



August 15, 2019

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of a Wood Innovation Grant Award between Clackamas County and US Forest Service to Support Incorporation of Mass Timber in County Courthouse Project

<b>Purpose/Outcomes</b>	Approval of an award of a Wood Innovations Grant from the US Forest Service. The grant will support the County Courthouse project by funding development of potential courthouse designs utilizing mass timber/cross laminated timber, conducting an accompanying life cycle analysis, and developing a communication plan.
<b>Dollar Amount and Fiscal Impact</b>	The grant award is for \$100,000. The grant has a 50% match requirement, which will be met primarily through in-kind staff time contributions, as well as some local funding of travel, supplies, and other project costs.
<b>Funding Source</b>	USFS Wood Innovation Grant #19-DG-11062765-733
<b>Duration</b>	August 1, 2019 through February 1, 2021
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Build public trust through good government</li> <li>• Build a strong infrastructure</li> <li>• Grow a vibrant economy</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Previous Board Action</b>	<ul style="list-style-type: none"> <li>• 2/20/19, Grant Application Life Cycle Form approved by County Administrator</li> <li>• 8/8/2019, Approval of Research Services Agreement No. 27786 between Clackamas County and the University of Oregon</li> </ul>
<b>Counsel Review</b>	This agreement has been reviewed and approved as to form by County Counsel on August 6, 2019.
<b>Contact Person</b>	Rick Gruen, <i>Manager, Business &amp; Community Services County Parks &amp; Forest   Ag and Forest Economic Development</i> , x4345

**BACKGROUND:**

Clackamas County has been awarded a \$100,000 Wood Innovations Grant from the United States Forest Service. Funds from the grant will support the following work related to the County Courthouse project:

- Completion of a Fall 2019 design studio conducted by the University of Oregon’s Department of Architecture. The studio will focus on designs for the proposed new County Courthouse utilizing mass timber for the main structural system. As part of the design studio, the University will provide experts in courthouse design, energy and daylight performance, building codes and mass timber engineering to assist the faculty and student teams working on the design proposals.
- Completion of a Life Cycle Analysis that considers the economic and environmental co-benefits of building with mass timber.

- Development of a communications plan to support public engagement around the innovative use of mass timber in the courthouse design and construction.

The work funded by this grant will support the Board's desire to incorporate the use of mass timber in the design and construction of the proposed new County Courthouse, and will also support the County's ongoing Cross Laminated Timber (CLT) initiative.

**RECOMMENDATION:**

Staff recommends Board approval of Award of Domestic Grant #19-DG-11062765-733 between Clackamas County and United States Forest Service and further authorizes the Director or Deputy Director of Business and Community Services to sign on behalf of the County.

**ATTACHMENT:** Federal Financial Assistance Award Of Domestic Grant 19-DG-11062765-733 Between Clackamas County and Community Services Department And The USDA, Forest Service State and Private Forestry Pacific Northwest Region

Respectfully,

Laura Zentner, CPA  
Director, Business & Community Services

**FEDERAL FINANCIAL ASSISTANCE  
AWARD OF DOMESTIC GRANT 19-DG-11062765-733  
Between  
CLACKAMAS COUNTY AND COMMUNITY SERVICES DEPARTMENT  
And The  
USDA, FOREST SERVICE  
STATE AND PRIVATE FORESTRY PACIFIC NORTHWEST REGION**

Project Title: Clackamas County Mass Timber Courthouse Design and Life-Cycle Demonstration

Upon execution of this document, an award to Clackamas County and Community Services Department, hereinafter referred to as “Clackamas County,” in the amount of **\$100,000.00**, is made under the authority of Rural Revitalization Through Forestry, Public Law 101–624, Section (d) Rural Revitalization Technologies (1990); P.L. 108-148 title II, Section 202 (2003); P. L. 110– 234, title VII (2008); and P.L. 110-246 title VII (2008); P.L. 113-79, title VIII, Section 8201 (2014); and P.L. 115-334, title VIII, Section 8701 (2018) extending the program through 2023. The Catalog of Federal Domestic Assistance (CFDA) number and name are 10.674 Wood Utilization Assistance. Clackamas County accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated 2/21/2019, and the attached Forest Service provisions, ‘Forest Service Award Provisions,’ are incorporated into this letter and made a part of this award.

This authority requires a match of 2:1, which your organization has agreed to meet, as shown in the attached application, financial plan and narrative.

This is an award of Federal financial assistance. Prime and sub-recipients to this award are subject to the OMB guidance in subparts A through F of 2 CFR Part 200 as adopted and supplemented by the USDA in 2 CFR Part 400. Adoption by USDA of the OMB guidance in 2 CFR 400 gives regulatory effect to the OMB guidance in 2 CFR 200 where full text may be found.

Electronic copies of the CFRs can be obtained at the following internet site: [www.ecfr.gov](http://www.ecfr.gov). If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at 907-743-9462.

The following administrative provisions apply to this award:

- A. **LEGAL AUTHORITY.** Clackamas County shall have the legal authority to enter into this award, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the non-Federal share of project costs, when applicable.
- B. **PRINCIPAL CONTACTS.** Individuals listed below are authorized to act in their respective areas for matters related to this award.



**Principal Cooperator Contacts:**

<b>Cooperator Program Contact</b>	<b>Cooperator Administrative Contact</b>
Rick Gruen Clackamas County and Community Services Department 150 Beaver Creek Road Oregon City, OR 97045 503-742-4945 <a href="mailto:rgruen@clackamas.us">rgruen@clackamas.us</a>	Greg Williams Clackamas County and Community Services Department 150 Beaver Creek Road Oregon City, OR 97045 503-742-4399 <a href="mailto:Gwilliams2@clackamas.us">Gwilliams2@clackamas.us</a>

**Principal Forest Service Contacts:**

<b>Forest Service Program Manager Contact</b>	<b>Forest Service Administrative Contact</b>
James Archuleta U.S. Forest Service State and Private Forestry 1220 SW Third Avenue Portland, OR 97204-2825 503-808-2346 <a href="mailto:james.archuleta@usda.gov">james.archuleta@usda.gov</a>	Faydra Lampshire U.S. Forest Service State and Private Forestry 161 East 1st Avenue, Door 8 Anchorage, AK 99501-1639 907-743-9462 <a href="mailto:SM.FS.spf-reports@usda.gov">SM.FS.spf-reports@usda.gov</a> Website for forms and training: <a href="http://www.fs.usda.gov/goto/r6/spf/ga">http://www.fs.usda.gov/goto/r6/spf/ga</a>

- C. **SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM)**. Clackamas County shall maintain current information in the System for Award Management (SAM) until receipt of final payment. This requires review and update to the information at least annually after the initial registration, and more frequently if required by changes in information or award term(s). For purposes of this award, System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a Cooperative. Additional information about registration procedures may be found at the SAM Internet site at [www.sam.gov](http://www.sam.gov).
  
- D. **REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE**. Reimbursable payments are approved under this award. Only costs for those project activities approved in (1) the initial award, or (2) modifications thereto, are allowable. Requests for payment must be submitted on Standard Form 270 (SF-270), Request for Advance or Reimbursement, and must be submitted no more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the Forest Service shall review such

requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and Forest Service regulations.

Advance payments must not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If the Recipient receives an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully expended before the Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award must be returned to the Forest Service.

The Program Manager reserves the right to request additional information prior to approving a payment.

The invoice must be sent by one of three methods:	Send a copy to:
EMAIL (preferred): <a href="mailto:SM.FS.asc_ga@usda.gov">SM.FS.asc_ga@usda.gov</a> FAX: 877-687-4894 POSTAL: Albuquerque Service Center Payments – Grants & Agreements 101B Sun Ave NE Albuquerque, NM 87109	

- E. PRIOR WRITTEN APPROVAL. Clackamas County shall obtain prior written approval pursuant to conditions set forth in 2 CFR 200.407.
- F. MODIFICATIONS. Modifications within the scope of this award must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.
- G. PERIOD OF PERFORMANCE. This agreement is executed as of the date of the Forest Service signatory official signature.  
 The start date of this award is **08/01/2019**.  
 The end date, or expiration date is **02/01/2021**. This instrument may be extended by a properly executed modification. *See Modification Provision above.*
- H. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this award. In witness whereof the parties hereto have executed this award as of the last date written below.

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GREG WILLIAMS  
Deputy Director of Business and Community  
Services

Date

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DEBBIE A. HOLLEN  
Director  
State and Private Forestry  
Pacific Northwest and Alaska Regions  
U.S. Forest Service

Date

The authority and the format of this award have been reviewed and approved for  
signature.

  
FAYDRA LAMPSHIRE  
Forest Service Grants Management Specialist

7/31/19  
Date

## **ATTACHMENT A: FOREST SERVICE AWARD PROVISIONS**

- A. COLLABORATIVE ARRANGEMENTS. Where permitted by terms of the award and Federal law, Clackamas County may enter into collaborative arrangements with other organizations to jointly carry out activities with Forest Service funds available under this award.
- B. FOREST SERVICE LIABILITY TO THE RECIPIENT. The United States shall not be liable to Clackamas County for any costs, damages, claims, liabilities, and judgments that arise in connection with the performance of work under this award, including damage to any property owned by Clackamas County or any third party.
- C. NOTICES. Any notice given by the Forest Service or Clackamas County will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the award.

To Clackamas County, at the address shown in the award or such other address designated within the award.

Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. SUBAWARDS. Clackamas County shall notify Subrecipients under this award that they are subject to the OMB guidance in subparts A through F of 2 CFR Part 200, as adopted and supplemented by the USDA in 2 CFR Part 400. Any sub-award must follow the regulations found in 2 CFR 200.330 through .332.
- E. USE OF FOREST SERVICE INSIGNIA. In order for Clackamas County to use the Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted by the Forest Service's Office of Communications (Washington Office). A written request will be submitted by Forest Service, Program Manager, to the Office of Communications Assistant Director, Visual Information and Publishing Services prior to use of the insignia. The Forest Service Program Manager will notify Clackamas County when permission is granted.
- F. BUILDING AND COMPUTER ACCESS BY NON-FOREST SERVICE PERSONNEL. Clackamas County may be granted access to Forest Service facilities and/or computer systems to accomplish work described in the Operating Plan or Statement of Work. All non-government employees with unescorted access to Forest Service facilities and computer systems must have background checks following the procedures established by USDA Directives 3800 series. Those granted computer access must fulfill all Forest Service requirements for mandatory security awareness and role-based advance security training, and sign all applicable Forest Service statements of responsibilities.

- G. MEMBERS OF CONGRESS. Pursuant to 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of this award, or benefits that may arise therefrom, either directly or indirectly.
- H. TRAFFICKING IN PERSONS.
1. Provisions applicable to a Recipient that is a private entity.
    - a. You as the Recipient, your employees, Subrecipients under this award, and Subrecipients' employees may not:
      - (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
      - (2) Procure a commercial sex act during the period of time that the award is in effect; or
      - (3) Use forced labor in the performance of the award or subawards under the award.
    - b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a Subrecipient that is a private entity:
      - (1) Is determined to have violated a prohibition in paragraph a.1 of this award term; or
      - (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
        - i. Associated with performance under this award; or
        - ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),".
  2. Provision applicable to a Recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity:
    - a. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
    - b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
      - (1) Associated with performance under this award; or
      - (2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),"



3. Provisions applicable to any recipient.
  - a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
  - b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
    - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
    - (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
  - c. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
4. Definitions. For purposes of this award term:
  - a. "Employee" means either:
    - (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
    - (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  - b. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
  - c. "Private entity":
    - (1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
    - (2) Includes:
      - i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
      - ii. A for-profit organization.
  - d. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

#### I. DRUG-FREE WORKPLACE.

1. Clackamas County agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must
  - a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
  - b. Specify the actions Clackamas County will take against employees for violating that prohibition; and

- c. Let each employee know that, as a condition of employment under any award, the employee:
  - (1) Shall abide by the terms of the statement, and
  - (2) Shall notify Clackamas County in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and shall do so no more than 5 calendar days after the conviction.
2. Clackamas County agree(s) that it will establish an ongoing drug-free awareness program to inform employees about
  - a. The dangers of drug abuse in the workplace;
  - b. The established policy of maintaining a drug-free workplace;
  - c. Any available drug counseling, rehabilitation and employee assistance programs; and
  - d. The penalties that you may impose upon them for drug abuse violations occurring in the workplace.
3. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this award, whichever occurs first.
4. Clackamas County agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the award number of each award on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after Clackamas County learns of the conviction.
5. Within 30 calendar days of learning about an employee's conviction, Clackamas County must either
  - a. Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
  - b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

J. PROHIBITION AGAINST USING FUNDS WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS.

1. The recipient may not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law

- enforcement representative of a Federal department or agency authorized to receive such information.
2. The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect.
  3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information.
  4. If the Government determines that the recipient is not in compliance with this award provision, it;
    - a. Will prohibit the recipient's use of funds under this award in accordance with sections 743, 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; and
    - b. May pursue other remedies available for the recipient's material failure to comply with award terms and conditions.
- K. ELIGIBLE WORKERS. Clackamas County shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). Clackamas County shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or supplemental instruments awarded under this award.
- L. FINANCIAL STATUS REPORTING. A Federal Financial Report, Standard Form SF-425 (and Federal Financial Report Attachment, SF-425A, if required for reporting multiple awards), must be submitted annually. These reports are due 90 days after the reporting period ending December 31st. The final SF-425 (and SF-425A, if applicable) must be submitted either with the final payment request or no later than 90 days from the expiration date of the award. These forms may be found at [www.whitehouse.gov/omb/grants\\_forms](http://www.whitehouse.gov/omb/grants_forms).
- M. PROGRAM PERFORMANCE REPORTS. The recipient shall perform all actions identified and funded in application/modification narratives within the performance period identified in award.

In accordance with 2 CFR 200 301, reports must relate financial data to performance accomplishments of the federal award.

Clackamas County shall submit annual performance reports. These reports are due 90 days after the reporting period. The final performance report shall be submitted either with Clackamas County's final payment request, or separately, but not later than 90 days from the expiration date of the award.

- N. NOTIFICATION. Clackamas County shall immediately notify the Forest Service of developments that have a significant impact on the activities supported under this award. Also, notification must be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the award. This notification must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.
- O. CHANGES IN KEY POSITIONS AND PERSONNEL IN AWARDS. Any revision to key positions and personnel identified in the application for this award require prior, written approval from the Forest Service Program Manager. All technical positions are considered Key Personnel by the Forest Service. Failure on the part of Clackamas County to obtain prior, written approval when required may result in the disallowance of costs.
- P. FREEDOM OF INFORMATION ACT (FOIA). Public access to award or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552). Requests for research data are subject to 2 CFR 315(e).

Public access to culturally sensitive data and information of Federally-recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).

- Q. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All Cooperatives, their Employees, Volunteers, and Contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.
- R. PUBLIC NOTICES. It is Forest Service's policy to inform the public as fully as possible of its programs and activities. Clackamas County is encouraged to give public notice of the receipt of this award and, from time to time, to announce progress and accomplishments.
- Clackamas County may call on Forest Service's Office of Communication for advice regarding public notices. Clackamas County is requested to provide copies of notices or announcements to the Forest Service Program Manager and to Forest Service's Office Communications as far in advance of release as possible.
- S. FUNDING EQUIPMENT. Federal funding under this award is not available for reimbursement of Clackamas County's purchase of equipment. Equipment is defined

as having a fair market value of \$5,000 or more per unit and a useful life of over one year. Supplies are those items that are not equipment.

- T. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. Clackamas County shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this award. Follow direction in USDA Supplemental 2 CFR 415.2.
- U. COPYRIGHTING. Clackamas County is/are granted sole and exclusive right to copyright any publications developed as a result of this award. This includes the right to publish and vend throughout the world in any language and in all media and forms, in whole or in part, for the full term of copyright and all renewals thereof in accordance with this award.

No original text or graphics produced and submitted by the Forest Service shall be copyrighted. The Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for federal government purposes. This right shall be transferred to any sub-awards, sub-awards or subcontracts.

This provision includes:

- The copyright in any work developed by Clackamas County under this award.
- Any right of copyright to which Clackamas County purchase(s) ownership with any federal contributions.

- V. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. Clackamas County shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

***In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)***

**To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.**

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

***“This institution is an equal opportunity provider.”***

- W. AWARD CLOSEOUT. The Recipient must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.

Any unobligated balance of cash advanced to Clackamas County must be immediately refunded to the Forest Service, including any interest earned in accordance with 2 CFR 200.343(d).

If this award is closed without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- X. TERMINATION. This award may be terminated, in whole or part pursuant to 2 CFR 200.339.

- Y. DISPUTES.

1. Any dispute under this award shall be decided by the Signatory Official. The Signatory Official shall furnish Clackamas County a written copy of the decision.
2. Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, Clackamas County appeal(s) the decision to the Forest Service's Director, Acquisition Management (AQM). Any appeal made under this provision shall be in writing and addressed to the Director, AQM, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.
3. In order to facilitate review on the record by the Director, AQM, Clackamas County shall be given an opportunity to submit written evidence in support of its appeal. No hearing will be provided.
4. A decision under this provision by the Director, AQM is final.
5. The final decision by the Director, AQM does not preclude Clackamas County from pursuing remedies available under the law.

- Z. DEBARMENT AND SUSPENSION. Clackamas County shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Clackamas County or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary. The Recipient shall adhere to 2 CFR Part 180 Subpart C in regards to review of sub-recipients or contracts for debarment and suspension.

All subrecipients and contractors must complete the form AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions. Blank forms are available electronically. Completed forms must be kept on file with the primary recipient.

## ATTACHMENT B: 2 CFR PART 170

### Appendix A to Part 170—Award Term

#### I. Reporting Subawards and Executive Compensation.

##### a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111–5) for a subaward to an entity (see definitions in paragraph e. of this award term).
2. *Where and when to report.*
  - i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
  - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

##### b. *Reporting Total Compensation of Recipient Executives.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
  - i. the total Federal funding authorized to date under this award is \$25,000 or more;
  - ii. in the preceding fiscal year, you received—
    - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
  - i. As part of your registration profile at <http://www.sam.gov>.
  - ii. By the end of the month following the month in which this award is made, and annually thereafter.



c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

- i. in the subrecipient's preceding fiscal year, the subrecipient received—
  - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
- ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions* If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

1. Subawards, and
2. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:

1. *Entity* means all of the following, as defined in 2 CFR part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. *Executive* means officers, managing partners, or any other employees in management positions.

3. *Subaward:*

- i. This term means a legal agreement to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. II .210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).
  - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. *Subrecipient* means an entity that:
- i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient’s or subrecipient’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
- i. *Salary and bonus.*
  - ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
  - v. *Above-market earnings on deferred compensation which is not tax-qualified.* vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

END OF ATTACHMENT B: 2 CFR PART 170



August 15<sup>th</sup>, 2019

Board of County Commissioners  
 Clackamas County

Members of the Board:

**Approval of First Amendment to the Willamette Falls Legacy Project Rediscover the Falls Grant Agreement by Metro, City of Oregon City, Clackamas County, and Rediscover the Falls**

<b>Purpose/Outcomes</b>	Extend the duration of the grant agreement through 11/8/2019, and make necessary amendments to permit continuation of tours of the Blue Heron Paper Mill site in Oregon City. No additional financial support or commitment is contemplated.
<b>Dollar Amount and Fiscal Impact</b>	N/A
<b>Funding Source</b>	N/A
<b>Duration</b>	The amendment extends the agreement through 11/8/2019.
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Grow a vibrant economy</li> <li>• Honor, utilize, promote and invest in our natural resources</li> </ul>
<b>Previous Board Action</b>	<ul style="list-style-type: none"> <li>• 7/17/2017, approval of an Amendment and Restatement of Interim Agreement between Metro, City of Oregon City and Rediscover the Falls, an Oregon nonprofit public benefit corporation (“RTF”).</li> <li>• 11/1/2018, approval of a Grant Agreement between Metro, City of Oregon City and Rediscover the Falls, an Oregon nonprofit public benefit corporation (“RTF”).</li> </ul>
<b>Counsel Review</b>	This amendment was reviewed and approved as to form by County Counsel on July 24, 2019.
<b>Contact Person</b>	Laura Zentner, <i>BCS Director</i> , 503-742-4351 Greg Williams, <i>BCS Deputy Director</i> , 503-742-4399 Jon Legarza, <i>Interim Economic Development Mgr.</i> , 503-742-4366

**BACKGROUND:**

Rediscover the Falls (“RTF”) is a registered 501(c)(3) nonprofit organization established in 2015 to be the friend-building and private fundraising arm of the Willamette Falls Legacy Project (“WFLP”).

RTF is managed by a full-time Executive Director, employs a full-time Development Director, and receives administrative support through a business services agreement with the Downtown Oregon City Association. RTF is governed by a volunteer Board of Directors comprised of business and industry professionals, labor and civic leaders, professional fundraisers, environmental conservationists, engaged citizens, and others.

RTF’s initial funding was provided through an agreement with Metro, City of Oregon City, and Clackamas County (the “Public Partners”); in FY 17/18 and FY 18/19, the Public Partners

provided \$150,000 to RTF, with Clackamas County Business and Community Services contributing \$50,000.

The proposed amendments to the original grant agreement will 1) extend the duration of the agreement through 11/8/2019, and 2) delete the bulk of the original agreement (sections 2 through 7) while retaining language permitting tours of the Blue Heron Paper Mill site in Oregon City. No additional financial support is contemplated by or included in these amendments.

**RECOMMENDATION:**

Staff respectfully recommends the Board approve the First Amendment to the Willamette Falls Legacy Project Rediscover the Falls Grant Agreement and authorize Gary Schmidt, County Administrator, to sign the amendment.

**ATTACHMENTS:**

First Amendment to Grant Agreement (June 30<sup>th</sup>, 2019)

Respectfully submitted,

Laura Zentner, CPA  
Director, Business & Community Services

## FIRST AMENDMENT TO GRANT AGREEMENT

DATED: June 30, 2019

BETWEEN: Willamette Falls Trust, an Oregon nonprofit corporation (“WFT”)

AND: Metro, an Oregon municipal corporation (“Metro”)

AND: The City of Oregon City, an Oregon municipal corporation (“Oregon City”)

AND: Clackamas County, an Oregon municipal corporation (the “County”)

### Recitals:

A. WFT, as successor-in-interest to Rediscover the Falls, and Metro, Oregon City, and the County (collectively, the “Public Partners”) are parties to a Grant Agreement dated July 1, 2018 (the “Agreement”).

B. The Agreement expires on June 30, 2019, and the parties desire to extend the term to keep in effect certain provisions of the Agreement.

C. Capitalized terms used in this First Amendment to Grant Agreement (“Amendment”) have the meanings given to them in the Agreement, except as expressly modified by this Amendment.

### Agreements:

NOW, THEREFORE, in consideration of the mutual promises of the parties set forth in this Amendment, the sufficiency of which is acknowledged, the parties agree as follows:


1. Extension of Term. The Term of the Agreement as identified in Section 1 of the Agreement is extended to and through November 8, 2019.
2. Amendment. Sections 2 through 7 of the Agreement are deleted and of no further force and effect.
3. Counterparts; Delivery. This Amendment may be executed in counterparts. Delivery of this executed Amendment by facsimile or e-mail is sufficient to form a binding agreement.
4. Effect of Amendment. The Agreement is modified only in the specific respects set forth in this Amendment. Except as expressly modified, the Agreement remains unmodified and in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

**METRO**

By:   
Andrew Scott, Interim COO

**WILLAMETTE FALLS TRUST**

By:   
Andrew Mason, Executive Director

**OREGON CITY**

By: \_\_\_\_\_  
Anthony J. Konkol, III, City Manager

**CLACKAMAS COUNTY**

By: \_\_\_\_\_  
Gary Schmidt, County Administrator



August 15, 2019

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of an Infrastructure and Additional Shared Cost Funding Agreement with the  
Clackamas Workforce Partnership (CWP) for FY 2019/2020

<b>Purpose/Outcomes</b>	Approval of an Infrastructure and Additional Shared Cost Funding Agreement as required under the federal Workforce Innovation Opportunity Act (WIOA)
<b>Dollar Amount and Fiscal Impact</b>	Refer to Exhibit A (Infrastructure Cost Budget), and Exhibit B (Infrastructure Cost Allocation)
<b>Funding Source</b>	N/A
<b>Duration</b>	July 1, 2019 – June 30, 2020
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Build public trust through good government</li> <li>• Build a strong infrastructure</li> <li>• Grow a vibrant economy</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Previous Board Action</b>	7/19/2018 – Approval of an Infrastructure and Additional Shared Cost Funding Agreement with the Clackamas Workforce Partnership (CWP) for FY 2018/2019
<b>Counsel Review</b>	This Infrastructure and Additional Shared Cost Funding Agreement has been reviewed and approved by County Counsel on <u>7/18/19</u>
<b>Contact Person</b>	Cindy Moore, <i>BCS Economic Development Coordinator</i> , 503-742-4328

**BACKGROUND:**

The federal Workforce Innovation Opportunity Act (WIOA) requires that American Job Centers (called "WorkSource Clackamas" in our county) delineate allocation and payment processes for both infrastructure and other shared costs for our mandated partners.

The attached "Infrastructure and Additional Cost Sharing Funding Agreement" (IFA) meets this requirement. The agreement is renewed annually; the Board approved the the agreement for FY 2018/2019 on July 19, 2018.

**RECOMMENDATION:**

Staff respectfully recommends that the Board approve the Infrastructure and Additional Shared Cost Funding Agreement.

**ATTACHMENTS:**

- A. Infrastructure and Additional Shared Cost Funding Agreement (includes exhibits A-D)

Respectfully Submitted,

Laura Zentner  
Director, Business & Community Services

## INFRASTRUCTURE AND ADDITIONAL SHARED COST FUNDING AGREEMENT

This Infrastructure and Additional Shared Cost Funding Agreement (“**Agreement**”), effective on July 1, 2019 (the “**Effective Date**”), is entered into by and among Clackamas Workforce Partnership, an Oregon non-profit corporation, acting as the Local Workforce Development Board (the “**Local WDB**”) for Clackamas County (the “**Local Area**”), the sitting chair of the Clackamas County Board of Commissioners, the chief elected official for the Local Area (“**CEO**”), and each other party whose name and signature appears on the signature pages hereof (each, a “**Party**” and, collectively, the “**Parties**”).

### RECITALS

**A.** The federal Workforce Innovation and Opportunity Act (the “**WIOA**”) contemplates that the Local Workforce Development Board, the chief elected official, each entity (each a “**Required One-Stop Partner**” and, collectively, the “**Required One-Stop Partners**”) that carries out a program described in Section 121(b)(1)(B) of the WIOA, and other entities, carrying out a workforce development program, that are approved by the Local Workforce Development Board and the chief elected official (the “**Other One-Stop Partners**”) (the Required One-Stop Partners and the Other One-Stop Partners, each a “**One-stop Partner**” and, collectively, the “**One-Stop Partners**”) in a local area will enter into a Memorandum of Understanding as described in Section 121(c) of the WIOA and 20 CFR 678.500 to provide for the allocation among themselves and payment of the infrastructure costs of the “**One-Stop Centers**” contemplated by the WIOA and through which the One-Stop Partners deliver their workforce development programs (the “**Programs**”).

**B.** Under 20 CFR 678.420(b)(2), the allocation of One-Stop Center infrastructure costs among the One-Stop Partners must be based on (1) each One-Stop Partners’ proportionate use and relative benefit received, (2) federal cost principles, and (3) any local administrative cost requirements in the Federal law authorizing the One-Stop Partner's program.

**C.** If the Local Workforce Development Board, the chief elected official, and the One-Stop Partners in a local area fail to enter into an agreement for the allocation and payment, among the One-stop Partners, of the infrastructure costs of the One-Stop Center in their local area, the Governor will allocate the infrastructure costs among the One-Stop Partners in accordance with the process set forth in 20 CFR 678.731.

**D.** The WIOA also contemplates that the Local Workforce Development Board, the chief elected official, and the One-Stop Partners will enter in an agreement to provide for the allocation and payment, among the One-stop Partners, of additional shared costs relating to the operation of the One-Stop Centers. These costs must include the costs of applicable career services and may include any other shared services that are authorized for and commonly provided through the One-Stop Partner Programs.



E. Under 20 CFR 678.760, the allocation of One-Stop Center operating costs among the One-Stop Partners must be based on the proportion of benefit received by each of the One-Stop Partners, consistent with applicable federal law.

F. The CEO, the Local WDB, and the One-Stop Partners party hereto (the “**Local One-Stop Partners**”), after completing their negotiations and discussions on the allocation of infrastructure costs and operating costs for the One-Stop Center in the Local Area, desire to enter into this agreement to implement their allocation arrangement and provide for payment of the One-Stop infrastructure costs and operating costs in accordance with the requirements of the WIOA and its implementing regulations.

**NOW THEREFORE**, the Parties hereby agree as follows:

## **AGREEMENT**

### **ARTICLE 1**

#### **BUDGET, ALLOCATION AND PAYMENT OF INFRASTRUCTURE COSTS**

Section 1.1 **Infrastructure Cost Budget.** The Infrastructure Cost Budget for the One-Stop Center in the Local Area for Program Year 2019 (July 1, 2019, to June 30, 2020) (an “**Infrastructure Cost Budget**”) is set forth on Exhibit A. The Parties may amend this Agreement to add Infrastructure Cost Budgets for future program years through preparation of a written Infrastructure Cost Budget for the year and execution thereof by each of the Parties. Upon such execution, the Infrastructure Cost Budget shall be deemed added to Exhibit A and shall serve as the Infrastructure Cost Budget for the specified year for purposes of this Agreement. Subject to earlier termination as provided herein, this Agreement shall continue to govern the Parties’ rights and obligations related to infrastructure costs of the One-Stop Center in the Local Area so long as Exhibit A includes an Infrastructure Cost Budget for the then-current program year. This Agreement shall automatically terminate at the beginning of the first program year lacking an Infrastructure Cost Budget in Exhibit A.

Section 1.2 **Infrastructure Cost Allocation.** The costs in an Infrastructure Cost Budget are allocated among the Local One-Stop Partners as set forth in Exhibit B (the “**Infrastructure Cost Allocation**”). At the request of the Local WDB from time to time, but not less frequently than once per year, the Parties shall review infrastructure costs incurred for operation of the One-Stop Center in the Local Area and the allocation of those costs under the Infrastructure Cost Allocation to confirm that the infrastructure costs actually allocated to each Local One-Stop Partner are proportionate to that Local One-Stop Partner’s use of the One-Stop Center and the relative benefit received by each Local One-Stop Partner and the Local One-Stop Partner’s programs and activities. As a result of such review, the Parties shall make any necessary adjustments to the Infrastructure Cost Allocation through amendment of this Agreement. If the Parties fail to reach agreement on the need for adjustments to the Infrastructure Cost Allocation, the Local WDB shall convene a meeting among representatives of Parties to resolve the disagreement.

Section 1.3 **Infrastructure Cost Payment.**

**1.3.1 Infrastructure Cost Contributions.** No later than 30 days after the end of each calendar quarter, each Local One-Stop Partner shall notify the Local WDB in writing of any cash or in-kind contributions to cover costs included in the applicable Infrastructure Cost Budget that the Local One-Stop Partner made during the prior calendar quarter, any information needed from that Local One-Stop Partner to apply the Infrastructure Cost Allocation for the quarter, and supporting documentation for such in-kind contributions and cost allocation information as the Local WDB may reasonably request. Any in-kind contributions will be valued consistent with 2 CFR 200.306; provided, however, to the extent allowed, if any, by 2 CFR 200.306, the Local One-Stop Partners will negotiate and agree upon the identification, inclusion, and value of in-kind contributions. If the Local One-Stop Partners cannot agree on whether a proposed in-kind contribution should be included, or its value, the in-kind contribution will not be applied to the calculation to determine the amount by which that Local One-Stop Partner's in-kind contributions exceed its allocation of the infrastructure costs for the quarter. A Local One-Stop Partner's failure to notify the Local WDB of such in-kind contributions and cost allocation information within 45 days of the end of the calendar quarter shall, at the discretion of the Local WDB, constitute that Local One-Stop Partner's waiver of any right to payment for any amount by which that Local One-Stop Partner's in-kind contributions exceed its allocation of the infrastructure costs for the quarter.

**1.3.2 Payment of Infrastructure Costs.** No later than 45 days after the end of each calendar quarter and based on the information received from the Local One-Stop Partners under Section 1.3.1, the applicable Infrastructure Cost Budget, and the Infrastructure Cost Allocation, the Local WDB shall notify each Local One-Stop Partner of the total infrastructure costs incurred during the quarter, by Infrastructure Cost Budget line item, and of the portion of those costs allocated to that Local One-Stop Partner. Such notification shall identify and reflect any cash or in-kind contributions to the infrastructure costs of the One-Stop Center received from other than a Local One-Stop Partner during the quarter (which reduce the overall costs otherwise allocated to the Local One-Stop Partners), with any in-kind contributions valued consistent with 2 CFR 200.306 and Section 1.3.1. If the portion of the infrastructure costs allocated to a Local One-Stop Partner for the quarter exceeds the Local One-Stop Partner's contributions to infrastructure costs during the quarter, that Local One-Stop Partner shall, subject to Article 3, pay the difference to the Local WDB no later than 45 days after receipt of notification from the Local WDB of the infrastructure costs for the quarter. If the portion of the infrastructure costs allocated to a Local One-Stop Partner for the quarter is less than the Local One-Stop Partner's contributions to infrastructure costs during the quarter, the Local WDB shall, subject to Article 3, pay the difference to that Local One-Stop Partner promptly after the Local WDB's receipt of sufficient funds from the other Local One-Stop Partners to make that payment.

**1.3.3 Cost Overruns.** If the Local WDB anticipates that future infrastructure costs for a program year will exceed the Infrastructure Cost Budget for that year (either overall or on a line-item basis), the Local WDB shall notify each Party and recommend that the Parties negotiate an adjusted Infrastructure Cost Budget for the year. If the Parties reach agreement on an adjusted Infrastructure Cost Budget for the year, the Parties may amend this Agreement to replace the existing Infrastructure Cost Budget for the year with the adjusted Infrastructure Cost Budget for the year through execution by each of the Parties of a written adjusted Infrastructure Cost Budget for the year. Upon such execution, the adjusted Infrastructure Cost Budget for that year shall be deemed to replace the existing Infrastructure Cost Budget for that year. Regardless of whether the Parties agree on an adjusted Infrastructure Cost Budget for a year, any cost (of a type included in the Infrastructure Cost Budget)

overrun incurred while this Agreement is in effect shall be allocated to each Local One-Stop Partner in the same proportion as such cost would be allocated under this Agreement if it were not a cost overrun. If the Parties agree on an adjusted Infrastructure Cost Budget after the expiration of the year for which that budget is applicable, the Parties may amend this Agreement to replace the existing Infrastructure Cost Budget for that prior year and shall otherwise adjust their cost allocations and later in time payments so as to reconcile or “true up” amounts actually received or paid with the adjusted budget. The Parties intend to limit the total amount of any infrastructure cost adjustments for a year to no more than a ten percent (10%) increase to the Infrastructure Cost Budget allocation of each Local One-Stop Partner.

## **ARTICLE 2**

### **BUDGET, ALLOCATION AND PAYMENT OF ADDITIONAL SHARED COSTS**

Section 2.1 **Additional Shared Cost Budget.** The Additional Shared Cost Budget for the One-Stop Center in the Local Area for Program Year 2019 (July 1, 2019, to June 30, 2020) (an “**Additional Shared Cost Budget**”) is set forth on Exhibit C. The Parties may amend this Agreement to add Additional Shared Cost Budgets for future program years through preparation of a written Additional Shared Cost Budget for the year and execution thereof by each of the Parties. Upon such execution, the Additional Shared Cost Budget shall be deemed added to Exhibit C and shall serve as the Additional Shared Cost Budget for the specified year for purposes of this Agreement. Subject to earlier termination as provided herein, this Agreement shall continue to govern the Parties’ rights and obligations related to additional shared costs of the One-Stop Center in the Local Area so long as Exhibit C includes an Additional Shared Cost Budget for the then-current program year. This Agreement shall automatically terminate at the beginning of the first program year lacking an Additional Shared Cost Budget in Exhibit C.

Section 2.2 **Additional Shared Cost Allocation.** The costs in an Additional Shared Cost Budget are allocated among the Local One-Stop Partners as set forth in Exhibit D (the “Additional Shared Cost Allocation”). At the request of the Local WDB from time to time, but not less frequently than once per year, the Parties shall review additional shared costs incurred for operation of the One-Stop Center in the Local Area and the allocation of those costs under the Additional Shared Cost Allocation to confirm that the additional shared costs actually allocated to each One-Stop Partner are proportionate to the benefit received by that One-Stop Partner’s use of the One-Stop Center. As a result of such review, the Parties shall make any necessary adjustments to the Additional Shared Cost Allocation through amendment of this Agreement. If the Parties fail to reach agreement on the need for adjustments to the Additional Shared Cost Allocation, the Local WDB shall convene a meeting among representatives of Parties to resolve the disagreement.

#### Section 2.3 **Additional Shared Cost Payment.**

2.3.1 **Additional Shared Cost Contributions.** No later than 30 days after the end of each calendar quarter, each One-Stop Partner shall notify the Local WDB in writing of any cash or in-kind contributions to cover costs included in the applicable Additional Shared Cost Budget that the One-Stop Partner made during the prior calendar quarter, any information needed from that One-Stop Partner to apply the Additional Shared Cost Allocation for the quarter, and supporting documentation for such contributions and information as the Local WDB may reasonably request. Any in-kind contributions will be valued consistent with 2 CFR 200.306; provided, however, to the extent allowed,

if any, by 2 CFR 200.306, the Local One-Stop Partners will negotiate and agree upon the identification, inclusion, and value of in-kind contributions. If the Local One-Stop Partners cannot agree on whether a proposed in-kind contribution should be included, or its value, the in-kind contribution will not be applied to the calculation to determine the amount by which that Local One-Stop Partner's in-kind contributions exceed its allocation of the infrastructure costs for the quarter. A One-Stop Partner's failure to notify the Local WDB of such contributions and information within 30 days of the end of the calendar quarter shall, at the discretion of the Local WDB, constitute that Local One-Stop Partner's waiver of any right to payment for any amount by which that Local One-Stop Partner's in-kind contributions exceed its allocation of the additional shared costs for the quarter.

**2.3.2 Payment of Additional Shared Costs.** No later than 45 days after the end of each calendar quarter and based on the information received from the Local One-Stop Partners under Section 2.3.1, the applicable Additional Shared Cost Budget, and the Additional Shared Cost Allocation, the Local WDB shall notify each Local One-Stop Partner of the total additional shared costs incurred during the quarter, by Additional Shared Cost Budget line item, and of the portion of those costs allocated to that Local One-Stop Partner. Such notification shall identify and reflect any cash or in-kind contributions to the additional shared costs of the One-Stop Center received from other than a Local One-Stop Partner during the quarter (which reduce the overall costs otherwise allocated to the Local One-Stop Partners), with any in-kind contributions valued consistent with 2 CFR 200.306 and Section 2.3.1. If the portion of the additional shared costs allocated to a Local One-Stop Partner for the quarter exceeds the Local One-Stop Partner's contributions to additional shared costs during the quarter, that Local One-Stop Partner shall, subject to Article 3, pay the difference to the Local WDB no later than 30 days after receipt of notification from the Local WDB of the additional shared costs for the quarter. If the portion of the additional shared costs allocated to a Local One-Stop Partner for the quarter is less than the Local One-Stop Partner's contributions to additional shared costs during the quarter, the Local WDB shall, subject to Article 3, pay the difference to that Local One-Stop Partner promptly after the Local WDB's receipt of sufficient funds from the other Local One-Stop Partners to make that payment.

**2.3.3 Cost Overruns.** If the Local WDB anticipates that future additional shared costs for a program year will exceed the Additional Shared Cost Budget for that year (either overall or on a line-item basis), the Local WDB shall notify each Party and recommend that the Parties negotiate an adjusted Additional Shared Cost Budget for the year. If the Parties reach agreement on an adjusted Additional Shared Cost Budget for the year, the Parties may amend this Agreement to replace the existing Additional Shared Cost Budget for the year with the adjusted Additional Shared Cost Budget for the year through execution by each of the Parties of a written adjusted Additional Shared Cost Budget for the year. Upon such execution, the adjusted Additional Shared Cost Budget for that year shall be deemed to replace the existing Additional Shared Cost Budget for that year. Regardless of whether the Parties agree on an adjusted Additional Shared Cost Budget for a year, any cost (of a type included in the Additional Shared Cost Budget) overrun incurred while this Agreement is in effect shall be allocated to each Local One-Stop Partner in the same proportion as such cost would be allocated under this Agreement if it were not a cost overrun. If the Parties agree on an adjusted Additional Shared Cost Budget after the expiration of the year for which that budget is applicable, the Parties may amend this Agreement to replace the existing Additional Shared Cost Budget for that prior year and shall otherwise adjust their cost allocations and later in time payments so as to reconcile or "true up" amounts actually received or paid with the adjusted budget. The Parties intend to limit the

total amount of any additional shared cost adjustments for a year to no more than a ten percent (10%) increase to the Additional Shared Cost Budget allocation of each Local One-Stop Partner.

### **ARTICLE 3 CONDITIONS TO PAYMENT OBLIGATIONS**

If a Party is an agency of the State of Oregon, then such Party's payment obligations under this Agreement are conditioned on the Party receiving sufficient funding, appropriations and other expenditure authorizations to allow that Party, in the reasonable exercise of its administrative discretion, to make the payment. If a Party is a local government, then such Party's payment obligations under this Agreement are conditioned on the Party receiving from its governing body sufficient funding, appropriations and other expenditure authorizations to allow that Party, in the reasonable exercise of its administrative discretion, to make the payment. If a Party is a local workforce development board that is subject to debt limitations imposed, or expenditures or funding authorized, by law, because of its unique relationship with local governments, then such Party's obligations under this Agreement are conditioned on that Party receiving sufficient funding, appropriations or other expenditure authorizations to allow that Party, in the exercise of its reasonable administrative discretion, to make the payment.

### **ARTICLE 4 TERM AND TERMINATION**

Section 4.1 **Term.** This Agreement shall remain in effect until the earlier of (1) its termination under Sections 1.1 or 2.1 or (2) a Party's exercise of its right to terminate this Agreement under this Article 4.

Section 4.2 **Termination.** This Agreement may be terminated as follows:

4.2.1 **Notice.** A Party may terminate this Agreement effective upon 90 days advance written notice to each other Party.

4.2.2 **Non-appropriation.** A Party may terminate this Agreement effective upon written notice to each other Party, if a Party fails to receive sufficient funding, appropriations and other expenditure authorizations to allow that Party, in the reasonable exercise of its administrative discretion, to continue making payments under this Agreement, as further described in Article 3.

4.2.3 **Change in Law.** A Party may terminate this Agreement effective upon written notice to each other Party, if federal or state laws, rules, regulations or guidelines are modified or are interpreted by the Federal Grant recipient agencies in such a way that the financing of One-Stop Center infrastructure costs as contemplated by this Agreement is no longer allowable.

4.2.4 **Non-compliance.** A Party may terminate this Agreement effective upon 30 days advance written notice to each other Party, if a Party fails to comply with its obligations under this Agreement, including a failure to make a required payment, and such failure remains uncured at the end of the 30-day period.

### **ARTICLE 5**

## EFFECT OF TERMINATION

Section 5.1 **Costs Incurred.** Termination of this Agreement shall not affect a Local One-Stop Partner's responsibility under this Agreement for infrastructure costs and additional shared costs incurred prior to the date of termination. Each Local One-Stop Partner shall continue to be responsible for its allocable portion of such costs in accordance with the terms and conditions of Articles 1 and 2.

Section 5.2 **Default Cost Allocation.** Unless the Parties have entered into a successor agreement for the allocation of infrastructure costs for the One-Stop Center in the Local Area, upon termination of this Agreement, the Local WDB shall so notify the Governor and such infrastructure costs will be allocated by the Governor among the Parties in accordance with the process set forth in 20 CFR 678.730 to 750. There is no default funding allocation for additional shared costs, in the event of termination of this Agreement.

## ARTICLE 6 GENERAL

Section 6.1 **Counterparts.** This Agreement may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all the parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.

Section 6.2 **Survival.** Articles 5 and 6 shall survive termination of this Agreement.

Section 6.3 **Notice.** Any notice required or permitted under this Agreement shall be in writing and shall be deemed effective (1) when actually delivered in person, (2) one business day after deposit with a commercial courier service for "next day" delivery, (3) two business days after having been deposited in the United States mail as certified or registered mail, or (4) when transmitted by email, addressed to a Party as set forth on the signature pages hereof.

Section 6.4 **Records and Inspection.** Each Local One-Stop Partner shall keep proper books of account and records on all costs in an Infrastructure Cost Budget that it incurs prior to the date of termination of this Agreement. Each Local One-Stop Partner will maintain these books of account and records in accordance with generally accepted accounting principles and shall retain the books of account and records until the later of: (i) termination of this Agreement, (ii) the date that all disputes, if any, arising under this Agreement have been resolved or (iii) the period required by any applicable records retention or similar laws. Each Party will permit each other Party and/or its duly authorized representatives to inspect, review and make excerpts and transcripts of such books of account and records. Access to these records is not limited to the required retention period. The authorized representatives shall have access to the records at any reasonable time for as long as the records are maintained.

Section 6.5 **Successors and Assigns.** No Party may assign this Agreement or any right hereunder or interest herein, in whole or in part, without the prior written consent of each other Party. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective permitted successors and assigns.

Section 6.6 **Governing Law, Jurisdiction, Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to its conflicts of law principles. Any legal action regarding this Agreement must be brought and conducted in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in the Circuit Court in another Oregon county). Each Party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the preceding paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

Section 6.7 **Modification; Prior Grant Agreements; Headings.** This Agreement may not be modified or amended except by an instrument in writing signed by each Party. This Agreement reflects and sets forth the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes all prior agreements and understandings relating to such subject matter. The headings in this Agreement are for the purpose of reference only and shall not limit or otherwise affect any of the terms hereof.

Section 6.8 **Validity; Severability.** If any provision of this Agreement is held to be invalid, such event shall not affect, in any respect whatsoever, the validity of the remainder of this Agreement, and the remainder shall be construed without the invalid provision so as to carry out the intent of the Parties to the extent possible without the invalid provision.

Section 6.9 **Exhibits.** The exhibits to this Agreement are, by this reference, incorporated into and deemed a part of this Agreement as if they were fully set forth in the text hereof. If the language in an Exhibit conflicts with or is inconsistent with language not appearing in an Exhibit, the latter shall control.

Section 6.10 **Time of Essence.** Time is of the essence of this Agreement.

Section 6.11 **Relationship of the Parties.** Nothing contained in this Agreement or any acts of the Parties hereto shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture or of any other association other than that of independent contracting parties.

Section 6.12 **No Third Party Beneficiary Rights.** No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

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**EXHIBIT A  
INFRASTRUCTURE COST BUDGET**

On or about July 1, 2019 we will have an MOU/IFA in place covering co-located and non-located workforce partners. The financial arrangements will be reflected in one of three ways: 1) the lease, 2) partner sharing agreements, or 3) other arrangements. These arrangements will be captured in this ever-evolving exhibit. Leases, costs and allocations change and, hopefully, our partnerships will expand and there will be a higher level of co-location over time.

In the table below, *co-located partner agreements* are listed based on their status of being in place, in process or anticipated.

L (Lease) P (PCSA) O (Other)	Party #1	Party #2	Annual Cost	Currently Executed	In Process	Expected Date	Anticipated New or Mod	Expected Date
L	Oregon Employment Dept	Clackamas Workforce Partnership	\$5277.60	X				
P	Oregon Employment Dept	Clackamas Workforce Partnership	\$4143.60	X				
L	Oregon Employment Dept	Easterseals	\$922.08	X				
P	Oregon Employment Dept	Easterseals	\$2392.80	X				

The infrastructure costs for *non-located workforce partners (NCWPs)* were calculated through the following process:

1. Designation of a cubicle in WorkSource Clackamas as the technology nexus for NCWPs; and
2. Costing out of the cubicle - phone, equipment, network access, supplies, and square footage (see breakdown of costs below)

**NCWP Technology Nexus Cubicle Cost Breakdown**

	Cost Per	#	Monthly Total	Annual Total
Phone	27.00	1.00	27.00	324.00
Equipment	43.00	1.00	43.00	516.00
Network access (Both Printer and Computer)	8.10	2.00	16.20	194.40
Supplies	37.00	1.00	37.00	444.00
Square Footage	0.39	96.00	37.44	449.28
<b>TOTALS</b>			<b>160.64</b>	<b>1927.68</b>

**EXHIBIT B  
INFRASTRUCTURE COST ALLOCATION**

Infrastructure cost allocation is provided through the documents identified in Exhibit A for *co-located workforce partners*.

Infrastructure cost allocation for *non-colocated workforce partners (NCWPs)* is based on the number of WIOA NCWPs participating in this Infrastructure Shared Cost Funding Agreement. The allocation is calculated through the division of the cost of the Technology Nexus cubicle evenly between the NCWPs. For the year beginning July 1, 2019, there are seven (7) NCWPs with costs broken down as follows:

**Cost Allocation Per Non-colocated Workforce Partner**

NCWP	Monthly Total	Annual Total
Department of Human Services - Vocational Rehabilitation	22.95	275.38
Clackamas Education Service District	22.95	275.38
Oregon Commission for the Blind	22.95	275.38
Higher Education Coordinating Commission	22.95	275.38
Job Corps	22.95	275.38
Department of Human Services - Self-Sufficiency Programs	22.95	275.39
Housing Authority of Clackamas County	22.95	275.39
<b>TOTALS</b>	<b>160.65</b>	<b>1927.68</b>

**EXHIBIT C**  
**ADDITIONAL SHARED COST BUDGET**

Not applicable for the year beginning July 1, 2019.

**EXHIBIT D**  
**ADDITIONAL SHARED COST ALLOCATION**

Not applicable for the year beginning July 1, 2019.