

September 5, 2024

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of an Intergovernmental Agreement with Oregon State University for Healthy Private Well Stewardship. Agreement value is \$50,350 for ten months. Funding is through the Oregon Health Authority. No County General Funds are involved.

Previous Board Action/Review	Briefed at Issues: 09/04/2024		
Performance Clackamas	1. To increase community safety and health		
Counsel Review	Yes	Procurement Review	No
Contact Person	Philip Mason-Joyner	Contact Phone	503-742-5956

EXECUTIVE SUMMARY: Nearly 23% of Oregonians rely on domestic wells, or private wells, as their primary source of potable water. This makes groundwater protection and well stewardship important to public health. Clackamas county currently has no programs to assist its residence in education and testing for private well protection and safety.

Oregon State University (OSU) utilized federal funding to establish a program that tests private wells and educates homeowners in Oregon. The OSU domestic well program has provided their services in partnership with several southern Oregon counties for the past decade with great success. This project would allow OSU to expand their established services to Clackamas county residents.

Clackamas County Environmental Health (CCEH) is partnering with Oregon State University (OSU) Extension Service & Oregon State University College of Health to promote healthy domestic well stewardship throughout Clackamas County. OSU and CCEH will host 4 workshops and 6 free community-based screening events from Summer of 2024 to Summer of 2025. CCEH and OSU will work with community-based organizations, including (but not limited to) *Adelante Mujeres* and *Bridging Cultures* to prioritize outreach among culturally specific populations, in coordination with North Willamette Research and Extension Center. Both workshops and testing events will be offered in English and Spanish; educational materials will be provided in both languages at each workshop and event, and this partnership will also provide up to 150 homeowners with drinking water sample collection and certified analytical laboratory testing for arsenic, nitrate, coliform bacteria, and lead. OSU will lastly conduct 2-4 workshops with these well owners to help them interpret test results, learn about water quality treatment, and implement a stewardship plan for their well.

The contract with OSU is to provide the work for the CCEH Healthy Private Well Stewardship project, selected for a FY 2024-2025 Public Health Modernization award (internal).

For Filing Use Only

RECOMMENDATION: The staff respectfully requests that the Board of County Commissioners approve this Agreement (11723) and authorize Chair Smith to sign on behalf of Clackamas County.

Respectfully submitted,

Rodney A. Cook

Rodney A. Cook
Director of Health, Housing, and Human Services

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND OREGON STATE UNIVERSITY
CONTRACT #11723**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County ("County"), a political subdivision of the State of Oregon, and Oregon State University ("Agency"), an Oregon municipal corporation, collectively referred to as the "Parties" and each a "Party."

RECITALS

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

TERMS

1. **Term.** This Agreement shall be effective upon execution, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or **June 30, 2025**, whichever is sooner.
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** The County agrees to pay Agency, from available and authorized funds, a sum not to exceed **fifty thousand three hundred and fifty dollars (\$50,350)** for accomplishing the Work required by this Agreement.
4. **Payment.** Unless otherwise specified, the Agency shall submit monthly invoices for Work performed and shall include the total amount billed to date by the Agency prior to the current invoice. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. Final payment due within 60 days or August 31, 2025. Payments shall be made to Agency following the County's review and approval of invoices submitted by Agency. Agency shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
 - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
 - B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
 - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- D. **Termination.** Either the County or the Agency may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- E. **Indemnification.** Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the Agency, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the Agency agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the Agency or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the Agency has a right to control.

6. **Insurance.** The Agency agrees to furnish the County with evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of Clackamas County, and their officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Agreement. If self-insured, Agency shall provide documentation to the County of Agency's self-insured status by completing the Self-Insurance Certification form provided by the County.

The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.

7. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

- A. Julie Hamilton or their designee will act as liaison for the County.

Contact Information: JulieHam@clackamas.us (971) 563-4665

Jennifer Creighton, Associate Vice President or their designee will act as liaison for the Agency.

Contact Information: sponsored.programs@oregonstate.edu 1 (541) 737-4933

Office for Sponsored Research and Award Administration
312 Kerr Administration Building
Corvallis, OR 97331-2140

8. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.

- E. **Work Product.** The County and Agency agree that ownership of original works of authorship ("Work Product") shall remain with the creating party. Agency hereby agrees to grant to the County a perpetual, royalty-free, non-exclusive, worldwide license to all original Work Product created pursuant to this Agreement. Upon the County's reasonable request, Agency shall execute such further documents and instruments necessary to fully vest such license rights in the County.

- F. **Hazard Communication.** Agency shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.

- G. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

- H. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.

- I. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

- J. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

- K. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent,

employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

- L. **No Third-Party Beneficiary.** Agency and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- M. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- N. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- O. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- Q. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- R. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- S. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- T. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by

Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

U. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

Clackamas County

Oregon State University

Chair, Board of County Commissioners

Cindy L. Tait-Withrow Digitally signed by Cindy L. Tait-Withrow
Date: 2024.07.31 14:43:54 -07'00'

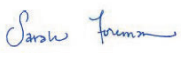
Authorized Signature

Date

7/31/24

Date

Approved as to Form:

2024.08.01
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County Counsel Date

EXHIBIT A
SCOPE OF WORK

Contractor:	Oregon State University Extension Services & Oregon State University College of Health
Type of Service:	Community Outreach, Education, & Engagement; Analytical Laboratory Testing
Contract Start Date:	July 1, 2024
Contract End Date:	June 30, 2025

Project Description:

Clackamas County Environmental Health (CCEH) is partnering with Oregon State University (OSU) Extension Service & Oregon State University College of Health to promote healthy domestic well stewardship throughout Clackamas County. OSU and CCEH will host 4 workshops and 6 free community-based screening events from Summer of 2024 to Summer of 2025. CCEH and OSU will work with community-based organizations, including (but not limited to) *Adelante Mujeres* and *Bridging Cultures* to prioritize outreach among culturally specific populations, in coordination with North Willamette Research and Extension Center. Both workshops and testing events will be offered in English and Spanish; educational materials will be provided in both languages at each workshop and event, and this partnership will also provide up to 150 homeowners with drinking water sample collection and certified analytical laboratory testing for arsenic, nitrate, coliform bacteria, and lead. OSU will lastly conduct 2-4 workshops with these well owners to help them interpret test results, learn about water quality treatment, and implement a stewardship plan for their well.

The contract with OSU is to provide the work for the CCEH Healthy Private Well Stewardship project, selected for a FY 2024-2025 Public Health Modernization award (internal).

(Note – this program has been held in contract with other southern Oregon counties for several years, and is expanding the same services into Clackamas County)

Deliverables: Contractor will deliver to the County the following deliverables:

No.	Description of Deliverables	Due Date or Estimated Duration
4	<i>Living With Your Domestic Well</i> Educational Workshop	July 2024 – October 2024
6	Community-based Free Nitrate Screening Events	July 2024 – October 2024
150	Lab Tests for Well Water	November 2024 – March 2025

Milestones: These are the tasks/work elements needed to complete the activity and the responsible party:

No.	Tasks/Milestones	Responsible Party	Estimated completion date
1	Completion and summary report of <i>Living With Your Domestic Well</i> Educational Workshop	Chrissy Lucas	October 2024
1	Completion and summary report of Community-based Free Nitrate Screening Events	Chrissy Lucas	October 2024
1	Completion and summary report of Lab Tests for Well water	Chrissy Lucas	March 2025

Miscellaneous: List any special requirements of the Contractor or the County (such as key personnel, specific materials or tools to be used by Contractor, etc.)

No.	Special Requirements of Contractor or County
	Water testing will be done at an Oregon Accredited Drinking Water Laboratory (updated list available on Oregon Health Authority Drinking Water Services website).

EXHIBIT B
Fee Schedule

Fees: Payment for Services performed can be defined in various ways, such as fixed fee, hourly rate or a set rate structure. Payments must be tied to tasks or deliverables. Define how fees will be structured and the maximum amount to be paid under this contract:

Fixed Fee – Senior Key Personnel Salary & Fringe: this fee will cover project salary for Chrissy Lucas, OSU Extension Outreach Coordinator and Lilly Anderson, OSU Extension Project Coordinator. The maximum amount of this fee will be \$16,627 for both of these individuals’ salary and fringe.
Hourly Rate – Undergraduate Student / OSU Extension Intern Wage & Fringe: this fee will cover the hourly wage of \$15 per hour, at 10 hours per week, for six months (approximately 28 weeks). The maximum amount of this fee will be \$4,155 for undergraduate student(s) intern(s).
Fixed Fee – Travel for OSU Extension Program Personnel: this fee will cover in-state travel for domestic well sites in Clackamas County and transportation of field samples from sample site(s) to Edge Analytical Portland Lab [9725 SW Commerce Circle, Suite A2, Wilsonville, OR 97070]. The maximum amount of this fee will be \$1,310 for OSU Extension Program Personnel.
Fixed Fee – Supplies & Postage: this fee will cover pre-paid mail-ready test kits to and from Edge Analytical, Portland Lab [9725 SW Commerce Circle, Suite A2, Wilsonville, OR 97070]. The maximum amount of this fee will be \$443
Fixed Fee – Workshop / Tabling Costs: this fee will cover advertisement costs for the workshops, room rental for the workshops, workshop supplies [snacks, refreshments], food, incentives for each of the workshops. The maximum amount of this fee will be \$5,250.
Fixed Fee – Consumables for Water Sampling: this fee will cover the purchase of gloves, coolers, bottles, and supplies needed for water sampling from domestic wells within Clackamas County. The maximum amount of this fee will be \$475
Daily Rate – Graphic Design & Translation: this fee will cover the costs of a graphic designer to provide designs for advertisements and workshop presentations at a daily rate of \$100 per day and, in total, 12 days of work. The maximum amount of this fee will be \$1,200.
Fixed Fee – Lab Tests for Well Water: this fee will cover the costs of up to 150 tests of well water from domestic wells in Clackamas County. At \$70 per test, the maximum amount of this fee will be \$10,500.
Set Rate – Indirect Costs for OSU Extension & Off-Campus: this fee will cover the 26.0% of modified total direct cost base [\$39,960]. The maximum amount for this fee will be \$10,390.

Payment Schedule: When and how much the Contractor will be paid. Payments can be made based on time, tasks, deliverables, and/or expenses. Define the Contractor’s payment schedule:

OSU will invoice (typically quarterly) for payments of the expenses incurred during that period, and will provide receipts and accounting of expenses for accountability and tracking of how funds are being spent.