater than the amount determined under 6.1(c), the greater amount must be paid.

- (e) All distributions under the Plan must comply with Code Section 401(a)(9). Benefits under the Plan must be distributed by April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 70½, or (2) the calendar year in which the Participant incurs a Severance from Employment.

Notwithstanding the foregoing, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code Section 401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding Article 14 of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2009 will be treated as eligible rollover distributions.

6.2 Benefits upon Retirement. Following the Participant's Severance from Employment on or after attainment of Normal Retirement Age, the custodian shall begin payments to the Participant in accordance with the Participant's elections made in the Payout Request; provided, however, that payments shall begin no later than April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 70½, or (2) the calendar year in which the Participant incurs a Severance from Employment.

6.3 Benefits upon Severance from Employment. If Severance from Employment occurs prior to attainment of the Normal Retirement Age determined under Section 2.20, the custodian shall begin benefit payments as soon as administratively practicable following the Participant's Severance from Employment and his or her subsequent submission of a Payout Request; provided, however, that in lieu of requesting a distribution under this

Section 6.3, a Participant instead may request a plan-to-plan transfer under Section 14.3 below. The custodian shall begin payments to the Participant in accordance with the Participant's elections made in the Payout Request; provided, however, that payments shall begin no later than April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 70½, or (2) the calendar year in which the Participant incurs a Severance from Employment.

6.4 Elective Distributions. Regardless of whether he or she has experienced a Severance from Employment, a Participant may choose to receive a distribution from his or her 457(b) Rollover Account, Non-457(b) Rollover Account, Roth 457(b) Rollover Account, Rollover of In-Plan Roth non-457(b) Rollover Account and Roth non-457(b) Rollover Account at any time by submitting a Payout Request.

6.5 Payment of Benefits upon Participant's Death.

- (a) Upon the death of a Participant, the deceased Participant's Account will be distributed to the Beneficiary in accordance with the provisions of this section.
- (b) The designation of a Beneficiary will be made in a form satisfactory to the Employer. A Participant or Beneficiary may at any time revoke his or her designation of a Beneficiary or change his or her Beneficiary by filing written notice of such revocation or change. In the event no valid designation of Beneficiary exists at the time of the Participant's death, the death benefit will be payable to the Participant's estate.
- (c) The Employer may require such proper proof of death and such evidence of the right of any person to receive payment of the value of an Account of a deceased Participant as it deems appropriate. The Employer's determination of death and of the right of any person to receive payment will be conclusive and binding on all interested parties.
- (d) If minimum payments under Code Section 401(a)(9) have not begun upon the death of a Participant and if the Beneficiary is not the Participant's surviving spouse, death benefits payments under the Plan must, in accordance with the Beneficiary's election or, if an election is not made, in accordance with the relevant provisions in the Plan:
 - (1) Begin to be distributed to the Beneficiary no later than December 31 of the calendar year immediately following the calendar year of the Participant's death, payable over a period not to exceed the life expectancy of the Beneficiary; or

- (2) Be distributed no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (e) If the Beneficiary is the Participant's surviving spouse and minimum payments under Code Section 401(a)(9) have not begun upon the death of the Participant, minimum payments to the surviving spouse must begin by the later of:
 - (1) December 31 of the calendar year immediately following the calendar year in which the Participant dies; or
 - (2) December 31 of the year in which the Participant would have attained age 70½.
- (f) Payments to the surviving spouse under Section 6.5(e) above must be made over a period not to exceed the surviving spouse's life expectancy. However, a surviving spouse may elect to receive the death benefit payments no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (g) If minimum payments under Code Section 401(a)(9) have begun prior to the Participant's death, the remaining portion of the Account shall be distributed to the Beneficiary at least as rapidly as under the method of distribution in effect prior to the death of the Participant.

6.6 In-Service Distributions. While still employed by the Employer, a Participant may request, and upon approval of the Employer, receive an in-service distribution from the Participant's Account, provided that:

- (a) The Participant's Account balance is \$5,000 or less (or such amount as may be designated in Code Section 457(e)(9)); and
 - (1) The Participant has made no deferrals during the two-year period ending on the date of the distribution; and
 - (2) The Participant has not received any prior in-service distribution as described in this Section 6.6 (a); or
- (b) The Participant has been approved by a tax qualified governmental defined benefit plan (as defined in Code Section 414(d)) to purchase service credits with a direct transfer from this Plan, and such in service distribution does not exceed the total amount required to purchase such service credits.

ARTICLE 7 HARDSHIP WITHDRAWALS

7.1 Application for Withdrawal. In the case of an Unforeseeable Emergency prior or subsequent to the commencement of benefit payments, a Participant may apply for a withdrawal of an amount reasonably necessary to satisfy the emergency need. If such application for withdrawal is approved by the Committee (or its delegate), the withdrawal will be effective at the later of the date specified in the Participant's application or the date of approval by the Committee (or its delegate). The approved amount shall be payable in a lump sum within thirty (30) days of such effective date or in some other manner consistent with the emergency need as determined by the Committee (or its delegate). If the Participant's request is denied, a request for review of the determination may be made in writing to the Committee (or its delegate). If the review of the determination fails to confirm a claim of Unforeseeable Emergency, a written appeal may be made to the Committee (or its delegate). Unforeseeable Emergency withdrawals will be made in accordance with procedures established by the Designated Institution and/or Investment Product.

7.2 Unforeseeable Emergency. For the purposes of this Plan, the term "Unforeseeable Emergency" means a severe financial hardship to the Participant resulting from a sudden and unexpected illness or accident of the Participant or his or her spouse, or of a dependent (as defined in Code Section 152(a)) of the Participant, or of a Primary Beneficiary of the Participant, loss of the Participant's property due to casualty, or other similar, extraordinary, and unforeseeable circumstances arising as a result of events beyond the control of the Participant. Withdrawals for foreseeable expenditures normally budgetable, such as a down payment on or purchase of a home, purchase of an automobile, or college expenses, will not be permitted. The Committee (or its delegate) shall not permit withdrawal for an Unforeseeable Emergency to the extent that such hardship is or may be relieved:

- (a) Through reimbursement or compensation by insurance or otherwise;
- (b) By liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
- (c) By cessation of deferrals under the Plan.

7.3 Limits on Withdrawals and Future Contributions. In no event shall the amount of a withdrawal for an Unforeseeable Emergency exceed the balance in the Participant's

Account at the time of withdrawal. Notwithstanding any other provision of this Plan, if a Participant makes a withdrawal hereunder, the Participant's Account shall be appropriately reduced to reflect such withdrawal, and the remainder of any benefits shall be payable in accordance with otherwise applicable provisions of the Plan. In the event a Participant's application for a distribution under Article 7 is approved by the Committee (or its delegate), the Participant will be barred from making further Deferrals under the Plan for a period of six (6) months following the date on which such distribution is made.

ARTICLE 8 BENEFICIARIES

- 8.1 Designation.** A Participant shall have the right to designate a Beneficiary, and to amend or revoke such designation at any time by designating one or more Beneficiaries in a manner approved by the Employer. Such designation, amendment or revocation shall be effective upon receipt by the Employer. Notwithstanding the foregoing, a Participant who elects a joint and survivor annuity form of payment may not elect a non-spouse joint annuitant, and may not change his or her joint annuitant after payments commence.
- 8.2 Failure to Designate a Beneficiary.** If a Participant fails to elect a Beneficiary or no designated Beneficiary survives the Participant, and benefits are payable following death, such benefits will be payable to the Participant's estate.

ARTICLE 9 LEAVE OF ABSENCE

- 9.1 Approved Leave of Absence.** A Participant on an approved leave of absence (whether paid or unpaid) may continue to participate in the Plan subject to all the terms and conditions of the Plan; provided further, Compensation may be deferred for such Participant if such Compensation (or a portion thereof) continues while the Participant is on an approved leave of absence.
- 9.2 Uniformed Services Leaves.** Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

ARTICLE 10 ASSIGNMENT AND ALIENATION

10.1 Participant's Rights Not Assignable. Neither the Participant nor any other person shall have any right to commute, sell, assign, pledge, transfer, or otherwise convey or encumber the right to receive any payments hereunder, which payments and rights thereto are expressly declared to be unassignable and nontransferable. Nor shall any unpaid benefits be subject to attachment, garnishment, or execution for the payment of any debts, judgments, alimony, or separate maintenance owed by the Participant or any other person or be transferable by operation of law in the event of bankruptcy or insolvency of the Participant or any other person.

10.2 No Loans Permitted. Participant loans are not permitted under the Plan.

ARTICLE 11 ADMINISTRATION

11.1 Plan Administrator. This Plan shall be administered by the Employer. The Employer may appoint a Committee of one or more individuals in the employment of the Employer for the purpose of discharging the administrative responsibilities of the Employer under the Plan. The Committee will represent the Employer in matters concerning the administration of this Plan; provided, however, that the final authority for all administrative and operational decisions relating to the Plan remains with the Employer.

11.2 Powers of the Committee. The Committee shall have full power and authority to:

- (a) Present recommendations to the Employer for consideration in order to adopt rules and regulations for the administration of the Plan, provided they are not inconsistent with the provisions of this Plan or Code Section 457 and any Treasury regulations promulgated thereunder, and to interpret, alter, amend, or revoke any rules and regulations so adopted;
- (b) To recommend to the Employer to enter into contracts with respect to this Plan and in accordance with the Employer's purchasing policy;
- (c) To make discretionary decisions under this Plan, including decisions under Article 7 (Hardship Withdrawals) and under Section 11.5 (Claims Procedure); and

- (d) To demand satisfactory proof of the occurrence of any event that is a condition precedent to the commencement of any payment or discharge of any obligation under the Plan.

11.3 Disqualification of Committee Members. If otherwise eligible, a Committee member shall be eligible to participate in the Plan, but such person shall not be entitled to participate in discretionary decisions relating to such person's own participation in or benefits under the Plan.

11.4 Selection of Approved Institutions. The Committee shall screen and recommend to the Employer for approval any insurance company or other entity seeking to sell an Investment Product or otherwise operate as an Approved Institution under this Plan. The Employer may contract with an Approved Institution (a) to issue to the Employer an Investment Product as described in Article 5 of the Plan, or (b) to provide services under the Plan for the convenience of the Employer including, but not limited to, the enrollment of Eligible Individuals as Participants on behalf of the Employer; the maintenance of individual or other accounts and other records; the making of periodic reports; and the disbursement of benefits to Participants, Alternate Payees, and Beneficiaries.

11.5 Claims Procedure.

(a) Claims

Upon the request of a Participant, Beneficiary, or Alternate Payee, the Employer shall provide claim forms to any Participant, Beneficiary, or Alternate Payee who is or may be entitled to benefits hereunder. Such claim form shall be completed and submitted to the Employer no later than thirty (30) days after it is received by said claimant. Upon receipt of the claim form, the Employer shall review the claim and, if the Employer determines that the claim should not be allowed, shall respond within thirty (30) days of receipt of the claim. Such response shall be in writing and shall include the specific reason or reasons for the denial, specific references to pertinent Plan provisions on which the denial is based, a description of whatever additional material or information, if any, must be supplied by the claimant to perfect the claim, and an explanation of the Plan's review procedure. If notice of the denial of a claim is not furnished within thirty (30) days of receipt by the Committee, the claim shall be deemed denied.

(b) Review

Within sixty (60) days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the claimant (or his or her representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the claimant responds and seeks a review of the decision to deny benefits, issues and comments must be submitted in writing to the Employer. Such issues and comments shall specify the reasons that the decision of the Employer is claimed to be erroneous. The Employer shall review the contentions regarding the denial of the claim and shall, within sixty (60) days from the Employer's receipt of the request for review, respond to said request. If the Employer, in its sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within one hundred twenty (120) days from the date the Plan received the request for review. Any decision on review shall be in writing and shall state the specific reasons for the decision, and shall make specific references to the Plan provisions on which the decision is based.

ARTICLE 12 QUALIFIED DOMESTIC RELATIONS ORDERS

12.1 Payment to Alternate Payee. To the extent required by and subject to the restrictions of ORS 243.507, the amount of a Participant's Account shall be paid, in whole or in part, to an Alternate Payee if and to the extent expressly provided for in the terms of any court decree of annulment or dissolution of marriage or of separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of annulment or dissolution of marriage or of separation.

12.2 Required Information and Documentation. No benefit under this Plan may be paid to an Alternate Payee under the terms of a court decree or order or court-approved property settlement agreement ("Order") until after the date the Employer receives a copy of the Order and such additional information and documentation as satisfies the Employer:

- a) That the copy is a true copy of the Order.
- b) That the Order is, within the meaning of ORS 243.507, a court decree of annulment or dissolution of marriage or of separation, or a court order or court-approved property settlement agreement incident to such a decree.

- c) Of the extent to which the terms of the Order expressly provide for payment of a benefit under this Plan to an Alternate Payee.
- d) Of any other fact or matter required for the Employer to:
 - 1) Determine the application of ORS 243.507 to the Order or the extent to which the Order applies to this Plan.
 - 2) Comply with the Order or with ORS 243.507.
 - 3) Administer this Plan under the terms of the Order.

12.3 Coordination with Other Provisions of This Plan. With respect to amounts payable to an Alternate Payee, the custodian shall begin benefit payments to the Alternate Payee as soon as administratively practicable after the requirements of Section 12.2 have been satisfied, in accordance with the Alternate Payee's elections made in a Payout Request made in accordance with the distribution requirements provided in Article 6.

ARTICLE 13 AMENDMENT OR TERMINATION OF PLAN

13.1 Employer's Authority. The Employer may terminate or amend the provisions of this Plan at any time; provided, however, that no termination or amendment shall affect the rights of a Participant, Alternate Payee, or a Beneficiary to the receipt of payment of benefits with respect to any Compensation deferred before the time of the termination or amendment, as adjusted for investment experience of the Investment Product of the Designated Institution prior to or subsequent to the termination or amendment.

13.2 Procedure upon Termination of Plan. Upon termination of the Plan, the Participants in the Plan will be deemed to have withdrawn from the Plan as of the date of such termination. Participants will resume receipt of their full Compensation without any further deferrals pursuant to Section 3.2 of the Plan. The Employer shall not distribute Plan benefits at the time of such termination; rather, the custodian shall retain all Participant Accounts and shall pay or dispose of Participant Accounts only as otherwise provided in the Plan and according to the terms and conditions of the Plan.

ARTICLE 14 ROLLOVERS

14.1 Rollover Contributions. An Eligible Individual (whether or not he or she is a current Participant) may rollover amounts that are considered “eligible rollover distributions” within the meaning of Code Section 402(c)(4) from an “eligible retirement plan” within the meaning of Code Section 402 (c)(8)(B).

- a) Amounts (other than designated Roth contributions as defined in Code Section 402A) rolled over from another Eligible Deferred Compensation Plan will be allocated to the Participant’s 457(b) Rollover Account. Amounts (other than designated Roth contributions as defined in Code Section 402A) rolled over from an eligible retirement plan that is not a Code Section 457(b) plan will be allocated to the Participant’s non-457(b) Rollover Account.
- b) Designated Roth contributions as defined in Code Section 402A rolled over from another eligible Deferred Compensation Plan will be allocated to the Participant’s Roth 457(b) Rollover Account. Designated Roth contributions as defined in Code Section 402A rolled over from an eligible retirement plan that is not a Code Section 457(b) plan will be allocated to the Participant’s Roth non-457(b) Rollover Account.
- c) Designated Roth contributions relating to in-plan rollovers under Code Section 402A(c)(4) rolled over from an eligible retirement plan that is not a Code Section 457(b) plan will be allocated to the Participant’s Rollover of In-Plan Roth non-457(b) Rollover Account.
- d) Amounts attributable to In-Plan Rollovers will be allocated to an In-Plan Roth 457(b) Rollover Account. In-Plan Roth Rollover Contributions will be subject to the Plan rules related to Roth 457(b) Contributions.

All rollovers into this Plan are subject to the approval of the Employer and the applicable Designated Institution(s).

14.2 Direct Rollovers of Plan Distributions. The Plan will make direct rollovers of Plan distributions at the request of the Participant, subject to the provisions of Article 6 and Article 12, to:

- a) an Eligible Deferred Compensation Plan;

- b) a qualified plan described in Code Section 401(a), 401(k) or 403(a);
- c) an annuity contract described in Code Section 403(b);
- d) an individual retirement account or annuity described in Code Section 408(a) or 408(b);
- e) a Roth individual retirement account described under Code Section 408A.

Effective for Plan Years beginning on or after January 1, 2010, a non-spouse Beneficiary may elect to make a direct rollover to an inherited individual retirement account or annuity described in Code Section 408(a) or Section 408(b), or a Roth individual retirement account described in Code Section 408A(a), that is established on behalf of the Beneficiary. Such rollover shall be made in a manner consistent with Code Section 402(c)(11) and any other applicable guidance.

14.3 Plan to Plan Transfers. If a Participant incurs a Severance from Service and subsequently performs services for another employer described in Code Section 457(e)(1)(A) which maintains an Eligible Deferred Compensation Plan, the amounts deferred under the Plan shall, at the Participant's election, be transferred to such other Eligible Deferred Compensation Plan, provided:

- a) The Eligible Deferred Compensation Plan to which the Participant's benefit is being transferred provides for the acceptance of such amounts; and
- b) The Participant has a benefit amount immediately after the transfer which at least equals the benefit amount under this Plan immediately before the transfer.

Upon the transfer of amounts under this Section 14.3, the Plan's liability to pay benefits to the Participant or Beneficiary will be discharged to the extent of the amount so transferred on behalf of the Participant or Beneficiary. The Employer may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 14.3 or effectuate the transfer pursuant to Treasury Regulations Section 1.457-10(b). If Roth 457(b) contributions are transferred, the receiving plan must permit designated Roth contributions as defined in Code Section 402A.

14.4 Transfer of Entire Plan. Subject to this Section 14.4, the Employer may direct the transfer of all assets of the Plan to another Eligible Deferred Compensation Plan that is located in the State of Oregon, provided that the requirements of Code Section 457(b) and Treasury

Regulations Section 1.457(b)-10(b)(3) are satisfied. If Roth 457(b) Contributions are transferred, the receiving plan must permit designated Roth contributions as defined in Code Section 402A.

ARTICLE 15 PLAN ASSETS

- 15.1 Funding Medium for Plan Assets.** All assets of the Plan, including all amounts deferred pursuant to Sections 3.2 and 3.3 (except those that have been transferred out pursuant to Section 14.2, 14.3 or 14.4), all amounts transferred to the Plan pursuant to Section 14.1, all property and rights purchased with Deferrals, Employer contributions and transferred amounts, and all income attributable to such amounts, property, or rights shall (until made available to a Participant, Alternate Payee, or Beneficiary pursuant to the distribution provisions of Article 6) be held in a trust, custodial account, or annuity contract described in Code Section 457(g) for the exclusive benefit of Participants and their Beneficiaries.
- 15.2 No Reversion.** Except as otherwise provided in the Plan or permitted by the Code, no part of the Plan assets shall be paid over or revert to the Employer or be used for any purpose other than for the exclusive benefit of Participants, Alternate Payee's and their Beneficiaries.

ARTICLE 16 APPLICABLE LAW

- 16.1 Governing Law.** The Plan shall be construed under the laws of the state of Oregon, except to the extent superseded by federal law, including the Code.

IN WITNESS WHEREOF, the Employer has caused this Plan to be signed and attested by its duly authorized officers on the _____ day of _____, 2016.

Board of County Commissioners:

Chair

Recording Secretary

ATTACHMENT A

The Employer shall make contributions to the Plan in the amounts set forth below, expressed as a percentage of the Eligible Employee's base compensation:

<u>Classification of Employees</u>	<u>Contribution Amount</u>
Peace Officers Association	Four percent (4%)
Federation of Parole and Probation Officers	One percent (1%)
Nonrepresented Group 1	Six and twenty-seven one hundredths percent (6.27%)

The Employer shall enroll new Eligible Employees in the amounts set forth below, expressed as a percentage of the Eligible Employee's base compensation:

<u>Classification of Employees</u>	<u>Contribution Amount</u>
AFSCME - DTD	Five percent (5%)
AFSCME-WES	Five percent (5%)
Employees Association	Five percent (5%)
Housing Authority Employees Association	Five percent (5%)



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

August 4, 2016

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement
with Multnomah County for a HIPAA Compliance Specialist

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
 Assistants

Purpose/Outcomes	Approve Intergovernmental Agreement between Clackamas County and Multnomah County for HIPAA privacy officer
Dollar Amount and Fiscal Impact	Services are to be provided on an as-needed basis at the hourly rate of \$87.29 per hour
Funding Source	County general fund
Duration	July 1, 2016 through July 1, 2017
Previous Board Action	None
Strategic Plan Alignment	Ensure safe, healthy and secure communities Build public trust through good government
Contact Person	Stephen L. Madkour, County Counsel

BACKGROUND:

Clackamas County plans to engage the services of a HIPAA compliance expert employed by Multnomah County. The Multnomah County HIPAA Privacy Officer is an attorney in the Multnomah County Attorney's Office and is experienced and knowledgeable regarding all aspects of HIPAA compliance and has established a centralized HIPAA compliance program for Multnomah County.

Clackamas County desires to consult with the MC Privacy Officer to assist Clackamas County in establishing a robust centralized HIPAA compliance program in Clackamas County. The MC Privacy Officer will perform work under this contract in Clackamas County Offices onsite or remotely not to exceed 10 hours a week on an as-needed basis at an hourly rate of \$87.29. HIPAA regulations and compliance are relatively esoteric areas of federal law and the IGA will allow Clackamas County the benefit from the services of a subject matter expert.

RECOMMENDATION:

County Counsel respectfully requests that the Board of County Commissioners authorize the County to enter into an IGA with Multnomah County for the services of a HIPAA compliance expert.

Respectfully submitted,

Stephen L. Madkour,
County Counsel

INTERGOVERNMENTAL AGREEMENT

This Agreement is entered into, by and between Clackamas County, a political subdivision of the State of Oregon, and Multnomah County, a political subdivision of the State of Oregon.

WHEREAS ORS 190.010 authorizes the parties to enter into this Agreement for the performance of any or all functions and activities that a party to the Agreement has authority to perform.

Now, therefore, the parties agree as follows:

- 1) The effective date is: July 1, 2016, or upon final signature, whichever is later.

The expiration date is July 1, 2017; unless otherwise amended.
- 2) The parties agree to the terms and conditions set forth in Attachment A, which is incorporated herein, and describes the responsibilities of the parties, including compensation, if any.
- 3) Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or handicap.
- 4) No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 5) This Agreement may be terminated, with or without cause and at any time, by a party by providing 30 days written notice of intent to the other party(s).
- 6) Modifications to this Agreement are valid only if made in writing and signed by all parties.
- 7) Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party.
- 8) Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to the work performed under this Agreement.
- 9) Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 through 30.274.
- 10) Each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.

11) This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

MULTNOMAH COUNTY:

County Chair or Designee

Date

Printed Name

Title

Reviewed:

Jacqueline A. Weber
Deputy County Attorney

CLACKAMAS COUNTY:

Signature

Date

Printed Name

Title

Address:

Office of County Counsel
Clackamas County
2051 Kaen Road
Oregon City, OR 97045

ATTACHMENT “A”

1. **Purpose:** The Multnomah County Privacy Officer (MC Privacy Officer) is experienced and knowledgeable regarding all aspects of HIPAA compliance and has established a centralized HIPAA compliance program for Multnomah County. Clackamas County has assigned its County Counsel as the Privacy Officer for Clackamas County. Clackamas County desires to consult with the MC Privacy Officer to assist Clackamas County in establishing a robust centralized HIPAA compliance program in Clackamas County. The MC Privacy Officer will perform work under this contract in Clackamas County Offices onsite or remotely not to exceed 10 hours a week. Multnomah County agrees that Clackamas County may consult with the MC Privacy Officer for certain functions described below.

2. Statement of Work:

A. Multnomah County responsibilities:

Clackamas County may consult with the MC Privacy Officer on HIPAA compliance issues. Clackamas County shall use no more than .25 of the MC Privacy Officer’s time. The MC Privacy Officer may be made available for consultation in person, by telephone and by email. The MC Privacy Officer may periodically or as needed be physically present at Clackamas County offices. The MC Privacy Officer may be contacted on other days in case of suspected HIPAA breaches. The Clackamas County Privacy Officer (County Counsel) shall be the primary contact for the MC Privacy Officer. In addition, the MC Privacy Officer will also work with a project team consisting of the Risk Manager, and a special projects manager with Clackamas County Health and Human Services. The primary duties to be performed by the MC Privacy Officer for Clackamas County when requested are:

- (a) Review Clackamas County Departments to assess and determine correct status of covered components of Clackamas County’s hybrid entity and develop a chart of covered components similar to chart developed for Multnomah County;
- (b) Identify HIPAA privacy rule compliance issues Clackamas County needs to address in light of HITECH and new HIPAA Omnibus Rules of 2013;
- (c) Develop a Work Plan for HIPAA privacy rule compliance issues Clackamas County needs to address;
- (d) Review, revise and update Clackamas County HIPAA Privacy and Security rules (Security rules in consultation with the Clackamas County Security Officer);
- (e) Develop written breach policy and procedures that align with current practice in Clackamas County and HIPAA regulations to meet Clackamas County organizational needs;

- (f) Review and revise current Clackamas County HIPAA training material;
- (g) Work with Clackamas County Privacy Officer to identify and define privacy officer performance requirements; and
- (h) Assist Clackamas County to develop and implement a process for evaluating and assisting in responding to instances of suspected HIPAA breaches that occur during the period of this contract.

B. Clackamas County responsibilities:

Pay for consulting services as described in the Payment Terms. If needed, provide office space and use of a computer, software, phone and network capabilities for the MC Privacy Officer while performing duties for Clackamas County. Assist in performance evaluation of MC Privacy Officer if requested by Multnomah County. Clackamas County retains all final authority and responsibility for HIPAA compliance and breach response.

3. Payment Terms:

Clackamas County agrees to pay for the services of Multnomah County's Privacy Officer on an hourly basis at the hourly rate of \$87.29. Multnomah County's Privacy Officer's salary and fringe benefits. Currently that annual sum is \$181,556. Additionally, mileage for travel to Clackamas County will be reimbursed by Clackamas County. Both parties understand that Multnomah County may request that this Agreement be amended to increase or decrease the compensation amount annually if costs are higher or lower than anticipated at the agreement commencement. Multnomah County will invoice Clackamas County Office of County Counsel quarterly. Payments will be due 30 days after invoice.

Invoice Mailing Address:

Clackamas County Counsel
2051 Kaen Road
Oregon City, OR 97045

Health Insurance Portability and Accountability Act of 1996 (HIPAA) Business Associate Agreement

A. General:

For purposes of the IGA and its Attachment A ("IGA"), Multnomah County ("County") is Clackamas County's ("Covered Entity") business associate and will comply with the obligations set forth below and under HIPAA. As described in the IGA, County creates, receives, maintains or transmits PHI on behalf of Covered Entity or to provide a service to Covered Entity.

B. Definitions:

Terms used, but not otherwise defined in this Section, will have the same meaning as those terms in 45 CFR 160.103, 164.103, 164.402 and 164.501. A reference to a regulation means the section as in effect or as amended, and for which compliance is required.

- *Breach*: as defined in 45 CFR 164.402 and includes the unauthorized acquisition, access, use, or disclosure of Protected Health Information (PHI) that compromises the security or privacy of such information.
- *Designated Record Set*: as defined in 45 CFR 164.501.
- *Individual*: as defined in 45 CFR 160.103 and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- *Privacy Rule*: the standards for privacy at 45 CFR Part 160 and Part 164, subpart A and E.
- *Protected Health Information (PHI)*: means any information created for or received from County under the IGA from which the identity of an Individual can reasonably be determined, and includes, but is not limited to, all of the information within the statutory meaning of "Protected Health Information" in 45 CFR 160.103.
- *Required by Law*: as defined in 45 CFR 164.103.
- *Secretary*: the Secretary of the U.S. Department of Health and Human Services (HHS) or designee.
- *Security Rule*: the Standards for Security of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subpart A and C.
- *Unsecured Protected Health Information*: PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in 45 CFR 164.402.

C. County's Obligations:

1. County agrees to not use or disclose Protected Health Information (PHI) other than as permitted or required by the IGA or as Required or Permitted by Law. County further agrees to use or disclose PHI only on behalf of, or to provide services to, the Covered Entity in fulfilling County's obligations under the IGA, and to not make uses or disclosures that would violate the Privacy Rule if done by Covered Entity or violate the minimum necessary standard as described below.
2. When using, disclosing, or requesting PHI, County agrees to make reasonable efforts to limit the PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request, in accordance with 45 CFR 164.514(d), with the following exceptions:
 - a) disclosures to or requests by a health care provider for treatment
 - b) disclosures made to the Individual about his or her own PHI
 - c) uses or disclosures authorized by the Individual
 - d) disclosures made to the Secretary in accordance with the HIPAA Privacy Rule
 - e) uses or disclosures that are Required by Law, and
 - f) uses or disclosures that are required for compliance with the HIPAA Transaction Rule.
3. County is responsible for compliance with the applicable requirements of the HIPAA Privacy Rule and Security Rule to the same extent as Covered Entity.
4. County agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by the IGA.
5. County agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity as required by 45 CFR 164 Subpart C.
6. County shall promptly notify Covered Entity of a Breach of Unsecured PHI of which County (or County's employee, subcontractor, officer or agent) knows or should have known of through the exercise of reasonable diligence.
7. County agrees to mitigate, to the extent practicable and without unreasonable delay, any harmful effect that is

known to Covered Entity of a use or disclosure of PHI or Breach of Unsecured PHI by County in violation of the requirements of the IGA or HIPAA.

8. County agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by County on behalf of Covered Entity, agrees in writing to the same restrictions and conditions that apply through the IGA to County with respect to such information in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2).
9. County agrees to provide access to PHI about an Individual contained in a Designated Record Set within the reasonable time, manner, form and format specified in Individual's or Covered Entity's request as necessary to satisfy the Covered Entity's obligations under 45 CFR 164.524. If an Individual requests access to information directly from County, County agrees to forward the request to Covered Entity within 5 working days of receipt. Covered Entity will be responsible for any denials of requested PHI.
10. County agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 within the reasonable time and manner specified in Covered Entity's request. County shall not respond directly to requests from Individuals for amendments to their PHI in a Designated Record Set. County agrees to forward the request to Covered Entity within 5 working days of receipt.
11. County agrees to make internal practices, books and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created, maintained or received by County on behalf of Covered Entity available to the Secretary upon request of the Secretary, in a time and manner designated by the Secretary for purposes of the Secretary determining Covered Entity's compliance with HIPAA.
12. County agrees to document disclosures of PHI and information related to such disclosures as required for Covered Entity to respond to a request by an Individual for an accounting of disclosure of PHI in accordance with 45 CFR 164.528. County agrees to provide Covered Entity or an Individual information under this Section, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosure of PHI in accordance with 45 CFR 164.528.
13. County must forward to Covered Entity within 5 working days of receipt any request for restriction or confidential communications as described under 45 CFR 164.522 received from an Individual. County must process such request in the reasonable time and manner as directed by Covered Entity.
14. County may use and disclose PHI (a) for the proper management and administration of County, (b) to carry out the legal responsibilities of County, (c) to provide Data Aggregation services relating to the health care operations of the Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B) and required by the IGA, (d) to the extent and for purposes authorized by the Individual, (e) to report violations of law to appropriate Federal and State authorities consistent with 45 CFR 164.502(j)(I) or (f) as required by law.

D. Covered Entity's Obligations:

1. Covered Entity shall obtain any consent or authorization from Individuals as necessary or required under HIPAA, other federal or state law or its own policies prior to allowing County and other provider access to an Individual's PHI.
2. Covered Entity shall notify County of:
 - (a) Its permissible uses and disclosures of PHI by providing a copy of its Notice of Privacy Practices upon request;
 - (b) Any limitation(s) in its Notice of Privacy Practices to the extent that such limitation may affect County's use or disclosure of PHI;
 - (c) Any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect County's use or disclosure of PHI; and
 - (d) Any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect County's use or disclosure of PHI.
3. The Covered Entity shall not request that County use or disclose PHI in any manner that would not be permissible under HIPAA.

E. Termination: Upon termination of the IGA for any reason, County will extend the protections of the IGA to any PHI that County is required to retain under any provision of the IGA. The terms of the IGA shall remain in effect until all of the PHI provided by Covered Entity to County, or created or received by County on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.



August 4, 2016

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of an Allocation Certification Agreement with the
Oregon State Marine Board
for Maintenance Assistance Program (MAP) 2016-17 Funding

Purpose/Outcomes	Provides maintenance funding for County Parks' boat ramps and pump out dump station.
Dollar Amount and Fiscal Impact	\$25,350 in funding support, with a minimum of \$16,450 in matching labor/expenditures
Funding Source	Oregon State Marine Board; \$24,000 in state funds and \$1,350 in federal Clean Vessel Act funds.
Duration	July 1, 2016 through June 30, 2107
Previous Board Action	None
Strategic Plan Alignment	1. Honor, Utilize, Promote and Invest in our Natural Resources 2. Enhance Park and Forest Health.
Contact Person	Rick Gruen, County Parks & Forest Manager (503) 742-4345
Contract No.	N/A

BACKGROUND:

The Oregon State Marine Board (OSMB) provides an annual allocation to Clackamas County Parks in support of the improved boat ramp facilities at Barton, Carver and Hebb parks, and Boones Ferry Marina. State funds support staff labor, material expenditures, and vehicle costs related to maintenance of restrooms, grounds, boater parking lots, docks, and boat ramps. Federal funds are used to support the labor and materials to maintain the boat waste pump-out and dump station at the Boones Ferry Marina ramp. The allocation to Clackamas County Parks for FY 16/17 is \$25,350 with \$16,450 provided by County Parks as match. The Allocation Certification Agreement details the breakdown of funds by site and notes the amount awarded by feature. Due to the \$1,350 in federal Clean Vessel Act Grant support for the pump-out dump station at Boones Ferry Marine, this agreement is being processed as a grant agreement.

The revenue and expenses for the Maintenance Assistance Program have been budgeted in the County Parks 2016-17 budget. The Grant Application Lifecycle Form was submitted to County Administrator, Don Krupp and was signed on June 20, 2016.

RECOMMENDATION:

Staff recommends the Board approve this Allocation Certification Agreement and further authorizes BCS Director, Gary Barth, to sign on behalf of the County.

Respectfully submitted,

Laura Zentner, Deputy Director

CLACKAMAS COUNTY
ALLOCATION CERTIFICATION AGREEMENT
MAINTENANCE ASSISTANCE PROGRAM (MAP) 2016-17

This Maintenance Assistance Program (MAP) Allocation Certification Agreement is entered into by and between the State of Oregon, acting by and through the Oregon State Marine Board, hereinafter called "OSMB" and Clackamas County, hereinafter called the "Recipient." In accordance with OAR 250-14-004, the parties agree to the following:

- I. The Recipient certifies that:
 - A. A budget has been adopted which includes the MAP allocation amount of **\$24,000.00** state funds and **\$1,350.00** federal Clean Vessel Act (CVA) funds for the fiscal year period of July 1, 2016 to June 30, 2017; and
 - B. The attached list of facilities and site elements, "Attachment A," is maintained by the Recipient; and
 - C. MAP and CVA funds will be spent only to maintain improved marine facilities identified on "Attachment A," in accordance with MAP procedures and policies; and
 - D. During the season of use identified on "Attachment A" the facilities will be open and maintained for public use; and
 - E. That the amount of any user fee, identified on "Attachment A," that is presently charged or will be charged during the fiscal year, include the highest of any entrance, day use, launch ramp, parking, transient moorage, or other fees paid, excluding annual passes or donations, and no fee will be charged for any vessel waste disposal system or floating restroom; and
 - F. OSMB will have access to all eligible boating facilities and maintenance expenditure and performance records upon request and the Recipient will cooperate during any audit; and
 - G. MAP funds will not exceed sixty-percent of the overall maintenance cost of eligible boating facilities; and
 - H. A minimum of **\$16,000.00** matching resources and **\$450.00** vessel waste and floating restroom matching resources will be provided. Matching funds do not include any cash or in-kind activities expended on campgrounds, marinas, fuel stations, trails, picnic shelters, swim areas, or other large day-use components. The percentage of shared use has been documented for areas such as restrooms and parking that serve eligible marine facilities and other park uses.
 - I. MAP funds are principally targeted for labor, supplies, or contract services that will be expended at the eligible marine facilities. Expenditures for program administration, supervision, or other general service assessments will be limited to a maximum of fifteen-percent.
 - J. MAP funds will not be expended for capital construction projects or used as match to other grants.
 - K. The Recipient agrees that the MAP Program is designed to supplement funds expended at eligible marine facilities and the intent is to assist in improving the quality of maintenance at the facilities identified on "Attachment A."
 - L. The Recipient shall immediately notify OSMB of any changes in operation or maintenance to

include fees, season of use, or public access and the Recipient agrees to reimburse OSMB any MAP funds deemed an overpayment as a result of the changes.

- M. The Recipient agrees to reimburse OSMB any excess MAP funds not expended within the fiscal year that exceed the ten-percent maximum carry forward amount.
- N. The Recipient agrees to provide at the end of each fiscal year an expenditure report for maintenance and operations outlining labor, supplies, materials and services for all facilities identified on "Attachment A" and a performance report for any vessel waste collection systems and/or floating restrooms.
- O. The Recipient does not * have a federally approved indirect rate. If applicable, a copy of the letter from the Federal Agency approving the indirect rate will be provided to OSMB before MAP funds are paid.**
- P. The Recipient does * receive \$750,000 or more in federal funding from all sources in a fiscal year, requiring submission of a Single Audit report.
(* Enter 'does' or 'does not' as appropriate.)**

II. OSMB certifies that:

- A. It is authorized by ORS 830.150(2)(a) to provide MAP funds for annual maintenance of improved boating facilities and is further authorized under CFR 50 Part 85 to provide federal Clean Vessel Act funds from the U.S. Fish and Wildlife Service for maintenance of vessel waste collection facilities and floating restrooms.
- B. It has sufficient MAP funds available within its current biennial budget and has authorized expenditure of MAP funds to the Recipient for the eligible marine facilities identified on "Attachment A."

The Recipient, by the signature of its authorized representative below, hereby acknowledges that it has read the agreement, understands it, and agrees to be bound by its terms and conditions.

OSMB: State of Oregon, acting by and through its Oregon State Marine Board

RECIPIENT: Clackamas County

By: _____
(Signature)

By: _____
(Signature)

By: Scott Brewen
(Printed Name)

By: _____
(Printed Name)

Title: Director

Title: _____

Date: _____

Date: _____

DUNS: 096992656
(D-U-N-S Registration number)

If you do not have a D-U-N-S number, you will need to request it at <http://fedgov.dnb.com/webform>.

Attachment A

Maintenance Assistance Program 2016-2017

Sponsor Clackamas County

Site Name Barton Park		Use Fee: \$2.00			Fee Reduction: 0%	
Funding Source MAP	Size / Quantity	Points Possible	Seasons of Use*	Months of Use	Seasonal Point Value	Fee Adjusted Point Value
Vault Toilet		10	PSO	12	\$1,000.00	\$1,000.00
Portable Toilet		8	P	3	\$400.00	\$400.00
Additional Toilet Stall(s)	1	4	P	3	\$200.00	\$200.00
Vegetation Maintenance		6	PSO	12	\$600.00	\$600.00
Garbage Can or Dumpster		6	PSO	12	\$600.00	\$600.00
Single Car Parking Stalls	28	0			\$0.00	\$0.00
Boat Trailer Stalls	31	12	PSO	12	\$1,200.00	\$1,200.00
Hard Surface Ramp, 1 Lane		6	PSO	12	\$600.00	\$600.00
Travel		3			\$300.00	\$300.00

MAP Allocation for 9 site elements at Barton Park

Allocation Subtotal: \$4,900.00

*Seasons of Use: P=Peak, S=Shoulder, O=Off;
Minus (-) denotes partial season

Fee Adjustment: \$0.00

MAP Grant: \$4,900.00

Site Name Boones Ferry Ramp		Use Fee: \$2.00			Fee Reduction: 0%	
Funding Source MAP	Size / Quantity	Points Possible	Seasons of Use*	Months of Use	Seasonal Point Value	Fee Adjusted Point Value
Portable Toilet		8	PSO	12	\$800.00	\$800.00
Additional Toilet Stall(s)	1	4	PSO	12	\$400.00	\$400.00
Vegetation Maintenance		6	PSO	12	\$600.00	\$600.00
Garbage Can or Dumpster		6	PSO	12	\$600.00	\$600.00
Single Car Parking Stalls	17	0			\$0.00	\$0.00
Boat Trailer Stalls	97	24	PSO	12	\$2,400.00	\$2,400.00
Hard Surface Ramp, 2 Lanes		10	PSO	12	\$1,000.00	\$1,000.00
Cantilever Ramp Inspection		10	PSO	12	\$1,000.00	\$1,000.00
Boarding Dock, total linear feet	120	3	PSO	12	\$300.00	\$300.00
Log Debris Boom		2			\$200.00	\$200.00
Travel		3			\$300.00	\$300.00

MAP Allocation for 11 site elements at Boones Ferry Ramp

Allocation Subtotal: \$7,600.00

*Seasons of Use: P=Peak, S=Shoulder, O=Off;
Minus (-) denotes partial season

Fee Adjustment: \$0.00

MAP Grant: \$7,600.00

Site Name Boones Ferry Ramp Pump/Dump		Use Fee: \$0.00			Fee Reduction: 0%	
Funding Source CVA	Size / Quantity	Points Possible	Seasons of Use*	Months of Use	Seasonal Point Value	Fee Adjusted Point Value
Pumpout/Dump Station		12	PS	6	\$900.00	\$900.00
Holding Tank		6	PS	6	\$450.00	\$450.00

CVA Allocation for 2 site elements at Boones Ferry Ramp Pump/Dump

Allocation Subtotal: \$1,350.00

*Seasons of Use: P=Peak, S=Shoulder, O=Off;
Minus (-) denotes partial season

Fee Adjustment: \$0.00

CVA Grant: \$1,350.00

Site Name Carver Ramp		Use Fee: \$2.00			Fee Reduction: 0%	
Funding Source MAP	Size / Quantity	Points Possible	Seasons of Use*	Months of Use	Seasonal Point Value	Fee Adjusted Point Value
Feature						
Flush Restroom		12	PSO	12	\$1,200.00	\$1,200.00
Portable Toilet		8	P	3	\$400.00	\$400.00
Additional Toilet Stall(s)	1	4	PSO	12	\$400.00	\$400.00
Vegetation Maintenance		6	PSO	12	\$600.00	\$600.00
Garbage Can or Dumpster		6	PSO	12	\$600.00	\$600.00
Single Car Parking Stalls	32	0			\$0.00	\$0.00
Boat Trailer Stalls	61	18	PSO	12	\$1,800.00	\$1,800.00
Hard Surface Ramp, 1 Lane		6	PSO	12	\$600.00	\$600.00
Travel		3			\$300.00	\$300.00

MAP Allocation for 9 site elements at Carver Ramp

Allocation Subtotal: \$5,900.00

*Seasons of Use: P=Peak, S=Shoulder, O=Off;
 Minus (-) denotes partial season

Fee Adjustment: \$0.00

MAP Grant: \$5,900.00

Site Name Hebb Park Ramp		Use Fee: \$2.00			Fee Reduction: 0%	
Funding Source MAP	Size / Quantity	Points Possible	Seasons of Use*	Months of Use	Seasonal Point Value	Fee Adjusted Point Value
Feature						
Flush Restroom		12	PSO	12	\$1,200.00	\$1,200.00
Additional Toilet Stall(s)	1	4	PSO	12	\$400.00	\$400.00
Vegetation Maintenance		6	PSO	12	\$600.00	\$600.00
Garbage Can or Dumpster		6	PSO	12	\$600.00	\$600.00
Single Car Parking Stalls	16	0			\$0.00	\$0.00
Boat Trailer Stalls	37	12	PSO	12	\$1,200.00	\$1,200.00
Hard Surface Ramp, 1 Lane		6	PSO	12	\$600.00	\$600.00
Boarding Dock, total linear feet	240	7	PSO	12	\$700.00	\$700.00
Travel		3			\$300.00	\$300.00

MAP Allocation for 9 site elements at Hebb Park Ramp

Allocation Subtotal: \$5,600.00

*Seasons of Use: P=Peak, S=Shoulder, O=Off;
 Minus (-) denotes partial season

Fee Adjustment: \$0.00

MAP Grant: \$5,600.00

Total Grant for Clackamas County (5 sites)

Total Allocation: \$25,350.00



August 4, 2016

Board of County Commissioner
 Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with
 Clackamas Community College for Educational & Enrichment Services (Instructors) for
the Milwaukie Center

Purpose/Outcomes	Allows NCPRD to partner with Clackamas Community College (CCC) for provision of program instruction from Summer 2016 through Spring 2017 terms classes to be held at the Milwaukie Center.
Dollar Amount and Fiscal Impact	The contract is for an amount not to exceed \$46,936.50.
Funding Source	North Clackamas Parks and Recreation District approved budget.
Duration	June 20, 2016 to June 10, 2017
Previous Board Action	Annual contract renewal/update
Strategic Plan Alignment	Ensure safe, healthy and secure communities.
Contact Person	<i>Kandi Ho, NCPRD Aquatic and Recreation Manager</i> 503-794-8001
Contract No.	N/A

BACKGROUND:

The North Clackamas Parks and Recreation District requests the approval of an Intergovernmental Agreement with Clackamas Community College for Educational & Enrichment Services (Instructors) for the Milwaukie Center.

This renewal IGA allows NCPRD to partner with Clackamas Community College (CCC) for provision of program instruction from summer 2016 through spring 2017 terms classes to be held at the Milwaukie Center. CCC will provide up to 2,286.25 hours of instructional hours during the term of the agreement, for classes to be held at the Milwaukie Center. CCC will provide the following per attached agreement:

- Recruit and hire qualified instructors
- Provide liability and worker's compensation insurance for instructors
- Provide tuition waivers for participants 62 years of age and older

This IGA has a maximum contract value of \$46,936.50. It is an annual agreement renewal that has been successfully It is effective retroactively to June 20, 2016 and terminates on June 10, 2017.

RECOMMENDATION:

Staff recommends the Board approve this agreement and authorizes the Director to sign on behalf of Clackamas County.

ATTACHMENT:

1. Educational Services Contract Community Education

Respectfully submitted,

Scott Archer, Director
North Clackamas Parks and Recreation District



EDUCATIONAL SERVICES CONTRACT COMMUNITY EDUCATION

This Community Education Educational Services Contract (“Agreement”) is made effective as of the 1 day of July, 2016 (“Effective Date”), by and between Clackamas Community College, 19600 Molalla Avenue, Oregon City, Oregon 97045, hereinafter referred to as the “College” and North Clackamas Parks & Recreation District/Milwaukie Center, hereinafter referred to as the “Facility”.

Whereas, both the College and the Facility desire to jointly plan, promote, and sponsor programs for adults and, whereas, the Facility desires to engage the College to render specific educational services to Facility’s patrons. Therefore, in consideration of the sum of \$ \$46,936.50, to be paid by the Facility as provided herein (“Fees”), the College agrees to offer 2,286.25 instructional hours during the period June 20, 2016, through June 10, 2017 (“Term”). See Exhibit A for proposed class schedule.

In addition, the College and the Facility agree as follows:

- A. **The College will provide the following (collectively “Services”):** 1. Recruit and hire qualified instructors to teach the classes listed in Exhibit A, attached hereto and made a part hereof (“Class(es)”). 2. Provide liability and Worker’s Compensation insurance coverage for instructors in limits less than or equal to the fees listed above, to be carried throughout the Term, certificates of which shall be provided to Facility concurrent with the execution of this Agreement and upon request. 3. Provide tuition waivers to all Facility residents 62 years of age and older participating in Classes. 4. Confirm with Facility the Class schedule prior to the start of each College term. 5. Appoint a liaison to work with Facility on implementing and coordinating the Services.
- B. College agrees to indemnify, defend, and hold harmless Facility from and against any and all claims, liabilities, and expenses (including, without limitation, reasonable attorneys’ fees) brought against or incurred by Facility as a result of the negligent acts, willful misconduct, performance of the Services under this Agreement, or any breach of this Agreement, by College, its agents, and employees. College’s duties under this Section B shall survive the termination of this Agreement by expiration, termination, or otherwise.
- C. The College will bill the Facility an amount equal to one-quarter of the Fees each College term on or about July 15, 2016, December 9, 2016, February 3, 2017 and May 5, 2017. Each payment to the College will be due within thirty (30) days of Facility’s receipt of invoice. Undisputed accounts unpaid over 30 days will incur a \$15 service charge.
- D. The College is subject to Americans with Disabilities Act (ADA). Facility agrees to work with the College in addressing any accommodation requirements made by program participants as required under ADA.
- E. Clackamas Community College prohibits unlawful discrimination based on race, color, religion, ethnicity, use of native language, national origin, sex, sexual orientation, marital status, disability, veteran status, age, genetic information, or any other status protected under applicable federal, state or local laws.

- F. **The Facility will:** 1. Provide appropriate classroom facilities for classes to be held. 2. Appoint a liaison to work with the College on implementing and coordinating the Services. 3. Inform the College, in a timely manner, of any changes or conflicts with regularly scheduled classes. 4. Assist with participant registration for classes according to College policies and procedures. 5. Maintain liability waivers for all patrons who attend classes within the program.
- G. If the Facility wishes to terminate this Agreement for any or no reason, it may do so upon written notice to College. Upon such termination, Facility shall pay for undisputed Fees incurred up to the termination date.
- H. The Facility agrees to indemnify, defend, and hold harmless College from and against any and all claims, liabilities, and expenses (including, without limitation, reasonable attorneys' fees) brought against or incurred by College as a result of the negligent acts, willful misconduct, performance of the Services under this Agreement, or any breach of this Agreement, by Facility, its agents, and employees. Facility's duties under this Section H shall survive the termination of this Agreement by expiration, termination, or otherwise.
- I. This Agreement represents the entire agreement between the parties with regard to its subject matter and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be executed in one or more counterparts, each of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or electronic mail shall be equally as effective as delivery of an originally executed counterpart of this Agreement.
- J. This Agreement shall be governed by the laws of the State of Oregon ("State"). All claims, disputes and other matters in question which arise out of or relate to this Agreement (including any breach thereof) shall be decided by a court of competent jurisdiction in the state or federal courts in the State. Should any provision of this Agreement be determined by a court to be unenforceable, such a determination shall not affect the validity or enforceability of any other provision hereof. No waiver of any term or condition of this Agreement on the part of either party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such waiving party. Modifications or amendments to this Agreement must be in writing and executed by duly authorized representatives of each party.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date.

COLLEGE:

Clackamas Community College

Community Ed & Harmony Campus Dir.

Authorizing Signature

FACILITY:

Authorizing Signature