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BOARD OF COUNTY COMMISSIONERS  
PUBLIC SERVICES BUILDING  
2051 KAEN ROAD | OREGON CITY, OR 97045

# AGENDA \*REVISED

*Added Consent Agenda items E.1 and A.3*

**Thursday, May 21, 2020 - 10:00 AM**  
**BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2020-36

## **CALL TO ORDER**

- Roll Call
- Pledge of Allegiance

## **\*\*\*COVID-19 Update**

### **I. HOUSING AUTHORITY CONSENT AGENDA**

1. Approval to Execute Multiple Lease Agreements between Housing Authority of Clackamas County and Service Providers that Operate Special Needs Housing - HACC

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

1. Second Reading of Ordinance No. 04-2020 Amending Clackamas County Code Chapter 2.05.200 – Layoff and Seniority of the Personnel Policies and Procedures for Clackamas County Employees and Declaring an Emergency, *1<sup>st</sup> reading 4-30-2020* (Andrew Narus, County Counsel)

### **NORTH CLACKAMAS PARKS AND RECREATION DISTRICT**

2. Resolution No. \_\_\_\_\_ Authorization and to use the Request for Proposals Method to Obtain a Construction Manager/General Contractor for the Milwaukie Bay Park Project (Heather Koch, NCPRD, Ryan Rice, Procurement)

### **III. NORTH CLACKAMAS PARKS & RECREATION DISTRICT CONSENT AGENDA**

1. Approval of Amendment No. 2 to the Interagency Agreement between North Clackamas Parks and Recreation District and Health, Housing and Human Services Social Services Division for Service at the Milwaukie Center

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

**A. Health, Housing & Human Services**

1. Approval to Apply for a Comprehensive Opioid, Stimulant, and Substance Abuse Site-Based Program Grant (COSSAP) – *H3S Admin*
2. Approval of a Federal Subrecipient Grant Agreement with AntFarm, Inc to Provide Youth Prevention Coordination for Rural Clackamas County in Sandy and Estacada - *CFCC*
- \*3. Approval of Amendment No. 1 to an Intergovernmental Agreement with the State of Oregon, Housing and Community Services Department to Administer COVID-19 Rental Relief Program Funds

**B. Department of Transportation & Development**

1. Approval of a Contract with Eagle-Elsner, Inc. for the Highland Paving Package - *Procurement*

**C. Elected Officials**

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

**D. Department of Human Resources**

1. Approval of Contract between Clackamas County, Department of Human Resources and Navia Benefit Solutions, Inc. for Flexible Spending Account (FSA) Services - *Procurement*

**\*E. Business & Community Services**

1. Approval of Local Grant Agreement between Clackamas County and Micro Enterprise Services of Oregon (MESO) for MESO to Provide Technical Assistance to Businesses, and a Small Grants and Micro-Loan Program on behalf of Clackamas County in an Effort to Support the Local Business Community Impacted by the COVID-19 Pandemic  
*(this item was removed from 5-14-2020 meeting for further staff review)*

**V. WATER ENVIRONMENT SERVICES**

1. Approval of a Contract Amendment No. 4 with James W. Fowler Company for the Tri-City Water Resource Recovery Facility (WRRF) Solids Handling Improvements Project  
*- Procurement*

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

**VII. COUNTY ADMINISTRATOR UPDATE**

**VIII. COMMISSIONERS COMMUNICATION**

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

May 21, 2020

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

Approval to execute multiple lease agreements between Housing Authority of Clackamas County and service providers that operate special needs housing

<b>Purpose/Outcomes</b>	Approval to execute multiple lease agreements between the Housing Authority of Clackamas County and service providers that operate special needs housing.
<b>Dollar Amount and Fiscal Impact</b>	No general funds used. Lease agreements are a revenue source for the Housing Authority to maintain housing stock for special needs housing providers.
<b>Funding Source</b>	Lessees will pay rent to the Lessor, the Housing Authority as noted in Exhibit A of this report.
<b>Duration</b>	Two (2) year leases, July 1, 2020 – June 30, 2022
<b>Previous Board Action</b>	none
<b>Counsel Review</b>	This contract has been reviewed by County Counsel on May 7, 2020
<b>Strategic Plan Alignment</b>	1. Sustainable and affordable housing for special needs populations
<b>Contact Person</b>	Jill Smith, Executive Director, Housing Authority 503-742-5336
<b>Contract No.</b>	none

**BACKGROUND:**

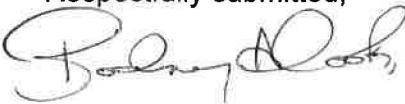
The Housing Authority of Clackamas County (HACC), a division of the Health, Housing & Human Services Department (H3S), requests approval to execute seventeen (17) lease agreements with service providers to operate special needs housing listed on the attached Exhibit A.

The service providers operate fourteen (14) homes for those with intellectual and development disabilities, one (1) provider operates a shelter, one (1) provider operated a foster youth program and one (1) provider serves homeless in the community. HACC has maintained long term business relationships with the service providers to provide high quality affordable housing for the special needs populations they serve. All of the properties are single family homes located in neighborhoods throughout Clackamas County. The intention of these services providers is to provide housing for their respective populations so they may be integrated into the community. All of these lessees provide on-site services (in most cases 24 hours a day, 7 days a week) to meet the needs of the residents. But for this housing provided through HACC, these providers could not find affordable housing to serve their respective populations.

**RECOMMENDATION:**

Staff recommends the HACC Board authorize the execution of all the lease agreements enclosed. In addition, HACC requests the HACC Board to authorize Jill Smith, HACC Executive Director, to sign and execute all the lease agreements on its behalf.

Respectfully submitted,

 HHS deputy / For

Richard Swift, Director  
Health, Housing & Human Services

**ATTACHMENTS:**

**EXHIBIT A** - List of Lessees, Property Names, Locations, Program, Lease Term & Rent

**EXHIBIT B** - Lease Documents for all Lessees

## EXHIBIT A - List of Lessees

Local Project - Schedule of Lessees & Rent and Lease Schedule						
	Address	City	Lessee	Program	Term - Years	2020 - 2022 Rent
1	13581 Jason Lee Drive	Oregon City	Albertina Kerr	I/DD	2	\$1,187.00
2	4808 SE View Acres	Milwaukie	Albertina Kerr	I/DD	2	\$1,187.00
3	2286 Lindenbrook	Milwaukie	Albertina Kerr	I/DD	2	\$1,187.00
4	4808 SE Hull Street	Milwaukie	Alternative Services	I/DD	2	\$712.00
5	18980 Leland Road	Oregon City	Cascadia Behavioral Health	I/DD	2	\$1,256.00
6	304 Pearl Street	Oregon City	Cascadia Behavioral Health	I/DD	2	\$1,256.00
7	11458 McEachron	Milwaukie	Columbia Care Services,	I/DD	2	\$1,009.00
8	6662 SE Furnberg	Milwaukie	Northwest Mental Health	I/DD	2	\$1,187.00
9	9054 SE 42nd	Milwaukie	Northwest Mental Health	I/DD	2	\$1,187.00
10	13538 Gaffney Ln	Milwaukie	Northwest Mental Health	I/DD	2	\$949.00
11	376 Warner Parrot	Milwaukie	Northwest Mental Health	I/DD	2	\$949.00
12	2885 SE Maple St.	Milwaukie	Northwest Mental Health	I/DD	2	\$1,187.00
13	15323, 15325,15327 Risley	Milwaukie	Northwest Mental Health	I/DD	2	\$1,187.00
14	3050 Lazy River	West Linn (Privacy of Location)	Northwest Mental Health	I/DD	2	\$1,187.00
15	(Privacy of Location)	(Privacy of Location)	Northwest Family Services	Shelter Foster Youth	2	\$1,158.00
16	144 Molalla	Oregon City	The Inn Home For Boys		2	\$1,282.00
17	146 Molalla	Oregon City	Central City Concern	LEAD	1	\$250.00
	<b>TOTAL MONTHLY REVENUE</b>					<b>\$18,317.00</b>
<b>Line</b>	<b>NOTES to TABLE</b>					
1-14	I/DD = Intellectually and Developmentally Disabled					
	Shelter = Special Needs					
	Homeless Shelter - Address not disclosed for privacy and safety of occupants					
15	Foster Youth - Program to house Foster teens transitioning to adulthood					
16	LEAD - :Law Enforcement Assistance Diversion for homeless persons - office space not housing					
17						

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **ALBERTINA KERR**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

13581 Jason Lee Drive  
Oregon City, Clackamas County, Oregon, 97045

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,187.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for longterm fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A.

Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

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(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of



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dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the

## **ORGANIZATION**

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leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

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All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

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During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

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### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed

**ORGANIZATION**

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to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:  
Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:  
Albertina Kerr  
876 NE 162nd Ave  
Portland, OR 97230

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

**29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

## **ORGANIZATION**

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Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not



## **ORGANIZATION**

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be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.

- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

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**LESSEE:**  
**ALBERTINA KERR**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS  
COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

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**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

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dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

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**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X

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Minor Repair			X
Routine Yard Maintenance			X
Gutters – Cleaning			X
Cleaning Sidewalks			X
Client Caused Damage			X
Upgrades			X
Donated Equipment			X
Emergencies	X		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **ALBERTINA KERR**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

4808 SE View Acres  
Milwaukie, Clackamas County, Oregon, 97267

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,187.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for longterm fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A.

Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.



## ORGANIZATION

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(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of

## **ORGANIZATION**

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dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the

## **ORGANIZATION**

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leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

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All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

## **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

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During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease

## **ORGANIZATION**

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agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

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Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:  
Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:  
Albertina Kerr  
876 NE 162nd Ave  
Portland, OR 97230

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.



## **ORGANIZATION**

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### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or

## **ORGANIZATION**

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otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.

- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**ORGANIZATION**

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**LESSEE:**

**LESSOR:**

**HOUSING AUTHORITY OF CLACKAMAS  
COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_

By: Jill C. Smith

Its: \_\_\_\_\_

Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

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**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

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\_\_\_\_\_  
Notary Public – State of Oregon

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**ATTACHMENT A****Summary of Responsibilities****Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	X		
Minor Repair	X		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	X		
Minor Repair	X		
Heating/Vent/Coding			
Major Repair/Replacement	X		
Minor Repair	X		
Foundations			
Major Repair/Replacement		X	
Minor Repair	X		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		X	
Minor Repair	X		
Interior Redecorating/Remodeling			X
Garage Door			
Major Repair/Replacement	X		
Minor Repair			X
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
(1) Maintenance/repair of the building interior/exterior will be examined to determine responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X

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Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X
Gutters – Cleaning			X
Cleaning Sidewalks			X
Client Caused Damage			X
Upgrades			X
Donated Equipment			X
Emergencies	X		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **ALBERTINA KERR**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

2286 Lindenbrook Court  
Milwaukie, Clackamas County, Oregon, 97222

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,187.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.



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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for longterm fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

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(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and

## **ORGANIZATION**

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replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

## **6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

## **7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

## **8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this

## **ORGANIZATION**

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LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

## **ORGANIZATION**

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### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **ORGANIZATION**

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## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

### **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

### **17. FOR SALE AND FOR RENT SIGNS**

During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same,

## **ORGANIZATION**

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broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

## **ORGANIZATION**

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In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.



**ORGANIZATION**

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**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:  
Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:  
Albertina Kerr  
876 NE 162nd Ave  
Portland, OR 97230

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals

**29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

## **ORGANIZATION**

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Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**

a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local

## **ORGANIZATION**

2020-2023 LEASE - 2286 Lindenbrook Court

real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.

b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.

c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.

d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.

b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**ORGANIZATION**

2020-2023 LEASE - 2286 Lindenbrook Court

**LESSEE:**  
**ALBERTINA KERR**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS  
COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2023 LEASE - 2286 Lindenbrook Court

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

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\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

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**ORGANIZATION**

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**ATTACHMENT A  
Summary of Responsibilities  
Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determine responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

**ORGANIZATION**

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			

**ORGANIZATION**

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Major Repair/Replacement			<b>X</b>
Minor Repair			<b>X</b>
Routine Yard Maintenance			<b>X</b>
Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		



# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **ALTERNATIVE SERVICES-OR, INC.**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

4808 SE Hull Street  
Milwaukie, Clackamas County, Oregon, 97222

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$712.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

2020-2023 LEASE - 4808 SE Hull Street

- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for long term fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A.

Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

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(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of

## **ORGANIZATION**

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dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the

## **ORGANIZATION**

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leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

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All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

## **ORGANIZATION**

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During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease



## **ORGANIZATION**

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agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

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Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:  
Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:  
Alternative Services Oregon, Inc.  
7165 SW Fir Loop Suite 200,  
Tigard, OR 97223

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

## **ORGANIZATION**

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### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with

## **ORGANIZATION**

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the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.

- b. **Payment of Taxes.** Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. **Evidence of Payment.** Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. **Property Tax Exemption.** LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

- a. **Non-default Termination:** This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited
- b. **Termination for Default:** upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

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**LESSEE:**  
**ALTERNATIVE SERVICES OREGON, INC.**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS  
COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

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**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

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dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

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**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determine responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X



**ORGANIZATION**

2020-2023 LEASE - 4808 SE Hull Street

Minor Repair			X
Routine Yard Maintenance			X
Gutters – Cleaning			X
Cleaning Sidewalks			X
Client Caused Damage			X
Upgrades			X
Donated Equipment			X
Emergencies	X		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **CASCADIA BEHAVIORAL HEALTHCARE, INC.** hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

18980 Leland Road  
Oregon City, Clackamas County, Oregon, 97045

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,256.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for longterm fire insurance policies.

#### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

#### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

## ORGANIZATION

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Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

### (3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

### b. LESSOR shall make repairs and provide maintenance as follows:

#### (1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

#### (2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

#### (3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

### c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

#### (1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease

## **ORGANIZATION**

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with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

## **ORGANIZATION**

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The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

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2020-2023 LEASE - 18980 Leland Road

All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**



## **ORGANIZATION**

2020-2023 LEASE - 18980 Leland Road

During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease

## **ORGANIZATION**

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agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

**ORGANIZATION**

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Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:	LESSEE:
Housing Authority of Clackamas County	Cascadia Behavioral Health
PO Box 1510	847 19th Avenue
Oregon City, OR 97045	Portland, OR 97232

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical

## **ORGANIZATION**

2020-2023 LEASE - 18980 Leland Road

changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

## **ORGANIZATION**

2020-2023 LEASE - 18980 Leland Road

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.
- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

### **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**ORGANIZATION**

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**LESSEE:**  
**CASCADIA BEHAVIORAL HEALTH**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS  
COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2023 LEASE - 18980 Leland Road

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

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by (name(s) of individual(s)) \_\_\_\_\_ as

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**ORGANIZATION**

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**ATTACHMENT A  
Summary of Responsibilities  
Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			



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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X

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Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **CASCADIA BEHAVIORAL HEALTHCARE, INC.** hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

304 Pearl Street  
Oregon City, Clackamas County, Oregon, 97045

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,256.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for longterm fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

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Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease

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with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

## **6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

## **7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

## **8. RIGHT OF ASSIGNMENT**

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The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

## **ORGANIZATION**

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All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**



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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

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During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease

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agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

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Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:	LESSEE:
Housing Authority of Clackamas County	Cascadia Behavioral Health
PO Box 1510	847 19th Avenue
Oregon City, OR 97045	Portland, OR 97232

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical

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changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

## **ORGANIZATION**

2020-2023 LEASE - 304 Pearl Street

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.
- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

### **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**ORGANIZATION**

2020-2023 LEASE - 304 Pearl Street

**LESSEE:**  
**CASCADIA BEHAVIORAL HEALTH**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS  
COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2023 LEASE - 304 Pearl Street

**LESSEE:**  
**CASCADIA BEHAVIORAL HEALTH**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS  
COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

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\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.



**ORGANIZATION**

2020-2023 LEASE - 304 Pearl Street

**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

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**ORGANIZATION**

2020-2023 LEASE - 304 Pearl Street

**ATTACHMENT A  
Summary of Responsibilities  
Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determine responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

**ORGANIZATION**

2020-2023 LEASE - 304 Pearl Street

Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X

**ORGANIZATION**

2020-2023 LEASE - 304 Pearl Street

Minor Repair			<b>X</b>
Routine Yard Maintenance			<b>X</b>
Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **COLUMBIACARE SERVICES, INC.**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

11458 SE McEachron Avenue  
Milwaukie, Clackamas County, Oregon, 97222

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1009.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

2020-2023 LEASE - 11458 SE McEachron Avenue

- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for long term fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A.

Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

## ORGANIZATION

2020-2023 LEASE - 11458 SE McEachron Avenue

(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of

## **ORGANIZATION**

2020-2023 LEASE - 11458 SE McEachron Avenue

dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the



## **ORGANIZATION**

2020-2023 LEASE - 11458 SE McEachron Avenue

leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

## **ORGANIZATION**

2020-2023 LEASE - 11458 SE McEachron Avenue

All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

## **ORGANIZATION**

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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

## **ORGANIZATION**

2020-2023 LEASE - 11458 SE McEachron Avenue

During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease

## **ORGANIZATION**

2020-2023 LEASE - 11458 SE McEachron Avenue

agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

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Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:  
Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:  
ColumbiaCare Services, Inc.  
3587 Heathrow Way  
Medford, OR 97504

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

## **ORGANIZATION**

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### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with

## **ORGANIZATION**

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the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.

- b. **Payment of Taxes.** Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. **Evidence of Payment.** Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. **Property Tax Exemption.** LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

- a. **Non-default Termination:** This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited
- b. **Termination for Default:** upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.



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**LESSEE:**  
**COLUMBIA CARE SERVICES, INC.**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS  
COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

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**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

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**ATTACHMENT A  
Summary of Responsibilities  
Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determine responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X

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Minor Repair			X
Routine Yard Maintenance			X
Gutters – Cleaning			X
Cleaning Sidewalks			X
Client Caused Damage			X
Upgrades			X
Donated Equipment			X
Emergencies	X		

# LEASE

THIS LEASE is made and entered into by and between HOUSING AUTHORITY OF CLACKAMAS COUNTY, hereinafter called the LESSOR, and **NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

6662 SE Furnberg Street  
Milwaukie, Clackamas County, Oregon, 97222

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,187.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for long-term fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

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Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

### (3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

### b. LESSOR shall make repairs and provide maintenance as follows:

#### (1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

#### (2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

#### (3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

### c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

#### (1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease



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with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or non-workman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the

## **ORGANIZATION**

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leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

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All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall

## **ORGANIZATION**

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provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

## **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

## **18. DELIVERING UP PREMISES ON TERMINATION**

## **ORGANIZATION**

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At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broom-clean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

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No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private

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sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

Northwest Mental Health Management Services, Inc.  
1020 Portland Avenue  
Gladstone, OR 97027

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

## **ORGANIZATION**

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### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**



## **ORGANIZATION**

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- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.
- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

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2020-2023 LEASE - 6662 SE Furnberg Street

**LESSEE:**  
**NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES, INC.**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2023 LEASE - 6662 SE Furnberg Street

**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

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\_\_\_\_\_  
Notary Public – State of Oregon

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**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X

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Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

9054 SE 42<sup>nd</sup> Avenue  
Milwaukie, Clackamas County, Oregon, 97222

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,187.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for long-term fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.



## ORGANIZATION

2020-2023 LEASE - 9054 SE 42nd Avenue

(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.  
Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement  
Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises,

## **ORGANIZATION**

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including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or non-workman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution

## **ORGANIZATION**

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or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

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This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

#### **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

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- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

### **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

### **17. FOR SALE AND FOR RENT SIGNS**

During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broom-clean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

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To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

LESSEE shall be responsible for all damage to the Premises, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of LESSEE, its subcontractors, agents, employees, guests, or invitees.

LESSOR shall have no liability to LESSEE for any injury, loss, or damage caused by third parties, or by any condition of the Premises. LESSOR shall have no liability for the failure or interruption of utilities.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

## **ORGANIZATION**

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In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**ORGANIZATION**

2020-2023 LEASE - 9054 SE 42nd Avenue

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

Northwest Mental Health Management  
Services, Inc.  
1020 Portland Avenue  
Gladstone, OR 97027

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

**29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**



## **ORGANIZATION**

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Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or

## **ORGANIZATION**

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extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.

- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**ORGANIZATION**

2020-2023 LEASE - 9054 SE 42nd Avenue

**LESSEE:**  
**NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES, INC.**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

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**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

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**ORGANIZATION**

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**ATTACHMENT A  
Summary of Responsibilities  
Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determine responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HAC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X

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Routine Yard Maintenance			<b>X</b>
Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

13538 Gaffney Lane  
Oregon City, Clackamas County, Oregon, 97045

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$949.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.



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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for long-term fire insurance policies.

#### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

#### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

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Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

### (3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

#### b. LESSOR shall make repairs and provide maintenance as follows:

##### (1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

##### (2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

##### (3) Non-routine repairs to landscaping and tree pruning. Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

#### c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

##### (1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of

## **ORGANIZATION**

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dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or non-workman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold,

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assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

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### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

#### **OTHER INSURANCE PROVISIONS**

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The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

### **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

### **17. FOR SALE AND FOR RENT SIGNS**

During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broom-clean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

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To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the

## **ORGANIZATION**

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Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

### **24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall



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only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

Northwest Mental Health Management Services, Inc.  
1020 Portland Avenue  
Gladstone, OR 97027

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

**29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

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### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or

## **ORGANIZATION**

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other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.

- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

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**LESSEE:**  
**NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES, INC.**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2023 LEASE - 13538 Gaffney Lane

**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2023 LEASE - 13538 Gaffney Lane

**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

**ORGANIZATION**

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X

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Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		



# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

376 Warner Parrott Road  
Oregon City, Clackamas County, Oregon, 97045

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$949.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for longterm fire insurance policies.

#### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

#### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

## ORGANIZATION

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Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease

## **ORGANIZATION**

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with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

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The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

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All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

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During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease



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agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

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Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

Northwest Mental Health Management  
Services, Inc.  
1020 Portland Avenue  
Gladstone, OR 97027

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include

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the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

## **ORGANIZATION**

2020-2023 LEASE - 376 Warner Parrott Road

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.
- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

### **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**ORGANIZATION**

2020-2023 LEASE - 376 Warner Parrott Road

**LESSEE:**  
**NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES, INC.**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2023 LEASE - 376 Warner Parrott Road

**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

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**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

**ORGANIZATION**

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X



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Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

2885 Maple Street  
Milwaukie, Clackamas County, Oregon, 97267

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,187.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for longterm fire insurance policies.

#### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

#### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

## ORGANIZATION

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Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease

## **ORGANIZATION**

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with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

## **6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

## **7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

## **8. RIGHT OF ASSIGNMENT**

## **ORGANIZATION**

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The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

## **ORGANIZATION**

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All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

## **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**



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During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease

## **ORGANIZATION**

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agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

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Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

Northwest Mental Health Management  
Services, Inc.  
1020 Portland Avenue  
Gladstone, OR 97027

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include

## **ORGANIZATION**

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the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

## **ORGANIZATION**

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### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.
- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

### **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

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**LESSEE:**  
**NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES, INC.**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2023 LEASE - 2885 Maple Street

**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

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**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			



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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X

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Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

15323, 15325, 15327 SE Risley Court  
Milwaukie, Clackamas County, Oregon, 97267

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,187.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

## **ORGANIZATION**

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for longterm fire insurance policies.

#### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

#### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

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### 2020-2023 LEASE - SE Risley Court

Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

#### (3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

#### b. LESSOR shall make repairs and provide maintenance as follows:

##### (1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

##### (2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

##### (3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

#### c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

##### (1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease

## **ORGANIZATION**

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with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

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The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

## **ORGANIZATION**

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All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**



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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

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During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease

## **ORGANIZATION**

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agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

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Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

Northwest Mental Health Management  
Services, Inc.  
1020 Portland Avenue  
Gladstone, OR 97027

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include

## **ORGANIZATION**

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the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

## **ORGANIZATION**

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### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.
- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

### **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

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**LESSEE:**  
**NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES, INC.**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

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**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

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\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

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dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.



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**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X

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Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

3050 Lazy River Drive  
West Linn, Clackamas County, Oregon, 97068

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,187.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2022. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

Rents shall increase annually by the amount of the increase in residents' Social Security Income (SSI) payments attributed to housing costs by the Oregon Department of Human Services, Seniors and People with Disabilities. Any increase so determined shall occur at the time the information is made available to the LESSOR, but shall not in any event be effective before the effective date of such increase in the SSI payment. LESSOR shall immediately notify LESSEE when any such notice is received.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows:  
Operation of a residential facility for persons with developmental disabilities, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

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- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for longterm fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

- (1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

- (2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

## ORGANIZATION

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Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease

## **ORGANIZATION**

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with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

### **6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

### **7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

### **8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the

## **ORGANIZATION**

2020-2023 LEASE - 3050 Lazy River Drive

leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**



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All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

## **ORGANIZATION**

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Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

## **ORGANIZATION**

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During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease

## **ORGANIZATION**

2020-2023 LEASE - 3050 Lazy River Drive

agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

**ORGANIZATION**

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Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

Northwest Mental Health Management  
Services, Inc.  
1020 Portland Avenue  
Gladstone, OR 97027

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include

## **ORGANIZATION**

2020-2023 LEASE - 3050 Lazy River Drive

the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

## **ORGANIZATION**

2020-2023 LEASE - 3050 Lazy River Drive

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.
- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

### **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**ORGANIZATION**

2020-2023 LEASE - 3050 Lazy River Drive

**LESSEE:**  
**NORTHWEST MENTAL HEALTH MANAGEMENT SERVICES, INC.**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.



**ORGANIZATION**

2020-2023 LEASE - 3050 Lazy River Drive

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

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2020-2023 LEASE - 3050 Lazy River Drive

**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X

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Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		

# LEASE

THIS LEASE is made and entered into by and between HOUSING AUTHORITY OF CLACKAMAS COUNTY, hereinafter called the LESSOR, and **NORTHWEST FAMILY SERVICES, INCORPORATED**, hereinafter called the LESSEE.

The parties agree as follows:

## 1. **DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

**5230 SE Roethe Road  
Milwaukie, Clackamas County, Oregon,**

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR has leased the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program called Casa Esperanza, as described in Section 3, below.

## 2. **RENT AND TERM**

The term of this lease shall be two years. For the first year, July 1, 2020 to June 30, 2020, LESSEE shall pay to LESSOR rent for the Premises on the 1st day of the month in the amount of \$1,158.00 per calendar month during the period commencing July 1, 2020 and ending June 30, 2021. For the second year July 1, 2021 to June 30, 2022 the monthly rent due to the LESSOR shall be \$1,194.00. The lease payments are due on the first day of each month. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

## 3. **USE OF PREMISES**

a. The LESSEE shall use the leased Premises during the term of this LEASE as follows:

Operation of a residential facility for persons experiencing domestic violence, plus any necessary support staff. LESSEE shall use the leased Premises for no other purpose whatsoever without LESSOR's written consent.

b. The LESSEE will not make any unlawful, improper or offensive use of said Premises; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.

c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power

**NORTHWEST FAMILY SERVICES, INCORPORATED**

2020-2022 LEASE – Unit #305001 5230 SE Roethe Road

machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for long-term fire insurance policies.

- d. LESSEE shall comply at LESSEE's own expense with all laws and regulations of any municipal, county, state, federal or other public authority respecting the use of said leased Premises.
- e. The LESSEE shall regularly occupy and use the leased Premises for the conduct of LESSEE's business, and shall not abandon or vacate the Premises without written approval of the LESSOR.
- f. **Hazardous Substances.** LESSEE shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed of, or otherwise released on or under the Premises. LESSEE may use or otherwise handle on the Premises only those Hazardous Substances typically used or sold in the prudent and safe operation of the business. LESSEE may store such Hazardous Substances on the Premises only in quantities necessary to satisfy LESSEE's reasonably anticipated needs. LESSEE shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Premises. On the expiration or termination of this Lease, LESSEE shall remove all Hazardous Substances from the Premises. The term *Environmental Law* shall mean any federal, state, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety, or the environment. The term *Hazardous Substance* shall mean any hazardous, toxic, infectious, or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

**4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used in the leased Premises during the term of this LEASE.

**5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A.

Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

- a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

(1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

(2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its Expected Useful Life (EUL) due to excessive or hard use by the LESSEE, the replacement cost born by the LESSOR will be pro-rated.

Example: Carpet's EUL is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost including materials and labor. EUL will be based on the Manufacturer's estimated useful life of the material, fixture or building system component.

(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

- b. LESSOR shall make repairs and provide maintenance as follows:

(1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

(2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.

(3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

- c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

(1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in section 5(a)(2) above. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, residents, clients or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting. LESSEE shall obtain written permission from LESSOR for any LESSEE improvements on the property.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or non-workmanlike work done by contractors hired by LESSOR.



A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or his authorized agents or representatives may enter the leased Premises at any time for the purpose of examining the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or his authorized agents or representatives, shall ensure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR in writing prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR and LESSEE being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

**9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

**10. ICE, SNOW, DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and will save harmless and protect the LESSOR and the LESSEE against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

**11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or

architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

**12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

**13. FIXTURES**

All partitions, plumbing, electrical wiring, additions to or improvements upon said leased Premises, whether installed by the LESSOR, or LESSEE, shall be and become a part of the building as soon as installed and the property of the LESSOR unless otherwise herein provided.

**14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

**15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

**MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (*for LESSEEs with employees*).
- d. Professional Errors and Omissions Liability insurance.

- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

**MINIMUM LIMITS OF INSURANCE**

LESSEE shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (*including coverages for discrimination, fair housing and ADA violations, and sexual molestation*).
- b. Automobile Liability: \$1,000,000 per accident for Bodily Injury and Property Damage
- c. Workers' Compensation (*statutory*) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- d.. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate

**DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

**OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

**ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

#### VERIFICATION OF COVERAGE

LESSEE shall furnish the Authority with original certificates and amendatory endorsements effecting coverage required by these specifications. The endorsements should conform fully to the requirements. All certificates and endorsements are to be received and approved by the Authority in sufficient time before the lease commences to permit LESSEE to remedy any deficiencies. The Authority reserves the right to complete, certified copies of all insurance policies, including endorsements effecting the coverage required by these specifications at any time.

#### SUB-CONTRACTORS

Use of lease Premises by subcontractors must be pre-approved by the LESSOR. LESSEE shall require that all subcontractors occupying the space or performing services of leased Premises provide documentation confirming that such subcontractors' insurance conforms to all the above specifications.

Notwithstanding this provision. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's sub-contractors and/or failure to be properly insured.

### 16. **EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

### 17. **FOR SALE AND FOR RENT SIGNS**

During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### 18. **DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broom-clean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR

### 19. **INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

LESSEE shall be responsible for all damage to the Premises, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of LESSEE, its subcontractors, agents, employees, guests, or invitees.

LESSOR shall have no liability to LESSEE for any injury, loss, or damage caused by third parties, or by any condition of the Premises. LESSOR shall have no liability for the failure or interruption of utilities.

**20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises.

**21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

**22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

**23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

**24. HOLDING OVER**

There shall be no holdover permitted upon termination of this Lease.

**25. WAIVER**

Lessor and Lessee agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

Northwest Family Services, Incorporated  
6200 SE King Road  
Portland, Oregon 97222

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

**29. AS-IS**

LESSEE accepts the Premises in its “as is” condition without any warranty or representation by Lessor as to the condition, fitness for any particular purpose, or habitability of the Premises. LESSEE acknowledges that LESSOR has no obligation to make any change or improvement to the Premises or to pay any cost, expend any funds or suffer any liability to make any change or improvement. All work done by Lessee within, on, under or adjacent to the Premises will be performed in a good and workmanlike manner in compliance with all governmental requirements. It is LESSEE’s sole and exclusive responsibility to perform all work necessary or required by any governmental entity, to permit LESSEE to occupy the Premises. LESSEE agrees to indemnify, defend and hold LESSOR harmless against any loss, liability, claim or damage resulting from work on the Premises.

**30. APPLICABLE LAW AND VENUE**

This Lease shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit must be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

**31. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys’ fees and expenses.

**32. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

**33. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

**34. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

**35. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

**36. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

**37. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.



**NORTHWEST FAMILY SERVICES, INCORPORATED**

2020-2022 LEASE – Unit #305001 5230 SE Roethe Road

- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

**38. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

**39. ENTIRE AGREEMENT**

This Lease contains the entire agreement of LESSOR and LESSEE, and all prior written and oral agreements and representations between the parties are void. LESSOR and LESSEE agree that there are no implied covenants or other agreements between the parties except as expressly set forth in this Lease. Neither LESSOR nor LESSEE is relying on any representations of the other party except those expressly set forth herein.

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**LESSEE:**  
**NORTHWEST FAMILY SERVICES**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS INC.**  
**COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON  
County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_,  
20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_  
as

(type of authority) \_\_\_\_\_ of (name of party on whose  
behalf record was executed)  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),  
dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON  
County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_,  
20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_  
as

(type of authority) \_\_\_\_\_ of (name of party on whose  
behalf record was executed)

\_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),  
dated \_\_\_\_\_, 20\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	<u>Lessor (HA)</u>	<u>Lessor-If Funding</u>	<u>Lessee(CH)/ Lessee</u>
Roof			
Major Repair/Replacement	X		
Minor Repair	X		
Exterior Walls / Siding (1)			
Major Repair/Replacement	X		
Minor Repair	X		
Heating/Vent/Cooling			
Major Repair/Replacement	X		
Minor Repair	X		
Gutters, Downspouts			
Major Repair/Replacement		X	
Minor Repair	X		
Foundations			
Major Repair/Replacement	X		
Minor Repair	X		
Interior Walls (1)			
Major Repair/Replacement		X	
Minor Repair	X		
Interior Redecorating/Remodeling			X
Garage Door			
Major Repair/Replacement	X		
Minor Repair			X
Plumbing (1)			
Major Repair/Replacement	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
(1) Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (HACC), accelerated wear and tear due to program needs (lessee), or resident-caused (Lessee).			

**NORTHWEST FAMILY SERVICES, INCORPORATED**  
 2020-2022 LEASE – Unit #305001 5230 SE Roethe Road

	<u>Lessor (HA)</u>	<u>Lessor-If Funding</u>	<u>Lessee (CH)/ Lessee</u>
<b>Electrical</b>			
Major Repair/Replacement	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
<b>Landscaping</b>			
Major Repair/Replacement		X	
Minor Repair			X
<b>Floor Covering</b>			
Major Repair/Replacement*		X	X
Minor Repair	X		
<b>Appliances</b>			
Stove (Repair/Replacement) (2)			
Refrigerators (Repair/Replacement) (2)			
Dishwashers (Repair/Replacement) (2)			
Garbage Disposal			X
Clothes Washer & Dryer			X
(2) Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
<b>Interior Doors</b>			
Major Repair/Replacement			X
Minor Repair			X
<b>Exterior Doors</b>			
Major Repair/Replacement			X
Minor Repair			X

**NORTHWEST FAMILY SERVICES, INCORPORATED**  
 2020-2022 LEASE – Unit #305001 5230 SE Roethe Road

	<u>Lessor (HA)</u>	<u>Lessor-If Funding</u>	<u>Lessee (CH)/ Lessee</u>
Routine Yard Maintenance			X
Gutters - Cleaning			X
Janitorial			X
Cleaning Sidewalks			X
Client Caused Damage			X
Upgrades			X
Donated Equipment			X
Emergencies	X		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **THE INN, HOME FOR BOYS**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

144 Molalla Avenue  
Oregon City, Clackamas County, Oregon, 97045

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

This term of this lease shall be two years. For the first year, LESSEE shall pay to LESSOR rent for the Premises in the amount of \$1,282.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2021. For the second year beginning July 1, 2021 and ending June 30, 2022 the monthly rent shall be \$1,320.00. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows: Operation of a residential facility for Foster Youth, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.
- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire

## **ORGANIZATION**

2020-2022 LEASE - 144 Molalla Avenue

insurance rate on the building in which said Premises are located is thereby increased or that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for long term fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

(1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

(2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

(3) Standards of Design



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These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

- b. LESSOR shall make repairs and provide maintenance as follows:
- (1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

- (2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.
- (3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

- c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:
- (1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises,

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including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

**6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

**7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

**8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution

## **ORGANIZATION**

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or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

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This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

#### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

#### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **ORGANIZATION**

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## **OTHER INSURANCE PROVISIONS**

The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A M. Best's rating of no less than B+VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

## **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

## **17. FOR SALE AND FOR RENT SIGNS**

During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

## **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable

## **ORGANIZATION**

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use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

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In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

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**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

The Inn, Home for Boys  
8940 SE 72nd Ave.  
Portland, OR 97206

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

**29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to,



## **ORGANIZATION**

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condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the

## **ORGANIZATION**

2020-2022 LEASE - 144 Molalla Avenue

Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.

- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein.

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IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**LESSEE:**  
**THE INN, HOME FOR BOYS**

**LESSOR:**  
**HOUSING AUTHORITY OF CLACKAMAS COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_

By: Jill C. Smith

Its: \_\_\_\_\_

Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

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**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

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dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

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**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

**ORGANIZATION**

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Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X

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Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		

# LEASE

THIS LEASE is made and entered into by and between **HOUSING AUTHORITY OF CLACKAMAS COUNTY**, hereinafter called the LESSOR, and **Central City Concern**, hereinafter called the LESSEE.

The parties agree as follows:

## **1. DESCRIPTION OF PREMISES; PURPOSE OF LEASE**

LESSEE hereby leases a residence, more specifically described below, from the Housing Authority of Clackamas County (hereinafter called "LESSOR"). The property is known as:

146 Molalla Avenue  
Oregon City, Clackamas County, Oregon, 97045

together with any and all rights, privileges, easements, and appurtenances, as well as any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the "Premises"). The parties agree that LESSOR is leasing the Premises for the specific purpose of providing a facility in which the LESSEE will operate a residential program, as described in Section 3, below.

## **2. RENT**

This term of this lease shall be for one year. For the first year, LESSEE shall pay to LESSOR rent for the Premises in the amount of \$500.00 per calendar month during the period commencing July 1, 2020 and ending on June 30, 2021. The lease payments are due on the first day of each month starting July 1, 2020. LESSEE shall pay directly to the LESSOR at P.O. Box 1510, Oregon City, Oregon 97045. LESSEE acknowledges that rents received after the 10th of the month will be subject to a \$25.00 late charge.

## **3. USE OF PREMISES**

- a. The LESSEE shall use the leased premises during the term of this LEASE as follows: Operation of an office for the Law Enforcement Assistance Diversion (LEAD) program, plus any necessary support staff. LESSEE shall use the leased premises for no other purpose whatsoever without LESSOR's written consent.
- b. The LESSEE will not make any unlawful, improper or offensive use of said premises; LESSEE will not suffer any strip or waste thereof; LESSEE will not permit any objectionable noise or odor to escape or to be emitted from said Premises or do anything or permit anything to be done upon or about said Premises in any way tending to create a nuisance; LESSEE will not sell or permit to be sold any spirituous, vinous or malt liquors on said Premises; nor will LESSEE sell or permit to be sold any controlled substance on or about said Premises.
- c. The LESSEE will not allow the leased Premises at any time to fall into such a state of disrepair or disorder as to increase the fire hazard thereon; LESSEE shall not install any power machinery on said Premises except with written consent of the LESSOR; LESSEE shall not store gasoline or other highly combustible materials on said Premises at any time; LESSEE will not use said Premises in such a way or for such a purpose that the fire insurance rate on the building in which said Premises are located is thereby increased or



## **ORGANIZATION**

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that would prevent the LESSOR from taking advantage of any rulings of any agency of the state in which said leased Premises are situated or its successors, which would allow the LESSOR to obtain reduced premium rates for long term fire insurance policies.

### **4. UTILITIES**

The LESSEE shall pay for all heat, light, water, power, sewer and other services or utilities used at the Premises during the term of this LEASE.

### **5. REPAIRS AND IMPROVEMENTS**

Responsibility of all repairs and maintenance (other than routine) will be examined on a case by case basis to determine responsibility using the following guidelines and Attachment A. Maintenance/repair on appliances that have been upgraded or purchased for program specific requirements/specifications will be repaired or replaced for a cost not to exceed the repair or replacement cost of a standard appliance provided by the LESSOR. Maintenance/repair of the building interior/exterior will be examined to determine responsibility, i.e., normal wear and tear (LESSOR), accelerated wear and tear due to program needs (LESSEE), or resident-caused (LESSEE). LESSOR's obligations are contingent upon the availability of sufficient funds, as determined by LESSOR in its sole discretion.

a. LESSOR has responsibility for repairs and maintenance as funds are available for the following:

(1) Structural Major Repair/Replacement

Maintenance items related to the structure of the building to include: roof, exterior walls (repair and paint), siding, plumbing, and electrical systems, heating system, gutters, downspouts, foundation.

(2) Non-structural Major Repair/Maintenance/Replacement

Maintenance of items that deteriorate due to normal use for a special needs house would include the total cost of repair/replacement of standard kitchen stoves, and refrigerators provided by LESSOR. Upgraded kitchen stoves or refrigerators will be repaired/replaced up to limitations set by the LESSOR.

If an item other than a stove or refrigerator needs to be replaced before its agreed upon life due to excessive or hard use by the LESSEE, the replacement costs will be split between LESSOR and LESSEE.

Example: Carpet's life is set at 5 years, but wears out in 4 years. LESSOR pays 80% and LESSEE pays 20% of replacement cost.

(3) Standards of Design

These items of repair/maintenance/new installation or replacement are items that do not meet applicable building code or design requirements for the LESSEE's program. These are primarily health and safety issues.

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Examples: asbestos, sprinkler system, fire alarm system.

LESSOR will work with LESSEE on needed major repairs and replacements to the extent possible with available funding.

In cases of emergency, which present an immediate threat to health and safety, LESSOR will provide repairs such that the immediate threat to health and safety is removed within 48 hours unless there has been a major disaster requiring LESSOR to respond to multiple sites of emergency.

- b. LESSOR shall make repairs and provide maintenance as follows:
- (1) Minor Repairs/Routine Maintenance, i.e. Items behind the wall (concealed) that require repair due to normal wear and tear.

Example: replace a part on the furnace.

- (2) Repairs necessitated by vandalism, burglary or attempted burglary committed by individuals who are not agents, employers or invitees of the lessee or tenants or employees of LESSEE.
- (3) Non-routine repairs to landscaping and tree pruning.

Except in cases of emergency, LESSOR will give at least 24-hours notice of proposed entry and repair. Whenever possible, this notice will be given to LESSEE's house manager. LESSEE shall report needed repairs according to a process agreed upon by LESSOR and LESSEE.

- c. LESSEE shall be responsible for maintaining the Premises in a neat condition, free of trash and debris, in good order and repair. LESSEE agrees to be responsible for the following and maintain all of the following in good condition and repair, less reasonable wear and tear:

- (1) Minor Repairs/Routine Maintenance/Appliance Repair and Replacement

Reference the Attachment A for specific examples.

LESSEE is responsible for repairs and maintenance to the Premises including the replacement of all glass which may be broken or cracked during the term of the lease with glass of as good or better quality, and replacement and repair of interior and exterior doors except the garage door, the full cost of repair and replacement of dishwashers and disposals. The cost of kitchen stove and refrigerator repair and replacement will be determined by the LESSOR as described in paragraph 2. LESSEE is also responsible for routine maintenance of the grounds of the leased Premises, including mowing the grass, weeding, edging of beds, washing exterior windows and ensuring the gutters are cleaned as necessary.

## **ORGANIZATION**

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(2) Resident-Caused Damage

Any repairs necessitated by the acts or omissions of the LESSEE, or officers, agents, employees, clients, residents, or invitees of the LESSEE, including any repairs which would otherwise be required of LESSOR pursuant to subparagraphs a. and b. above, excluding daily wear and tear.

(3) Improvements

Improvements would be any elective change made to the home to improve the quality of life of the residents. Improvements would include upgrades, interior or exterior redecorating or remodeling, and interior painting.

Other examples: replacing a window air conditioner unit to central air, converting a storage room to a bathroom, appliance upgrades.

(4) Donated Equipment

The LESSEE and the LESSEE's vendor are responsible for all donated equipment.

The LESSEE will not be held responsible for repairs which result from original construction or substantial remodeling prior to LESSEE taking possession, or for substandard or nonworkman like work done by contractors hired by LESSOR.

A summary of the LESSOR's responsibilities, and of the LESSEE's responsibilities which the LESSEE agrees to be responsible for, as described above, is attached to this lease as Attachment A, and by this reference is incorporated herein.

### **6. LESSOR'S RIGHT OF ENTRY**

The LESSOR, or its authorized agents or representatives may enter the leased Premises at any reasonable time for the purpose of examining into the condition thereof, or any other lawful purpose. The LESSOR agrees to give the LESSEE 24 hours' notice thereof except in case of emergency, in which case no advance notice shall be required.

### **7. LOCKS AND KEYS**

The LESSEE, or its authorized agents or representatives, shall insure that all interior and exterior locks are maintained to allow LESSOR entry at all times with keys mastered to the LESSOR's specifications at the residence. Exceptions to this requirement will be considered on a case by case basis and must be approved by LESSOR prior to any lock changes.

### **8. RIGHT OF ASSIGNMENT**

The LESSEE will not assign, transfer, pledge, hypothecate, surrender or dispose of this LEASE, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased Premises without the written consent of the LESSOR being first obtained in writing; this LEASE is personal to said LESSEE; LESSEE's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the LESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the LESSEE, or in any other manner, except as above mentioned.

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### **9. LIENS**

The LESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased Premises are situated, or any part thereof, or the real estate on which it stands.

### **10. ICE. SNOW. DEBRIS**

If the Premises herein leased is located at street level, then at all times LESSEE shall keep the sidewalks in front of the leased Premises free and clear of ice, snow, rubbish, debris and obstruction; and if the LESSEE occupies the entire building, LESSEE will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or downspouts or cause damage to said roof, and LESSEE will save harmless and protect the LESSOR against any injury whether to LESSOR, LESSEE or to LESSOR's property or to any other person or property caused by LESSEE's failure in that regard.

### **11. OVERLOADING OF FLOORS**

The LESSEE will not overload the floors of said Premises in such a way as to cause any undue or serious stress or strain upon the building in which said leased Premises are located, or any part thereof, and the LESSOR shall have the right, at any time, to call upon any competent engineer or architect whom the LESSOR may choose, to decide whether or not the floors of said Premises, or any part thereof, are being overloaded so as to cause any undue or serious stress or strain on said building, or any part thereof, and the decision of said engineer or architect shall be final and binding upon the LESSOR, and the LESSEE; and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure said building, or any part thereof, then and in that event the LESSEE agrees immediately to relieve said stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a manner satisfactory to the LESSOR.

### **12. ADVERTISING SIGNS**

The LESSEE will not use the outside walls of said Premises, or allow signs or devices of any kind to be attached thereto or suspended therefrom, for advertising or displaying the name or business of the LESSEE or for any purpose whatsoever without the written consent of the LESSOR; however, the LESSEE may make use of the windows of said leased Premises to display LESSEE's name and business when the workmanship of such signs shall be of good quality and permanent nature; provided further that the LESSEE may not suspend or place within said windows or paint thereon any banners, signs, signboards or other devices in violation of this section, or in violation of any applicable law or ordinance.

### **13. FIXTURES**

All partitions, plumbing, electrical wiring, additions to or improvements upon the Premises, whether installed by the LESSOR or LESSEE, shall be and become a part of the Premises as soon as installed and the property of the LESSOR unless otherwise herein provided.

### **14. LIGHT AND AIR**

This LEASE does not grant any rights of access to light and air over the property.

### **15. INSURANCE**

## **ORGANIZATION**

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LESSEE shall procure and maintain, for the duration of the lease, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operations and use of the leased Premises. The cost of such insurance shall be borne by the LESSEE.

### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage.
- b. Insurance Services Office Additional Insured.
- c. Worker's Compensation insurance as required by state law and Employer's Liability Insurance (for LESSEEs with employees).
- d. Professional Errors and Omissions Liability insurance.
- e. Property insurance against all risks of loss to any tenant improvements, betterments, and LESSEE-owned business personal property.

### **MINIMUM LIMITS OF INSURANCE LESSEE**

shall maintain limits no less than:

- a. General Liability: \$1,000,000 per occurrence, \$2,000,000 aggregate (including coverages for discrimination, fair housing and ADA violations, and sexual molestation).
- b. Workers' Compensation (statutory) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
- c. Professional Errors and Omissions Liability: not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate
- d. Property Insurance: full replacement cost with no co-insurance penalty provision.

**NOTE:** These limits can be attained by individual policies or by combining primary and umbrella policies.

### **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the LESSOR. At the option of the LESSOR, either the insurer shall reduce or eliminate such deductibles or selfinsured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or the LESSEE shall provide a financial guarantee satisfactory to the LESSOR guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

### **OTHER INSURANCE PROVISIONS**

## **ORGANIZATION**

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The General Liability is to contain, or be endorsed to contain, the following provisions:

- a. The Housing Authority of Clackamas County, its officers, officials, employees and volunteers are to be covered as additional insured with respect to liability arising out of maintenance or use of that part of the Premises leased to the LESSEE.
- b. The LESSEE's insurance coverage shall be primary insurance as respects the Housing Authority of Clackamas County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Housing Authority of Clackamas County, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance.
- c. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Housing Authority of Clackamas County.
- d. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the LESSEE.

### **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A M. Best's rating of no less than B+:VI. LESSEEs must provide written verification of their insurer's rating.

Use of the leased premise must be preapproved by LESSOR. LESSEE shall indemnify the LESSOR for any claims resulting from the conduct of the LESSEE's subcontractors and/or failure to be properly insured.

### **16. EMINENT DOMAIN**

In case of the condemnation or purchase of all or any substantial part of the said leased Premises by any public or private corporation with the power of condemnation this LEASE may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the LESSEE shall not be liable for any rent after the termination date. LESSEE shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

### **17. FOR SALE AND FOR RENT SIGNS**

During the period of 90 days prior to the date above fixed for the termination of said LEASE, the LESSEE agrees that there may be posted on said Premises or in the windows thereof signs of moderate size notifying the public that the Premises are "for sale" or "for lease."

### **18. DELIVERING UP PREMISES ON TERMINATION**

At the expiration of said term or upon any sooner termination thereof, the LESSEE will quit and deliver up said leased Premises and all future erections or additions to or upon the same, broomclean, to the LESSOR, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the LESSOR.

## **ORGANIZATION**

2020-2021 LEASE - 146 Molalla Avenue

### **19. INDEMNIFICATION**

To the fullest extent permitted by law, LESSEE shall indemnify, defend and hold harmless LESSOR, and its agents, affiliates, employees, managers, officers, other contractors, heirs and assigns (hereinafter "Indemnified Parties") from and against any and all liability, claims, damage, costs, expenses, awards, fines, judgments, and attorney's fees (including, without limitation, expert witness fees and other litigation expenses) of every nature arising out of or in connection with LESSEE's performance of work hereunder, or work of its agents, employees, subcontractors and/or independent contractors, or their failure to comply with any of its obligations contained in this lease agreement, whether or not caused in whole or part by Indemnified Parties' active or passive negligence, intentional act or omission. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to the parties.

The indemnification obligations of LESSEE under this LEASE shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which LESSEE is required to carry under this Agreement. Indemnified Parties' right to indemnification from LESSEE under this section shall be independent of Indemnified Parties' rights under the insurance to be provided by LESSEE under this Agreement.

LESSEE's duty to defend the Indemnified Parties is entirely separate from, independent of, and free standing from LESSEE's duty to indemnify the Indemnified Parties, including, without limitation, the defense of the Indemnified Parties against claims for which the Indemnified Parties (or any of them) may be strictly liable and applies whether the issue of LESSEE's liability, breach of this LEASE or other obligation, or LESSEE's responsibility has been determined and whether the Indemnified Parties (or any of them) have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from LESSEE's performance under this LEASE. Such defense obligation shall arise immediately upon presentation of a claim by any person which arises out of or is connected to this LEASE by LESSEE or any of its agents and written notice of such claim being tendered to LESSEE.

LESSEE shall be responsible for all damage to the Premises, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of LESSEE, its subcontractors, agents, employees, guests, or invitees.

LESSOR shall have no liability to LESSEE for any injury, loss, or damage caused by third parties, or by any condition of the Premises. LESSOR shall have no liability for the failure or interruption of utilities.

### **20. PUBLIC CONTRACTING**

This LEASE is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated for the program conducted by the LESSEE on the leased Premises. In the event funds are not made available to LESSEE's program in or on the leased Premises, the LESSOR may end this lease agreement upon thirty (30) days' written notice to LESSEE and be subject to no legal or equitable remedies for the termination.

### **21. PETS**

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No pets shall be kept on the leased Premises at any time unless approved in advance in writing by the LESSOR.

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **22. DANGEROUS CONDITIONS**

In the event LESSEE discovers any condition in or on the leased Premises which renders the Premises uninhabitable or dangerous for continued occupancy, LESSEE shall immediately notify LESSOR.

### **23. ATTACHMENT, BANKRUPTCY, DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the LESSEE shall be in arrears in the payment of rent for a period of ten days after the same becomes due, or (2) if the LESSEE shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on LESSEE's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to LESSEE, or (3) if the LESSEE shall be declared bankrupt or insolvent according to law, or (4) if any assignment of LESSEE's property shall be made for the benefit of creditors, or (5) if on the expiration of this LEASE, LESSEE fails to surrender possession of said leased Premises, then and in either or any of said cases or events, each of which constitutes an event of default, the LESSOR may terminate this LEASE and lawfully, at its option immediately or at any time thereafter, without demand or notice, may enter into and upon said leased Premises and every part thereof and repossess the same as of LESSOR's former estate, and expel said LESSEE and those claiming by, through and under LESSEE and remove LESSEE's effects at LESSEE's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. Upon the occurrence of an event of default described above, LESSOR may exercise any one or more of the remedies set forth in this Lease or any other remedy available under applicable law, whether in equity, under contract, or at law.

Neither the termination of this LEASE by forfeiture nor the taking or recovery of possession of the Premises shall deprive LESSOR of any other action, right, or remedy against LESSEE for possession, rent or damages, nor shall any omission by LESSOR to enforce any forfeiture, right or remedy to which LESSEE may be entitled be deemed a waiver by LESSOR of the right to enforce the performance of all terms and conditions of this LEASE by LESSEE.

In the event of any re-entry by LESSOR, LESSOR may re-lease the Premises to any tenant tenants who provide housing and support services to persons who are served by or case managed by Clackamas County Social Services, Developmental Disability Program. LESSOR shall apply the rent received from any new tenant first to the cost of retaking and resubletting the Premises, including any costs incurred to obtain a new tenant, and then to any arrears of rent and future rent payable under this LEASE and any other damages to which LESSOR may be entitled hereunder.

Any property which LESSEE leaves on the Premises after abandonment or expiration of this LEASE, or for more than ten days after any termination of the lease by LESSOR shall be deemed to have been abandoned, and LESSOR may remove and sell said property at public or private



**ORGANIZATION**

2020-2021 LEASE - 146 Molalla Avenue

sale as LESSOR sees fit, without being liable for any prosecution therefore or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses as aforesaid, and the balance of such amounts, if any, shall be held for and paid to the LESSEE.

**24. HOLDING OVER**

In the event the LESSEE for any reason shall hold over after the expiration of this LEASE, such holding over shall not be deemed to operate as a renewal or extension of this LEASE, but shall only create a tenancy from month to month which may be terminated at will at any time by the LESSOR.

**25. NO ATTORNEY FEES AND COSTS**

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Lease, each party shall be responsible for its own attorneys' fees and expenses.

**26. WAIVER**

LESSOR and LESSEE agree that failure by either party to insist upon strict performance of the terms, covenants, agreements and conditions of this Lease shall not constitute or be construed as a waiver or relinquishment of either party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**27. NOTICES**

Any notice required by the terms of the LEASE to be given shall be sufficient if in writing contained in a sealed envelope deposited in US Mails and if intended for:

LESSOR:

Housing Authority of Clackamas County  
PO Box 1510  
Oregon City, OR 97045

LESSEE:

Central City Concern  
232 NW 6th Avenue,  
Portland, OR 97209

Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in said US Mails.

**28. HEIRS AND ASSIGNS**

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this LEASE is assignable by the term hereof, to the assigns of such parties.

In construing this LEASE, it is understood that the LESSOR or the LESSEE may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

## **ORGANIZATION**

2020-2021 LEASE - 146 Molalla Avenue

### **29. NON-WAIVER OF GOVERNMENTAL RIGHTS.**

Subject to the terms and conditions of this Lease, LESSOR is specifically not obligating itself with respect to any discretionary action relating to the Premises including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental approvals that are or may be required.

### **30. RECORDATION OF LEASE.**

LESSOR may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. LESSOR will pay the recording costs.

### **31. GOVERNING LAW.**

This Lease, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between LESSOR and LESSEE that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 LESSOR 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. LESSEE, by execution of this Lease, hereby consents to the personal jurisdiction of the courts referenced in this section.

### **32. FURTHER ASSURANCES.**

The parties to this Lease agree to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary to give effect to the terms and provisions contemplated herein including, but not limited to, execution of any additional documents that may be required by LESSOR's state or federal funding sources.

### **33. FORCE MAJEURE.**

Neither LESSOR nor LESSEE shall be held responsible for delay or default caused by events outside the LESSOR or LESSEE's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, both parties 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 Lease.

### **34. TAXES**

## **ORGANIZATION**

2020-2021 LEASE - 146 Molalla Avenue

- a. "Taxes" Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises.
- b. Payment of Taxes. Throughout the Term, LESSEE shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, LESSEE may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.
- c. Evidence of Payment. Upon written request by LESSOR, LESSEE shall provide LESSOR with evidence reasonably satisfactory to LESSOR that all Taxes required to be paid by LESSEE have been paid.
- d. Property Tax Exemption. LESSEE is responsible for filing the application for a property tax exemption under applicable Oregon law. In the event, the LESSEE fails to file the tax property tax exemption with the Clackamas County Department of Assessment and Taxation by the required deadline and the Premises loses its tax exempt status, LESSEE will be responsible for payment of any taxes or late filing fees assessed against the Premises.

## **35. TERMINATION**

- a. Non-default Termination: This Lease may be terminated for the following non-default reasons: (1) by mutual agreement of the parties; or (2) upon ninety (90) day's written notice to LESSEE, LESSOR may terminate this Lease for convenience, if LESSOR fails to receive expenditure authority sufficient to allow LESSOR, in the exercise of its reasonable administrative discretion, to continue to perform under this Lease, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that performance under this Lease is prohibited.
- b. Termination for Default: upon occurrence of an event of default and failure to cure, if permitted, LESSOR may immediately terminate this Lease upon written notice to LESSEE and exercise any remedy provided herein

IN WITNESS WHEREOF, the respective parties have executed this instrument, any corporation signature being by authority of its Board of Directors.

**ORGANIZATION**

2020-2021 LEASE - 146 Molalla Avenue

**LESSEE:  
CENTRAL CITY CONCERN**

**LESSOR:  
HOUSING AUTHORITY OF CLACKAMAS  
COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: Jill C. Smith  
Its: Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**OREGON NOTARY ACKNOWLEDGMENT (LLESSOR)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

This certificate is attached to page \_\_\_\_ of a \_\_\_\_\_ (title or type of document),

dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2021 LEASE - 146 Molalla Avenue

**OREGON NOTARY ACKNOWLEDGMENT (LESSEE)**

State of OREGON

County of \_\_\_\_\_

This record was acknowledged before me on (date) \_\_\_\_\_, 20\_\_\_\_\_

by (name(s) of individual(s)) \_\_\_\_\_ as

(type of authority) \_\_\_\_\_ of (name of party on whose

behalf record was executed) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public – State of Oregon

Official Stamp

Document Description

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dated \_\_\_\_\_, 20\_\_\_\_\_, consisting of \_\_\_\_\_ pages.

**ORGANIZATION**

2020-2021 LEASE - 146 Molalla Avenue

**ATTACHMENT A**  
**Summary of Responsibilities**  
**Repairs and Replacements**

	Lessor (HA)	Lessor-if Funding	Lessee (CH)/Lessee
Roof			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Exterior Walls / Siding <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Heating/Vent/Coding			
Major Repair/Replacement	<b>X</b>		
Minor Repair	<b>X</b>		
Foundations			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Walls <sup>(1)</sup>			
Major Repair/Replacement		<b>X</b>	
Minor Repair	<b>X</b>		
Interior Redecorating/Remodeling			<b>X</b>
Garage Door			
Major Repair/Replacement	<b>X</b>		
Minor Repair			<b>X</b>
Plumbing <sup>(1)</sup>			
Major Repair/Replacement	<b>X</b>		
Minor Repair (concealed)	<b>X</b>		
Minor Repair (exposed)			<b>X</b>
(1) Maintenance/repair of the building interior/exterior will be examined to determined responsibility i.e. normal wear and tear (HACC), accidental wear and tear due to program needs (lessee), or resident-caused (Lessee).			

**ORGANIZATION**

2020-2021 LEASE - 146 Molalla Avenue

Electrical			
Major Repair	X		
Minor Repair (concealed)	X		
Minor Repair (exposed)			X
Landscaping			
Major Repair/Replacement		X	
Minor Repair			X
Floor Covering			
Major Repair/Replacement		X	X
Minor Repair	X		
Appliances			
Stove (Repair/Replacement) <sup>(2)</sup>			
Refrigerators (Repair/Replacement) <sup>(2)</sup>			
Dishwashers (repair/Replacement) <sup>(2)</sup>			
<sup>(2)</sup> Maintenance/repair on appliances that have been upgraded for program specific requirements/specifications will be repaired or replaced up to the standard appliance amounts allowed by HACCC. Any additional or exceeding costs will be the responsibility of the lessee/lessee.			
Garbage Disposal			X
Clothes Washer & Dryer			X
Code/Standards of Design		X	
Routine Minor Maintenance (light bulbs, furnace filters)			X
Broken Glass			X
Interior Doors			
Major Repair/Replacement			X
Minor Repair			X
Exterior Doors			
Major Repair/Replacement			X
Minor Repair			X
Routine Yard Maintenance			X

**ORGANIZATION**

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Gutters – Cleaning			<b>X</b>
Cleaning Sidewalks			<b>X</b>
Client Caused Damage			<b>X</b>
Upgrades			<b>X</b>
Donated Equipment			<b>X</b>
Emergencies	<b>X</b>		





OFFICE OF COUNTY COUNSEL

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

**Stephen L. Madkour**  
County Counsel

**Kathleen Rastetter**  
**Scott C. Ciecko**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Andrew R. Naylor**  
**Andrew Narus**  
**Sarah Foreman**  
Assistants

May 21, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

Ordinance 04-2020 Amending Clackamas County Code  
Chapter 2.05.200 – Layoff and Seniority of the Personnel Policies and Procedures for  
Clackamas County Employees and Declaring an Emergency

<b>Purposes/Outcome</b>	To amend County Code Chapter 2.05 to clarify that non-represented employees do not have bumping rights in the event of a layoff.
<b>Dollar Amount and Fiscal Impact</b>	Costs savings of clarifying and simplifying the layoff process for non-represented employees is difficult to calculate. No increased cost associated with the change.
<b>Funding Source</b>	Not applicable.
<b>Duration</b>	Indefinite until amended.
<b>Previous Board Action</b>	County Code 2.05.200.4, which defines the bumping procedure in the event of a layoff, was codified July 2000 and has been amended twice since then. This matter was presented at Issues on January 14 and April 21, 2020. This Ordinance had a First Reading at the April 30, 2020 Board business meeting.
<b>Strategic Plan Alignment</b>	Build Public Trust through Good Government
<b>Contact Person</b>	Andrew Narus, Assistant County Counsel

**Background:**

This matter previously came before the Board during the Issues session on January 14, 2020, and again on April 21, 2020. During the January 14 Issues session, the Board requested that non-represented employees be given the opportunity to provide input on the proposed changes and Administrator Schmidt scheduled a forum for employees to provide input. Generally, non-represented employees were either unaware of this Code provision or supportive of the change.

Currently, 2.05.200.4 sets out a bumping procedure for all regular employees in the classified service, including non-represented employees. In the event of a reduction in the workforce, employees whose positions are being eliminated are “permitted to exercise bumping rights by displacing a classified employee with less seniority in a different classification with the same salary grade or lower in the department, provided that the bumping employee is qualified to do the work . . .” The proposed Code change would eliminate the right of non-represented employees to bump down into other non-represented positions.

Eliminating bumping rights for non-represented employees would allow for a more efficient layoff process, in the event a reduction of force is necessary, and would ensure that the employees who are retained have the knowledge, skills, abilities, and professional experience to ensure efficient operations at the County following the layoff, consistent with County Code 2.05.200.3 (Layoff Order).

The other jurisdictions surveyed do not permit non-represented employees to bump down in the event of a layoff, including City of Portland, Multnomah County, Washington County, City of Vancouver, and Metro. The proposed change would align our layoff process for non-represented employees with our regional partners.

Finally, the proposed modification would not affect bumping procedures for represented employees, who rely on a bargained-for bumping process set out in their collective bargaining agreements with the County.

**Recommendation:**

The matter was presented to the Board for a first reading on April 30, 2020. Staff respectfully request the Board hold a public hearing and the second reading of this ordinance and adopt the proposed ordinance 04-2020 and declare an emergency making the ordinance effective upon adoption.

Respectfully submitted,

*/s/ Andrew Narus*

Andrew Narus  
Assistant County Counsel

Attachments

**ORDINANCE NO. 04-2020**

**An Ordinance Amending Clackamas County Code  
Chapter 2.05.200 – Layoff and Seniority of the Personnel Policies and Procedures  
for Clackamas County Employees and Declaring an Emergency**

**Whereas**, Chapter 2.05 - Personnel Policies and Procedures for Clackamas County Employees was adopted in 2000 and amended twice over the past 20 years; and

**Whereas**, it has become apparent that the County Code provisions related to the layoff and bumping procedures for non-represented employees are in need of modification; and

**Whereas**, such modification is necessary to ensure that a reduction of force involving non-represented employees occur in an efficient manner designed to retain employees who possess skills, knowledge, and abilities required for ongoing operations in all positions and classifications;

**NOW, THEREFORE, THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS  
ORDAINS AS FOLLOWS:**

Section 1: Chapter 2.05.200 is amended as depicted in Exhibit A, attached hereto and incorporated by this reference.

Section 2: Emergency Clause. The Board of Commissioners hereby finds and declares that due to the need to amend the Code and apply the new standards for employees, an emergency exists that requires the Ordinance to take immediate effect. Accordingly, this Ordinance shall be effective upon its adoption.

ADOPTED this 21<sup>st</sup> day of May, 2020.

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

---

Chair

---

Recording Secretary

**Exhibit A to Ordinance No. 04-2020  
Showing Proposed Changes to 2.05.200.4 of the County Code**

**2.05.200 Layoff and Seniority**

\* \* \* \* \*

**2.05.200.4 Bumping Procedure**

When an employee is laid-off due to a reduction in the work force, the employee shall be permitted to exercise bumping rights by displacing a classified employee with less seniority in a different classification with the same salary grade or lower in the department, provided that the bumping employee is qualified to do the work as determined by the appointing authority and the Director of Employee Services. For bumping purposes, seniority will be defined as length of continuous service within the County. This provision does not apply to non-represented employees.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 07-2005, 11/3/05; Amended by Ord. 04-2007, 4/26/07]



**BUSINESS AND COMMUNITY SERVICES  
NORTH CLACKAMAS PARKS AND RECREATION DISTRICT**

Development Services Building  
150 Beavercreek Road, Oregon City, OR 97045

Laura Zentner, BCS Director

Board of County Commissioners  
Clackamas County  
Board of North Clackamas Parks and Recreation District

Members of the Board:

Public Hearing and Approval of a Resolution for Exemption and Authorization to use the Request for Proposals Method to Obtain a Construction Manager/General Contractor for the Milwaukie Bay Park Project

<b>Purpose/Outcomes</b>	Public Hearing before the Board of County Commissioners acting as the Board of Directors of the North Clackamas Parks and Recreation District and Approval of Resolution for the Proposed Exemption and Authorization to use the Request for Proposals procurement method to obtain a Construction Manager/General Contractor (CM/GC) for the Milwaukie Bay Park Project.
<b>Dollar Amount and Fiscal Impact</b>	The Project has a preconstruction budget for the CM/GC contractor not to exceed \$175,000. The total project cost is estimated at \$9,600,000.
<b>Funding Source</b>	NCPRD System Development Charges (for preconstruction)
<b>Duration</b>	If the Resolution is approved, a Request for Proposal for a CM/GC will be issued and a contractor selected in the summer of 2020. The Project is expected to be complete by the end of 2023.
<b>Previous Board Action</b>	<ul style="list-style-type: none"> <li>March 19, 2020 Business Meeting: Boards Orders approving submission of grant applications (Order 2020-18, Order 2020-19)</li> <li>February 18, 2020 Policy Session: Milwaukie Bay Park Final Design Project Update</li> </ul>
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>Provide economic development, public spaces, and community enrichment services to residents, businesses, visitors, and partners so they can thrive and prosper in healthy and vibrant communities.</li> <li>Promote a <i>Healthy and Active Lifestyle</i> by providing a park with recreational pathways, equipment and spaces</li> <li>Designed with a lens of <i>Equity, Diversity and Inclusion</i>, engaging diverse audiences and maximizing park connections</li> <li>Promote <i>Carbon Neutrality</i> by providing higher quality natural areas and access by alternative modes of transportation</li> </ul>
<b>Counsel Review</b>	
<b>Contact Person</b>	Heather Koch, NCPRD Project Manager 503-742-4354 Ryan Rice, Contract Analyst, 503-742-5446 George Marlton, Chief Procurement Officer 503-742-5442

**BACKGROUND:**

North Clackamas Parks and Recreation District (“NCPRD”) is requesting an exemption from the traditional competitive procurement process and authorization to use the Request for Proposals

procurement method to obtain a Construction Manager/General Contractor ("CM/GC") for the Milwaukie Bay Park Project ("Project").

The Public Hearing satisfies requirements under ORS 279C.335 to provide notice and the opportunity for a public hearing for the purpose of taking comments on the draft findings for an exemption to use the Request for Proposals method to retain a construction contractor in a construction manager/general contractor ("CM/GC") project delivery method. Clackamas County Procurement placed a Public Notice on the Oregon Procurement Information Network ("ORPIN") on May 6 2020, and with the Business Tribune online edition on May 7, 2020 and its print version on May 12, 2020, which included the date and time of a Public Hearing to take place before the Board.

NPCRD partnered with the City of Milwaukie ("City") in 2018-19 to develop a final design to complete three acres of undeveloped waterfront land at Milwaukie Bay Park. The design includes an amphitheater, nature play area, interactive water feature, plaza with picnic terrace, a permanent alignment for the trolley trail, pathways, natural areas, public art and restrooms. NPCRD has also engaged a broad and diverse range of over 1,300 community members throughout the District, advanced a funding strategy to leverage local, regional, state and other funds, and developed a process to build a preconstruction and construction services team in FY20-21.

The park is identified as a high priority need in the 2004 NPCRD Master Plan and 2007 NPCRD Parks and Recreation System Development Charges (SOC) Update Methodology Report and Capital Improvements Plan. NPCRD is partnering with the City to complete design and construction documents and construct the park. The City owns the park and NPCRD plans for, develops and manages the City's parks under an Intergovernmental Agreement.

A CM/GC is the preferred project delivery methodology for the Project because of the need for cost control, the multi-faceted nature of the proposed scope of work, the priority to optimize the construction schedule to minimize closure of an existing public park, and the emphasis on design and materials that provide both longevity in a high-use urban environment and sustainable resilience in a floodplain environment.

The Project has a preconstruction budget for the CM/GC contractor not to exceed \$175,000 or less, consistent with the final published RFP. The total project cost is estimated at \$9,600,000. This includes construction costs as well as preconstruction costs such as design, engineering, permitting and the CM/GC preconstruction services. The RFP will solicit a CM/GC for Phase I Preconstruction and Phase II Preconstruction; however, only Phase I Preconstruction is authorized until a later amendment sets a Guaranteed Maximum Price and full project funding is authorized.

A CM/GC is an alternative form of contracting that results in an agreement with a CM/GC contractor who becomes involved at a much earlier point in the Project compared to the standard low-bid process. This early involvement allows the contractor to provide input during the design phase that can accelerate the overall construction schedule and provide cost-savings opportunities. The CM/GC contractor undertakes a scope of work that includes design development; constructability reviews; value engineering; scheduling; estimating; establishing a Guaranteed Maximum Price ("GMP") to complete the work as may be allowed under the contract; coordinating and managing the construction process; providing general contractor expertise; and participating as a member of the project team along with NPCRD staff, project landscape architects and engineers, and other consultants.

## **COMPETITIVE PROCESS AND COST SAVINGS OF CM/GC:**

Once NCPRD has been approved to use the CM/GC process, the following competitive process will be used to select the CM/GC Contractor:

1. Publicly advertise a Request for Proposal ("RFP").
2. The contractor will be selected through an evaluation process that will consider qualifications, construction team experience, and demonstration of project understanding. It will include a lump-sum cost proposal for Phase I preconstruction and a CM/GC fee proposal for Phase II construction costs.
3. The submitted proposals will be reviewed and scored by the evaluation committee. Points will be awarded based on the relative merit of the information provided in response to the solicitation. The highest rated response in each area will be given the maximum number of points available. NCPRD may ask proposers to make oral presentations to discuss and clarify the submitted proposal.
4. The Selection Committee will provide a recommendation of award to the District Director for their approval. Upon approval, a notice of intent to award will be published.

The anticipated cost savings from the exemption to use the Request for Proposals Method to Obtain CM/GC Construction Services results from the following:

1. The CM/GC approach provides for an accelerated Project timeline that will assist NCPRD in addressing the critical scope of work items quickly. This allows the Project meet critical financial milestones required by third parties and lessens the risk of material/labor cost inflation.
2. The CM/GC entity provides both management and construction of the site improvements, which enables the Project to select the cost-effective construction methods, sequencing and phasing that best meet Project goals.
3. The CM/GC approach allows NCPRD to evaluate alternative approaches and make changes before construction documents are finalized. This allows NCPRD to find more optimal solutions within the time and resource constraints.
4. The CM/GC approach allows use of real-time market pricing to more accurately assess design options and maximize opportunities for value engineering, resulting in cost savings that cannot be achieved by the standard competitive-bid process.
5. Project costs may be lower because of the close working relationship between the designer, CM/GC contractor and NCPRD during preconstruction and construction. The contractor is directly involved in value engineering evaluations with the design team. This allows for design efficiencies and more economical design features to be incorporated into the construction process much earlier, and for resolution of design issues arising during construction. Resolution of construction conflicts or deficiencies is the responsibility of the CM/GC entity. Together, these conditions help NCPRD minimize costly change orders and claims during construction, while optimizing project value.

6. NCPRD gains the opportunity to establish a Guaranteed Maximum Price (GMP) cooperatively with the CM/GC team, in order to establish a fixed total project cost and budget before construction begins and reduce change orders and additional costs during construction.
7. NCPRD's administrative burden for the Project is reduced by conducting one solicitation for the project, as opposed to conducting multiple solicitations for a design/ bid/ build approach.
8. The CM/GC will be expected to plan for public safety from very early in the process, which can increase the public safety of the Project and reduce the risk of costly injury claims.

**RECOMMENDATION:**

Staff respectfully recommends the Board of County Commissioners, acting as the governing body of the North Clackamas Parks and Recreation District, take the following actions:

- 1) Hold a Public Hearing to provide the opportunity for members of the public to provide comments related to the request for an exemption.
- 2) Direct NCPRD staff to make any changes necessary to the proposed exemption as a result of the Board's consideration of any testimony received.
- 3) Barring the need for significant revisions to the exemption findings, proceed with approval of the Resolution by the Board on May 21, 2020.

Respectfully submitted,

Laura Zentner, Director  
North Clackamas Parks and Recreation

Placed on the Agenda of \_\_\_\_\_ by Procurement and Contract Services



## **MILWAUKIE BAY PARK FINAL DESIGN**

### ***FINDINGS IN SUPPORT OF USE OF REQUEST FOR PROPOSALS AND ALTERNATIVE CONTRACTING METHODS***

These Findings are for the approval of the use of an alternative contracting method so that the North Clackamas Parks and Recreation District (“NCPRD”) may utilize the request for proposals (“RFP”) competitive process to retain a construction contractor in a construction manager/general contractor (“CM/GC”) project delivery method for the Milwaukie Bay Park Final Design project (“Project”).

#### **A. Alternative Contracting Exemption under Oregon Law**

Oregon law requires all contracts for public improvement projects be based on competitive bids unless the local contract review board grants an exemption under LCRB C-049-0600 and ORS 279C.335. ORS 279C.335 requires the public contract review board to approve two findings submitted by the agency: (1) that the exemption is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition; and (2) awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the public agency.

For public improvement projects, ORS 279C.330 and 279C.335 provide that the agency must consider the type, cost and amount of the contract(s) and information regarding the following:

- a. Operational, budget and financial data;
- b. Public benefits;
- c. Value engineering;
- d. Specialized expertise required;
- e. Public safety;
- f. Market conditions;
- g. Technical complexity; and
- h. Funding sources.

The local contract review board also is required to consider the following items when evaluating whether award of a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the public agency:

- a. How many persons are available to bid;
- b. The construction budget and the projected operating costs for the completed public improvement;
- c. Public benefits that may result from granting the exemption;
- d. Whether value engineering techniques may decrease the cost of the public improvement;
- e. The cost and availability of specialized expertise that is necessary for the public improvement;
- f. Any likely increases in public safety;
- g. Whether granting the exemption may reduce risks to the contracting agency or the public that are related to the public improvement;
- h. Whether granting the exemption will affect the sources of funding for the public improvement;
- i. Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;

- j. Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;
- k. Whether the public improvement involves new construction or renovates or remodels an existing structure;
- l. Whether the public improvement will be occupied or unoccupied during construction;
- m. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
- n. Whether the contracting agency or state agency has and will use contracting agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

## **B. Background Information**

Milwaukie Bay Park is a Willamette River waterfront property located at 11211 SE McLoughlin Boulevard, at the western boundary of NCPRD and the western edge of the City of Milwaukie (“City”). The almost seven acre site connects to nearby parks, natural resources, and transit. The multi-use Trolley Trail runs through the park and connects neighborhoods, schools, parks and businesses. The City owns the land while NCPRD maintains and operates the park.

NCPRD, in close partnership with the City, began leading the Milwaukie Bay Park Final Design project in 2017 to transform three acres of unimproved land at the heart of the park into a place for all in the District to gather, play, rest and connect with nature. Over almost twenty years, the City, the community, and their partners have converted the site into a scenic riverfront park; however, the full vision for the park – including civic, play and natural areas – has not been realized. NCPRD identified the completion of the park as “Priority 1” in its adopted 2004 NCPRD Master Plan and 2007 System Development Charges Capital Improvement Plan. The City approved an earlier master plan in 2010 to guide the first two phases of construction, identified the completion of the park as a high priority in the 2015 Downtown and Riverfront Land Use Framework Plan and the 2017 Milwaukie Community Vision and Action Plan, and included park completion as one of its three goals to be pursued during the 2017-2019 biennium.

In 2019, NCPRD presented a final design to the public that features an amphitheater, nature play area, interactive water feature, plaza with picnic terrace, a permanent alignment for the Trolley Trail, pathways, natural areas, public art and restrooms. From 2018 through today, NCPRD has engaged a broad and diverse range of over 1,300 community members throughout the District – a process that has confirmed a design to meet the priorities of park users. An active Steering Advisory Committee (“SAC”) guided the design process and provided support for the final design while Technical Advisory Group members provided technical feedback on key components.

The total project cost estimate to complete the park is \$9,600,000, which includes \$8,200,000 for construction and \$1,400,000 for all other costs. NCPRD anticipates use of the following resources and plans to confirm financing in the 4<sup>th</sup> quarter of 2020 (during the preconstruction phase).

- NCPRD SDC Zone 1 funds (existing)
- City funds
- Metro NCPRD Local Share\*
- Metro City Local Share\*
- State Parks Grants
- Metro CIP Grant\*

- Other (to be identified from sources such as future SDC Zone 1 funds, grants, bonds)

*\*Funding from voter-approved Metro Parks and Nature Bond (2019)*

2.ink Studio Landscape Architecture leads the Project's design team. With a CM/GC partner, the design team will prepare 100% design and construction documents, assist NCPRD with necessary permitting and approvals, assist with refined cost estimates, and provide construction administration. The scope of work for the CM/GC includes both preconstruction (including cost estimating) and construction phases. During construction, major tasks NCPRD anticipates include grading and excavation, foundation/framing/finishing for structures (restroom, shade structure), plumbing and irrigation, electrical and mechanical, installation of various surfacing types, installation of water feature elements, installation of nature play area elements, installation of other fixtures, furnishings and public art, and planting and soil amendment.

The CM/GC method is an alternative contracting method in which the owner hires the construction contractor to provide feedback during the design phase before the start of construction. The benefits of the CM/GC method include fostering innovation, mitigating risk, improving design quality, improving cost control, and optimizing construction schedules and logistics.

CM/GC is the preferred project delivery methodology for the Project for several reasons, including the need for cost control, the multi-faceted nature of the proposed scope of work, the priority to optimize the construction schedule to minimize closure of an existing public park, and the emphasis on design and materials that provide both longevity in a high-use urban environment and sustainable resilience in a floodplain environment.

The Project's design and construction is complex due to several factors including site conditions, site location in and along the floodplain of the Willamette River, constrained construction access, the need to maximize the number and quality of features on site within the existing construction budget, and the need to complete construction within designated time limits established by expected grant funding contracts. Design refinements that must be made before construction documents are finalized require input from a qualified contractor and partnership during the preconstruction phase on facets such as: (1) effective construction techniques and sequencing to optimize schedule, maintain quality, and maximize access to the site; (2) long-term performance of materials and furnishings to ensure their longevity and resilience within a floodplain and high-use urban environment; (3) overall costs and how to choose methods, materials, delivery and sequencing to optimize quality outcomes within the project budget. Working together with a CM/GC, NCPRD anticipates the team can refine the design and construction documents to meet the budget and timeline effectively.

To take advantage of the full funding package NCPRD is securing, the Project requires a timely progression from design refinement and construction document preparation to construction. Grant awards expected in 2020 must be applied to construction between 2020 and 2022, making it critical that the Project complete construction within that time window. In preparation for construction, the packaging and marketing of the construction procurements also must meet the demands of a busy construction marketplace. With a CM/GC on the team, the Project will have the expertise and teamwork necessary to meet the demands of a tight timeline and mitigate the risk of losing access to critical funding.

Generally, the alternative procurement process offers safeguards for cost control of the Project, including involvement by the construction contractor from the design development phase through construction documents and construction cost development process, as well as limiting change orders. The Request for Proposals process also adds safeguards, as it allows the agency to consider cost as well as experience

and expertise in completing similar projects when selecting the most advantageous contractor for the Project.

In summary, NCPRD believes the unique nature of this Project makes it appropriate for an exemption from the standard bidding process and for approval to use the RFP procurement process to retain the services of a CM/GC.

### **C. Findings**

#### **1. Appropriate alternative contracting methods will be used.**

The qualifications-based RFP process for selecting a CM/GC contractor for this Project falls within the purview of ORS 279C.335(2) because the process is competitive and contractors will be selected based not only on price, but also on their ability to best complete the Project. The qualifications-based RFP approach is widely used and recognized as one of the preferred alternative approaches where projects are more complex. RFP responses allow contractors to compete based on their skills and experience in addition to their price. In this project, some of the complexities require a combination of skills that cannot be evaluated in a standard low-bid process, such as time constraints, budget constraints, and work within a partially developed and constrained site. The benefits of utilizing the CM/GC delivery method have been identified above. As such, the CM/GC delivery method, selected through a qualifications-based RFP process, is the most appropriate contracting method for the Project.

#### **2. No favoritism or diminished competition.**

The exemption is sought only to authorize a different competitive process to the standard low-bid procurement process. The CM/GC contractor will still be selected through the competitive RFP process. To ensure the exemption requested does not encourage favoritism or substantially diminish competition, a well-defined competitive procedure will be followed to select the contractor for this public improvement contract.

Procurement will include advertisements in the *Portland Tribune* and post the opportunity on the State of Oregon Procurement Website (“ORPIN”). Further steps include direct notification to qualified CM/GC contractors, scheduling a pre-proposal conference, and appointment of an unbiased evaluation committee that will consider proposals received utilizing the criteria identified in the RFP. NCPRD staff research indicates that market conditions are such that many of the same contractors who would bid the projects under a traditional low-bid procurement will compete in the qualifications-based RFP process.

Additionally, during the subcontractor bidding phases of the project, outreach to minority, women-owned, and emerging small businesses (“MWESB”) will be conducted by the selected CM/GC contractor to inform this audience of bidding opportunities.

By Procurement marketing these opportunities and working to notify all likely potential proposers, the process will not encourage favoritism in the awarding of the public improvement contract, nor substantially diminish competition. Use of the alternative contracting method will also allow NCPRD to maximize opportunities for participation by all potential subcontractors, including MWESB businesses.

The evaluation criteria may include, among other things, consideration of the contractor’s background, references, experience, capacity, personnel, client relations, schedule, quality control, and problem and solution identification. In addition, the proposals will include, where

appropriate, an evaluation of the contractors' fee proposals for providing preconstruction services and overhead and profit fee rates for performing construction work. The evaluation criteria will be used by the committee to score proposals using a scoring system that quantifies the value for each criterion and assures that proposers are fairly evaluated based on criteria set forth in the RFP.

3. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the public agency.

In terms of the benefits of using an RFP process for CM/GC, NCPRD staff research and experience indicates that standard low-bid contracting for work of this nature is likely to result in numerous change orders and increased costs through claims. This typically occurs when a contractor identifies issues after construction has begun that require a "re-working" of the original design. The result is more change orders, not realizing the benefits of value engineering and not optimizing quality that would occur in the CM/GC method.

Further, by utilizing the RFP process to engage a CM/GC partner during design, NCPRD has the capacity to obtain real-time market pricing information. This pricing will facilitate more accurate assessment of design options and maximize opportunities for value engineering, resulting in cost savings that cannot be achieved by the standard competitive-bid process. The involvement of the CM/GC contractor will allow phasing of the bidding and construction more effectively. This will significantly mitigate schedule impacts with a resulting cost savings in material/labor inflation and construction general conditions.

In terms of the benefits of selecting a CM/GC contractor through a competitive RFP process, such a process will allow NCPRD to select contractors based upon criteria in addition to price. It will allow selection of a contractor whose proven experience matches the nature of the required work, in both the design and the construction phases. CM/GC contracts are more easily structured to accommodate variable and changing conditions while minimizing cost and avoiding disruptive change orders and claims.

As the analysis below shows, permitting a contract-specific exemption for the Project pursuant to an exemption will result in substantial cost savings and other substantial benefits to NCPRD.

- a. *How many persons are available to bid.*

Beyond the finding that many of the same contractors would propose on the Project if it was procured through the standard low-bid contracting process, NCPRD anticipates there are numerous contractors that would be interested in submitting proposals for the Project. Additionally, NCPRD anticipates the project will also generate interest because the site is very prominent, the plan is heavily supported by the community, and the location is well-connected to other prominent development projects close to the site.

- b. *The construction budget and the projected operating costs for the completed public improvement.*

The construction budget totals approximately \$7,200,000, as prepared and refined by the design team led by 2.ink Studio Landscape Architecture and NCPRD staff for the 100% schematic design. As the contract is established, the Project budget will become fixed by a Guaranteed Maximum Price ("GMP") negotiation, including limited contractor's contingencies. The funding will include a variety of public sources including local, regional

and state funding.

An RFP process allows selection of a CM/GC contractor during the design phase, thereby encouraging increased collaboration, team work and ownership. This results in a more efficient design, fewer change orders attributable to design issues and unforeseen costs, and faster progress with fewer unexpected delays. This, combined with specific expertise from the contractors that will build the project (in timely real market pricing, constructability guidance, and other areas), allows NCPRD to better control costs. Moreover, the ability to have the CM/GC do early work if applicable prior to completion of design may shorten the overall duration of construction. A shortened construction duration also will allow NCPRD to more quickly open the improved public park. This will lessen the impact to the public trying to access the site (including the river access) and generally benefit the public by expanding recreational opportunities and events. Faster progress and an earlier completion date may also help NCPRD mitigate the risk of inflationary increase in materials and construction labor costs and the risk of non-compliance with grant funding agreements.

In addition, during constructability reviews in the design phase, the selected contractors will review long-term operating costs and advise NCPRD regarding the operational advantages and disadvantages associated with design alternatives. An evaluation of these alternatives will result in selections that match NCPRD's capacity for operations and maintenance and decrease long-term operating and maintenance costs.

Last, by selecting a CM/GC contractor through a competitive RFP process, versus a standard low-bid procurement, NCPRD will ensure the selected contractor is best able to maximize the savings to the overall Project budget described above.

*c. Public benefits that may result from granting the exemption.*

By utilizing an RFP process, NCPRD can select the contractor who can also best maximize public benefits. With the CM/GC method, NCPRD expects to shorten the construction duration, mitigate change orders, enhance constructability, minimize inflation impacts, and allow the park to open sooner for public use. The CM/GC delivery method also provides an opportunity to minimize disruptions to the surrounding area, including the existing boat ramp, river access, parking, and pathways. All of these significant benefits are in the public's interest.

In addition, collaboration with a qualified CM/GC contractor early in the Project schedule allows the development of practical approaches that can achieve higher levels of participation by MWESB businesses. The CM/GC contractor's valuable advice throughout design will result in a more cohesive and higher-quality design being maintained through necessary value engineering.

*d. Whether value engineering techniques may decrease the cost of the public improvement*

Utilizing a competitive RFP process to select a CM/GC contractor to provide input and constructability review directly with the design team during the early design phase will facilitate the value engineering process by ensuring the contractor is selected based upon specific experience in these areas. Utilizing the CM/GC delivery method ensures options can be considered while the design is being finalized and with minimal issuance of change orders during construction. Since the contractor is directly involved in value engineering evaluations,

unrealistic or impractical options can be dismissed quickly when appropriate. When it occurs, value engineering on standard low-bid projects typically results in increased design costs because the completed design must be revised to accommodate the changes that result from value engineering. These additional costs may be avoided or limited under the CM/GC delivery method, thereby decreasing the cost of this public improvement.

This type of contract also allows the designer and contractor to more easily explore the feasibility of innovative design solutions and incorporate ongoing value engineering, which NCPRD expects to result in a more innovative project, at a lower cost, with a shortened project completion time.

*e. The cost and availability of specialized expertise that is necessary for the public improvement.*

With respect to the CM/GC delivery method, it will be a requirement in the RFP that the CM/GC have expertise in working on projects with similar size, scale and complexity as the proposed Project. The design and construction of specific project elements, including the interactive water feature and nature-based playground, requires special expertise, knowledge, and experience, all of which can be factored into the contractor selection in the RFP process. The selection of a contractor with such specialized expertise to construct the project will result in a substantially lower risk to NCPRD, because it increases the likelihood of the project being completed on or ahead of schedule, resulting in lower costs and increased benefit to park visitors.

The ability to factor expertise and experience into contractor selection is inherent in the RFP process, but is not normally part of the standard low-bid process. The standard process does not ensure a contractor will possess the needed special expertise because prospective bidders need meet only limited responsibility criteria. The ability to consider each proposer's degree of expertise in these areas is an integral component of the proposal evaluation process.

*f. Any likely increases in public safety.*

In terms of the competitive RFP process, the contractor's actual safety performance on similar past projects is critical and will be evaluated as part of the proposal review process. A competitive RFP procurement affords NCPRD the best opportunity to select contractors with proven, successful safety records.

This Project will require the utmost attention to public safety, as the surrounding uses include the existing elements of the public park (including watercraft access to the river and parking), adjacent state route (OR-99/McLoughlin Boulevard), and the Kellogg Water Resource Recovery Facility. In addition, the segment of the regional Trolley Trail that currently runs through the site will need to be closed and re-routed for some duration while permanent improvements are made.

Construction-generated staging, delivery, and parking activity will need to be considered in a comprehensive construction traffic safety and mitigation plan. Constant attention to needs of neighbors, visitors and construction crews is crucial to maintaining a safe working and living environment for workers and the general public. By utilizing the CM/GC delivery method, the contractor will work with the project team during the design to understand, plan for, and minimize safety hazards and conflicts between the project and ongoing park operations. The contractor will provide input into issues of project phasing, construction staging areas,

construction access corridors, and scheduling to reduce impacts. The close teamwork provides maximum flexibility to address both anticipated issues and new concerns that may arise. Ultimately this input will increase the public safety of the Project and reduce the risk of delays and costly injury claims.

- g. Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;*

For the reasons previously identified, granting an exemption for alternative contracting and utilizing the RFP for selection of the CM/GC contractor reduce risk to NCPDR through Project cost savings. As detailed in section (f), granting of the exemption for the CM/GC delivery ensures the highest levels of project oversight and an increase to the safety of the public during construction.

- h. Whether granting the exemption will affect the sources of funding for the public improvement.*

Construction of the Project will be funded through a variety of sources as outlined in Section B, including state grants and funds from NCPDR Zone 1 System Development Charges (“SDCs”). The state grants are awarded with a two-year window for use of funds while use of SDCs is permitted by existing policies. The exemption will allow use of the CM/GC alternative delivery, via competitive RFP selection, to best ensure timely progression to the construction phase and an efficient timeline for the construction phase. NCPDR expects both of these to enable the project team to accept and utilize critically needed grant funds within the grant agreement timelines and utilize eligibility of the project for SDC funds under current policies.

- i. Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement.*

Market conditions for construction in the Portland metro area are extremely busy, with rising construction costs and a tight labor market. General contractors have been able to be much more selective in the work they pursue. It will be important to package this work in the most attractive manner to draw quality contractors and to eliminate as many barriers as possible.

A competitive RFP procurement to select a CM/GC contractor will better enable NCPDR to manage construction bid risks within a robust construction market. NCPDR is more likely to attract experienced and capable general contractors using alternative contracting methods. In addition, using the CM/GC delivery method will provide the advantages of real-time market pricing during design to inform material and equipment selection. In addition, an alternative contracting method will allow NCPDR to collaborate with the contractors on items and installations that are not off-the-shelf, such as the nature play area, the interactive water feature and the installation of public art integrated into the overall park design. Such elements/installations often require one-of-a-kind construction details for which the professional design community and/or construction industry do not have standard pricing structures. Use of a standard low-bid approach in a tight or rising cost construction market increases the risk bids will exceed budget, with limited options to address overages through scope reductions. When bids exceed budget, it causes delay and budget problems as staff work to find solutions to make the project viable. Any delays translate into additional costs due to increasing construction material costs and other associated costs. Use of the CM/GC



delivery methods will enable NCPRD to better respond to market conditions in a manner that results in a lower-cost Project.

*j. Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement*

This project faces several complexities making site design and construction more complex:

- *Site conditions and context:* steep slopes, variable soils, sensitive vegetation protection, constrained site access, a project area within an larger site where recent improvements have been made, the need to maintain or detour public access;
- *Unique project elements:* the nature play area, interactive water feature and installation of public art which require specialized and/or site-specific technical expertise, knowledge, and experience; and
- *Schedule and financing:* anticipated grant funding agreements stipulate project completion in roughly 2.5 years, and full funding relies on a unique combination of funding that is only accessible in the 2020-22 time period.

As noted previously, the CM/GC delivery method will better enable NCPRD to address these complexities in a more efficient and cost effective manner. The competitive RFP selection process for a CM/GC contractor will ensure selection of a contractor with necessary experience to manage these complexities, require the contractor to demonstrate the necessary experience and expertise to address them, and require the contractor to perform work in accordance with a schedule that meets contract deadlines driven by financing.

The selection of a contractor with demonstrated experience and success in implementing such projects increases the likelihood of the project being completed on budget and with fewer construction delays and change orders. This results in lower costs, lower risk, and increased benefit to NCPRD and the public.

Beyond the minimum requirements for bidder responsibility, a standard low-bid procurement does not permit an in-depth evaluation of a contractor's technical qualifications or proven ability to address these complex technical issues. Use of a RFP process for the CM/GC method, which will include several evaluation criteria in addition to price, allows NCPRD to evaluate a contractor's experience in similar work and in successfully working through similar complexities.

*k. Whether the public improvement involves new construction or renovates or remodels an existing structure.*

The Project is primarily for new construction and landscape improvements, however, it is on a site with previous land uses and structures that could present unforeseen conditions and that includes some demolition and reconstruction of an existing concrete sidewalk and stairway. It also requires protection of hardscape, furnishings, parking and landscape elements around the entire perimeter from recent phases of construction as well as protection of existing stormwater facilities and a large mature tree within the site. NCPRD must ensure that the Project is properly, safely, efficiently, and successfully implemented and considers the CM/GC process the preferred method for this as it allows for revising the design in close collaboration with the design team and resequencing work as needed.

In addition, the ability to perform early work under a CM/GC contract, such as additional soil testing or grading and excavation, provides the team opportunities to identify unforeseen

conditions at the project site and thereby enables project designers to efficiently address design changes during the design phase, rather than during the construction phase.

The qualifications-based RFP process will allow NCPRD to give appropriate weight to proposers that are skilled and experienced in performing similar site work. Because of the nature of constructing park improvements on a site formerly utilized for commercial buildings, it will be important for NCPRD to select a contractor with experience in addressing unforeseen conditions.

*l. Whether the public improvement will be occupied or unoccupied during construction.*

As part of a public park, the construction area will be proximate to, but closed off from, other sections of the park that can remain accessible. In addition, there is a segment of the regional Trolley Trail running through the park that will need to be closed during all or part of the construction. A CM/GC contractor provides the expertise on construction staging, access, detouring, sequencing and scheduling that will be required to maintain public access as much as possible in the park and vicinity without compromising safety or timely completion. The use of the competitive RFP process to select the CM/GC will ensure this expertise is available.

*m. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions.*

It is expected that the construction efforts for the Project will be a single phase. However, NCPRD will look to the CM/GC to determine the most appropriate phasing based on the scope of work.

In addition, the ability of the parties to perform early work if advantageous before the design is completed may allow construction to be completed earlier. Moreover, where appropriate, early work may be performed to investigate potential unforeseen conditions that could impact the Project's design, thus avoiding costly re-design work and change orders. The use of the competitive RFP process to select the CM/GC will ensure the input is provided to make the best decision for successful project execution.

*n. Whether the contracting agency has retained under contract, and will use contracting agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.*

A Project team has been established that includes staff from NCPRD, County Counsel, and County Procurement that will actively participate in the project from inception to completion. NCPRD will retain the services of an owner's representative to assist with the procurement and contracting phase and services during construction administration. NCPRD has also retained the services of a landscape architect-led design team and will retain other consultants as needed throughout the project. The combination of staff and consultants have experience completing similar projects using the CM/GC project delivery methods and have the necessary qualifications and expertise to negotiate, administer, and enforce the terms of the public improvement contract.

**D. Contract Terms and Conditions**

The technical complexities and uncertainties of the Project make it critical for the contract to contain specific terms and conditions that will increase efficiency and result in reduced costs. The above referenced Project team along with the owner's representative will ensure the resulting contract includes industry best practices, mitigates NCPRD and the Project's risk exposure, and ensures that fees are fair and reasonable for the project. County Counsel will also ensure that the contract includes all legally required public procurement terms.

**E. Reservation of Rights**

ORS 279C.335(6) provides that the representations in and the accuracy of these findings are the bases for a contract-specific exemption if adopted by a Board of Directors resolution. These findings also describe, to some extent, anticipated features of the RFP and resulting public improvement contract, but the final parameters of the contract are those characteristics that will be announced in the solicitation document, and NCPRD specifically reserves all of its rights in this regard.

**G. Recommendation**

A competitive RFP process to procure a CM/GC contractor is the preferred option for the Project. The RFP process will ensure that the selected contractors have the experience, expertise, and past performance to position the Project for success. Further, the RFP competitive process ensures that meaningful competition occurs and that favoritism is not an element of the selection process. All these factors will assist NCPRD in achieving fair and equitable selection of a contractor that will deliver both good design and successful completion while minimizing public impacts, controlling construction costs and meeting an agreed-upon schedule.

Utilizing the CM/GC delivery method will enable the selected contractor to collaborate in the design effort and will yield the most cost-effective and practical choices in design options while still allowing NCPRD to retain control of the design and costs. Perhaps most importantly, the CM/GC method will provide the team collaboration needed to meet financing timelines for construction and allow for a smoother and timelier progression to the start and completion of construction.

NCPRD staff therefore recommends adoption of a resolution approving a contract-specific exemption for the Project that permits use of the CM/GC delivery method, and to permit use of the competitive RFP process to select a CM/GC contract.



**BUSINESS AND COMMUNITY SERVICES  
NORTH CLACKAMAS PARKS AND RECREATION DISTRICT**

Development Services Building  
150 Beavercreek Road, Oregon City, OR 97045

Laura Zentner, BCS Director

May 21, 2020

Board of County Commissioners  
Clackamas County  
Board of North Clackamas Parks and Recreation District

Members of the Board:

Approval of Amendment No. 2 to the Interagency Agreement between  
North Clackamas Parks and Recreation District (NCPRD) and  
Health, Housing and Human Services (H3S) Social Services Division

<b>Purpose/ Outcomes</b>	This agreement provides federal and state funding for social services programs delivered by Business & Community Services (BCS) NCPRD division to District/County residents ages 60 and older.
<b>Dollar Amount and Fiscal Impact</b>	This amendment increases the contract value by \$106,985 bringing the maximum contract value of \$447,794.
<b>Funding Source</b>	Older American Act (OAA) funding secured through the Oregon Department of Human Services-State Unit on Aging and administered by Clackamas County's H3S-Social Services division. Additionally, Families First Coronavirus Response Act Funding and the Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding.
<b>Duration</b>	July 1, 2019 – June 30, 2020
<b>Previous Board Action</b>	<ul style="list-style-type: none"> <li>July 25, 2019 – Business Meeting: Approval of Interagency Agreement for FY 2019-2020</li> <li>February 13, 2020 – Business Meeting: Approval of Amendment 1 to the Interagency Agreement for FY 2019-2020</li> </ul>
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>Aligns with NCPRD strategic plan to ensure 100% Meals on Wheels requests are funded</li> <li>Aligns with the County's strategic priority to ensure safe, healthy and secure communities</li> </ol>
<b>County Counsel Review</b>	Reviewed and approved 5/3/2020 JM
<b>Contact Person</b>	Scott Archer, <i>NCPRD Director</i> , 503-742-4471 Marty Hanley, <i>Milwaukie Center Supervisor</i> , 503-794-8058
<b>Contract No.</b>	9300, Amendment #2

**BACKGROUND:**

North Clackamas Parks and Recreation District (NCPRD), a division of Business and Community Services Department, requests approval of an amendment to the Interagency Agreement with the County's Health, Housing and Human Services (H3S) Department – Social Services division to provide Older American Act (OAA) funded services for persons living within the District.

The services provided include congregate and home delivered meals, health promotion activities, transportation, and information and referral activities. These services link residents with resources to meet their individual needs. This helps them to remain independent and interactive in the community.

In December 2015, Social Services advertised for a contractor to provide Older American Act services for older persons in Clackamas County during Fiscal Year 2016-17, with an option for renewal for four additional years. NCPRD was the sole proposer and was awarded the contract after negotiations. Amendment No. 2 adds additional CARES Act funding related to the increased need for services brought on by the COVID-19 pandemic.

**RECOMMENDATION:**

Staff respectfully recommends the Board approve Amendment No. 2 to the Interagency Agreement between BCS-NCPRD division and H3S-Social Services division Contract #9300.

**ATTACHMENTS:**

1. Interagency Agreement #9300 between BCS-NCPRD division and H3S-Social Services division.
2. Amendment No.2 to the Interagency Agreement between BCS-NCPRD and H3S-Social Services division.

Respectfully submitted,

*Laura Zentner*

Laura Zentner, Director  
Business and Community Services

Interagency Agreement Amendment  
Health, Housing and Human Services

H3S Contract#: 9300 Subrecipient#: N/A Board Agenda #: 072519-A5

Division: Social Services Amendment Number: 2

Contractor: NCPRD-Milwaukie Center

Amendment Requested By: Brenda Durbin, CCSS Director

Changes: (X) Interagency Agreement Budget & Language

Justification for Amendment:

This is a budget adjustment that adjusts the Title III-B and III-C funding to align with the current State of Oregon Department of Human Services, Community Services & Supports Unit Allocation for COVID related increases in services. This results in a net increase to the contract budget of \$106,985.

Except as amended hereby, all other terms and conditions of the contract remain in full force and effect. The County has identified the changes with "***bold/italic***" font for easy reference.

---

This Amendment #2, when signed by the NCPRD-Milwaukie Center ("CONTRACTOR") the Health, Housing and Human Services Department, Social Services Division on behalf of Clackamas County ("COUNTY") will become part of the contract documents, superseding the original to the applicable extent indicated.

WHEREAS, the CONTRACTOR and COUNTY entered into those certain CONTRACTOR Agreement documents for the provision of services dated July 1, 2019 as may be amended ("Agreement");

WHEREAS, the CONTRACTOR and COUNTY desire to amend the Agreement in its entirety as of March 23, 2020 and otherwise modify it as set forth herein;

NOW, THEREFORE, the CONTRACTOR and COUNTY hereby agree that the Agreement is amended as follows:

**I. AMEND: III. COMPENSATION AND RECORDS**

- A. Compensation. H3S-SSD shall compensate the NCPRD-MILWAUKIE for satisfactorily performing the services identified in Section I on a fixed unit rate reimbursement basis as described in Exhibit 5 - Budget and Units of Service - attached hereto. The maximum compensation allowed under this contract is \$340,809

Funding Title	CFDA #	Funding Maximum
Older Americans Act III-B	93.044	\$53,377
Older Americans Act III-C1	93.045	\$35,288
Older Americans Act III-C2	93.045	\$124,385
Older Americans Act III-D	93.043	\$715

Older Americans Act III-E	93.052	\$9,228
NSIP Funds	93.053	\$34,808
Special Program Allocation (State Fund)	N/A	\$0
Low Income Energy Assistance (LIEAP)	N/A	\$3,750
Ride Connection – In District	N/A	\$34,200
STF/Ride Connection – Expanded Service	N/A	\$35,059
STF/Ride Connection: Vehicle Maintenance	20.513	\$8,250
STF/Tri-Met: Medicaid Waivered Non-Medical Transportation	N/A	\$573
Medicaid Funds: Waivered Non-Medical Transportation	N/A	\$1,177

**TO READ:** III. COMPENSATION AND RECORDS

A. Compensation. H3S-SSD shall compensate the NCPRD-MILWAUKIE for satisfactorily performing the services identified in Section I on a fixed unit rate reimbursement basis as described in Exhibit 5 - Budget and Units of Service - attached hereto. The maximum compensation allowed under this contract is **\$447,794**

Funding Title	CFDA #	Funding Maximum
Older Americans Act III-B	93.044	\$53,377
<b>Older Americans Act III-B CARES Act Funds</b>	<b>93.044</b>	<b>\$26,600</b>
Older Americans Act III-C1	93.045	\$27,434
<b>Older Americans Act III-C1 (Families First &amp; CARES Act Funds)</b>	<b>93.045</b>	<b>\$26,496</b>
Older Americans Act III-C2	93.045	\$81,867
<b>Older Americans Act III-C2 (Families First &amp; CARES Act Funds)</b>	<b>93.045</b>	<b>\$98,867</b>
<b>CSBG Funds for Meal Service</b>	<b>N/A</b>	<b>\$3,600</b>
Older Americans Act III-D	93.043	\$715
Older Americans Act III-E	93.052	\$9,228
NSIP Funds	93.053	\$36,601
Low Income Energy Assistance (LIEAP)	N/A	\$3,750
Ride Connection – In District	N/A	\$34,200
STF/Ride Connection – Expanded Service	N/A	\$35,059
STF/Ride Connection: Vehicle Maintenance	20.513	\$8,250
STF/Tri-Met: Medicaid Waivered Non-Medical Transportation	N/A	\$573
Medicaid Funds: Waivered Non-Medical Transportation	N/A	\$1,177

II. **AMEND:** Exhibit 4 Standard Terms and Conditions to include specific requirements related to the use of “Families First Coronavirus Response Act Funding” and the “Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding” to include a new Section 12 “Major Disaster Declaration number DR4499OR Agreement Provisions” incorporated herein by reference and stated as follows:

**12. Major Disaster Declaration number DR4499OR Agreement Provisions.**  
**County is acquiring the services under this amended Agreement for the purpose of responding to the State of Emergency declared by the Governor on Saturday, March 7, 2020, and pursuant to the Major Disaster Declaration**

***number DR4499OR as a direct result of the COVID-19. County intends to request reimbursement from the federal government, including but not limited to FEMA and from the resources provided by the Families First Coronavirus Response Act Funding and the Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding, for the costs, and Contractor shall provide to County timely reports that provide enough detail to County's reasonable satisfaction in order to obtain federal reimbursement.***

III. **AMEND:** Exhibit 6 – Budget and Units of Services- Unit Cost Schedule, incorporated here as Page 3, is hereby amended

**TO READ:** Exhibit 6 – Budget and Units of Services – Unit Cost Schedule as incorporated here as Page 4.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK



Amend:

**Milwaukie Center**  
Fiscal Year 2019-20

	OAA IIIB Funds	OAA IIIC1 Funds	OAA IIIC2 Funds	OAA IIID Funds	OAA IIIE Funds	Required Match	NSIP Funds	Other State Funds	Ride Connection			TriMet STF Funds	MEDICAID Funds	LIHEAP Funds	Program Income	NO. OF UNITS	TOTAL COST	REIMBURSE- MENT RATE
									In Dist	STF	6310 Funds							
									TriMet Funds	Funds	OR-65-012							
Federal Award Number	16AAORT3SS	16AAORT3CM	16AAORT3HD	16AAORT3PH	16AAORT3FC	N/A	16AAORNSIP				N/A	N/A	N/A					
CFDA Number	93.044	93.045	93.045	93.043	93.052		93.053				N/A	N/A						
Service Category	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)
Case Management (Hrs)	27,098					3,013										761.7 hrs	30,111	\$37.24
Reassurance (Contacts)	5,651					628										185	6,279	\$30.56
Information & Assist.	11,829					1,315										648	13,144	\$18.25
Public Outreach	1,000					111										20	1,111	\$50.00
Transportation - OAA	7,799					867									1,500	1,560	10,166	\$5.00
OAA/NSIP Food Service		16,972	59,825			1,887	34,808								53,040	55,250	166,532	\$2.98
OAA Meal Site Mngt.		18,315	64,560			2,037										55,250	84,912	\$1.50
OPI HDM Service								-								0	0	\$0.00
Evidence Based Health & Wellness Programs				715		0		-								9.5 classes	715	\$75.00
Caregiver Respite Program					9,228	2,307										160	11,535	\$57.50
Transportation - T19						0					573	1,177				125	1,750	\$14.00
Transportation Ride Con						0			34,200						3,986	4,560	38,186	\$7.50
STF Transport. Van/bus						0				35,059						1,943	35,059	\$18.04
Ride Con - Vehicle Maint						944					8,250					N/A	9,194	N/A
LIHEAP Intakes													3,750			150	3,750	\$25.00
<b>TOTALS</b>	<b>\$53,377</b>	<b>\$35,288</b>	<b>\$124,385</b>	<b>\$715</b>	<b>\$9,228</b>	<b>\$13,111</b>	<b>\$34,808</b>	<b>\$0</b>	<b>\$34,200</b>	<b>\$35,059</b>	<b>\$8,250</b>	<b>\$573</b>	<b>\$1,177</b>	<b>\$3,750</b>	<b>\$58,526</b>		<b>\$412,446</b>	

CFDA Number 20.513 & Federal Award Number applies to Ride Connection Vehicle Maintenance funds only

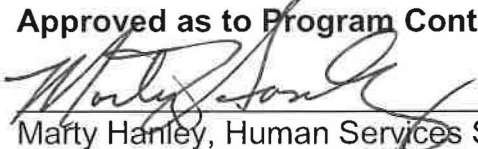
Source of OAA Match - Staff time

Contract Amount: \$340,809

Federal Award Total: \$266,050

Except as expressly amended above, all other terms and conditions of the Agreement shall remain in full force and effect.

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

<b>CLACKAMAS COUNTY</b>	
Commissioner: Jim Bernard, Chair	Commissioner: Sonya Fischer
Commissioner: Sonya Fischer	Commissioner: Ken Humberston
Commissioner: Paul Savas	Commissioner: Martha Schrader
<b>Signing on Behalf of the Board:</b>	<b>Signing on Behalf of the Board:</b>
<b>North Clackamas Parks and Recreation District</b>	<b>Health, Housing &amp; Human Services Dept.</b>
By: _____	_____
	Richard Swift, Director
_____	_____
Date	Date
<b>Approved as to Program Content:</b>	
 _____	4-30-2020
Marty Hanley, Human Services Supervisor	Date

To Read

**Milwaukie Center**  
Fiscal Year 2019-20

	OAA III B	OAA IIIB	OAA IIIC1	OAA IIIC1	OAA IIIC2	OAA IIIC2	OAA IIID	OAA IIIE	Required	NSIP	Other State Funds	Ride Connection			TriMet	MEDICAID	LIHEAP	Program	NO. OF	TOTAL	REIMBURSE-	
	Funds	Funds	Funds	Funds	Funds	Funds	Funds	Funds	Match	Funds		In Dist	STF	5310 Funds	STF Funds	Funds	Funds	Income	UNITS	COST	MENT RATE	
												TriMet	Funds	OR-65-012	N/A	N/A	N/A					
Federal Award Number	16AORT3SS	CARES Act	16AORT3CM	FF Act	16AORT3HD	FF & CARES Acts	16AORT3PH	16AORT3FR	N/A	16AORNSIP												
CFDA Number	93.044	93.044	93.045	93.045	93.045	93.045	93.043	93.052		93.053												
Service Category	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	
COVID Grant Award		22,500		16,862		16,862			N/A												56,224	
Case Management (Hrs)	27,098	1,550							3,013										769	31,661	\$37.24	
Reassurance (Contacts)	5,651	1,550							628										236	7,829	\$30.56	
Information & Assist.	11,829								1,315										648	13,144	\$18.25	
Public Outreach	1,000								111										20	1,111	\$50.00	
Transportation - OAA	7,799	1,000							867									1,500	1,560	11,166	\$5.00	
OAA/NSIP Food Service			13,741	0	41,020	25,338			6,089	36,601								38,400	58,097	161,190	\$1.38	
OAA Meal Site Mngt.			13,693	9,634	40,847	54,167			6,065										58,097	124,407	\$2.04	
OAA Nutrition Supplies						2,500			0													
CSBG HDM Service									0		3,600								800	3,600	\$4.50	
Evidence Based Health & Wellness Programs							715		0		-								9.5 classes	715	\$75.00	
Caregiver Respite Program								9,228	2,307										160	11,535	\$57.50	
Transportation - T19									0					573	1,177				125	1,750	\$14.00	
Transportation Ride Con									0			34,200						3,986	4,560	38,186	\$7.50	
STF Transport. Vanibus									0				35,059						1,943	35,059	\$18.04	
Ride Con - Vehicle Maint									944					8,250					N/A	9,194	N/A	
LIHEAP Intakes																	3,750		150	3,750	\$25.00	
<b>TOTALS</b>	<b>\$53,377</b>	<b>\$26,600</b>	<b>\$27,434</b>	<b>\$26,496</b>	<b>\$81,867</b>	<b>\$98,867</b>	<b>\$715</b>	<b>\$9,228</b>	<b>\$21,341</b>	<b>\$36,601</b>	<b>\$3,600</b>	<b>\$34,200</b>	<b>\$35,059</b>	<b>\$8,250</b>	<b>\$573</b>	<b>\$1,177</b>	<b>\$3,750</b>	<b>\$43,886</b>		<b>\$513,021</b>		

CFDA Number 20.513 & Federal Award Number applies to Ride Connection Vehicle Maintenance funds only

Source of OAA Match - Staff time

Contract Amount: \$447,795

Federal Award Total: \$369,436

May 21, 2020

Board of County Commissioner  
Clackamas County

Members of the Board:

Approval to Apply for a Comprehensive Opioid, Stimulant,  
and Substance Abuse Site-Based Program Grant (COSSAP)

<b>Purpose/Outcomes</b>	Approval to apply for a grant from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, to retain and enhance the Law Enforcement Assisted Diversion (LEAD) program which helps to address low-level drug street crime in Clackamas County.
<b>Dollar Amount and Fiscal Impact</b>	\$900,000.00
<b>Funding Source</b>	U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. County General Funds
<b>Duration</b>	Effective October 1, 2020 terminates September 30, 2023
<b>Previous Board Action</b>	N/A
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals.</li> <li>2. Ensure safe, healthy and secure communities.</li> </ol>
<b>Counsel Review</b>	Finance Grants reviewed and approved
<b>Contact Person</b>	Richard Swift, H3S Department Director (503) 650-5694
<b>Contract No.</b>	N/A

**BACKGROUND:**

The Administration Division of the Health, Housing, and Human Services Department requests the approval to apply for a Comprehensive Opioid, Stimulant, and Substance Abuse Site-Based Program (COSSAP) Grant. This grant will allow for the continuation and expansion of the Law Enforcement Assisted Diversion (LEAD) program in Clackamas County.

LEAD is a program developed to address low-level drug street crime in Clackamas County. The goal of LEAD is to improve community health and safety by using specific human services tools and coordinating them with law enforcement. LEAD has demonstrated itself as a particularly effective tool for reaching houseless program participants struggling with addictions to divert them from the criminal justice system. LEAD provides an opportunity to divert individuals, offering a hand up through case management connecting them to resources to improve their circumstances and providing innovative techniques unique to individual circumstances to break down barriers to achieving their own health and safety.

Building on the existing LEAD program, this grant will fund coordination of LEAD Plus, which will strive to connect existing systems and initiatives to achieve a coordinated and comprehensive response to substance use disorder strategic planning.

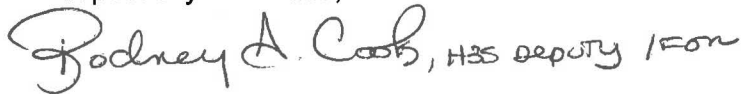
The program demonstrated significant positive outcomes in the first year of its operation.

The rates of arrests, new criminal charges, a decrease in nights in jail, and failure to appear in court all declined significantly for the participants in the program, all of which represents significant cost savings to the County. The LEAD case managers have also been successful in assisting clients meet a wide spectrum of needs, including employment, accessing benefits, obtaining housing or shelter, getting substance use disorder treatment, and resolving outstanding legal issues. The LEAD team is currently serving 98 individuals.

**RECOMMENDATION:**

Staff recommends Board approval of this approval to apply and authorization for Richard Swift, H3S Director to sign the agreement and future amendments to the Agreement on behalf of Clackamas County.

Respectfully submitted,

 Rodney A. Cook, H3S deputy / For

Richard Swift, Director  
Health, Housing & Human Services

# Grant Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

## \*\* CONCEPTION \*\*

Note: The processes outlined in this form are not applicable to disaster recovery grants.

### Section I: Funding Opportunity Information - To be completed by Requester

Application for:  Subrecipient funds  Direct Grant  
Lead Department: Health Housing and Human Services (H3S) Grant Renewal?  Yes  No

If renewal, complete sections 1, 2, & 4 only

Name of Funding Opportunity: Comprehensive Opioid, Stimulant, and Substance Abuse Site-based (COSSAP)  
Funding Source:  Federal  State  Local: \_\_\_\_\_  
Requestor Information (Name of staff person initiating form): H3S Director, Richard Swift  
Requestor Contact Information: RSwift@clackamas.us  
Department Fiscal Representative: Toni Hessevick  
Program Name or Number (please specify): Law Enforcement Aided Diversion (LEAD)  
Brief Description of Project:

The Law Enforcement Assisted Diversion (LEAD) PLUS program will retain and enhance the current LEAD program that is currently scheduled to lose funding. LEAD provides case management to houseless program participants struggling with addictions to divert them from the criminal justice system. Houseless individuals with substance use disorders are likely to come in contact with law enforcement, resulting in cyclic engagement with the criminal justice system that has traditionally failed to address their needs. LEAD provides an opportunity to divert these individuals, offering a hand up through case management connecting them to resources to improve their circumstances. LEAD PLUS will enhance LEAD by establishing a new Steering Committee to unite and strengthen coordination across all of the County's many opioid and substance abuse efforts.

Name of Funding (Granting) Agency: U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA)

Agency's Web Address for Grant Guidelines and Contact Information:

https://www.ojp.gov/funding/apply/ojp-grant-application-resource-guide

OR

Application Packet Attached:  Yes  No

Completed By: Tiffany Hicks 5/6/20 Date

\*\* NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE \*\*

### Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Grant  Non-Competing Grant  Other Funding Agency Award Notification Date: \_\_\_\_\_  
CFDA(s), if applicable: 16.838  
Announcement Date: February 21, 2020 Announcement/Opportunity #: BJA-2020-17023  
Grant Category/Title: Comprehensive Opioid, Stimulant, and Substance Abuse Site-based Program (COSSA) Max Award Value: \$ 900,000  
Allows Indirect/Rate: Yes- 10% Match Requirement: 0  
Application Deadline: May 21, 2020 Other Deadlines: \_\_\_\_\_  
Grant Start Date: October 1, 2020 Other Deadline Description: \_\_\_\_\_  
Grant End Date: September 30, 2023  
Completed By: Tiffany Hicks Program Income Requirement: NA  
Pre-Application Meeting Schedule: Application coordination team from CFCC will meet 5/11,12,14, 18, 19, and 21. Partners of COSSAP, will be engaged as needed.

**Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff**

**Mission/Purpose:**

1. *How does the grant support the Department and/or Division's Mission/Purpose/Goals?*

The grant supports the H3S mission to assist individuals, families and communities to be safe and healthy, through fiscal support for the LEAD program. H3S goals to assist individuals and families in need to be healthy and safe; increase self-sufficiency; and increase community safety and health are directly tied to LEAD program activities.

2. *What, if any, are the community partners who might be better suited to perform this work?*

None. H3S coordinates a number of strong programs, including currently managing the LEAD program through a partnership with the District Attorney's and Sheriff's Offices. No other entity is in position to do this work.

3. *What are the objectives of this grant? How will we meet these objectives?*

The grant sustains a pre-charge diversion program that will improve public safety and improve quality of life for residents. Specifically, the program will seek to reduce future criminal behavior by individuals involved in low-level drug offenses and those experiencing chronic homelessness. It would also establish a new and much-needed layer of coordination to integrate LEAD with all of the other related programs and resources to strengthen each of them.

4. *Does the grant proposal fund an existing program? If yes, which program? If no, what is the purpose of the program?*

Yes, the grant proposal will seek to sustain the Law Enforcement Aided Diversion (LEAD) Program started in 2018 with H3S, the District Attorney's Office and the Sheriff's Office contracting with Central City Concern to provide the services. The program has proved promising, but lacks fiscal sustainability.

**Organizational Capacity:**

1. *Does the organization have adequate and qualified staff? If no, can staff be hired within the grant timeframe?*

Yes, the H3S division of Children, Family and Community Connections (CFCC) has Program Planners that have experience overseeing service contracts/agreements with non-profits, such as: Central City Concern who will be sub-contracted to provide the services.

2. *Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?*

Partnerships are not required for the purpose of the proposal, however this is a collaborative effort with H3S and the District Attorney's office and Central City Concern, the primary service provider. The grant would establish a new partnership that is not required, but an important part of the overall strategy.

3. *If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?*

This is not a pilot project.

4. *If funded, this grant would create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?*

H3S will continue to look for local, state and federal funding to ensure project sustainability after the grant ends in three years. Additionally, the funder may provide additional funding in future years towards made under this solicitation, through continuations awards.

**Collaboration**

1. List County departments that will collaborate on this award, if any.

Health, Housing and Human Services (H3S) and District Attorney's Office. The Sheriff's Office has agreed to support the application and the LEAD program.

**Reporting Requirements**

1. What are the program reporting requirements for this grant?

Data on performance measures will be required in a semiannual basis demonstrating program progress and success.

2. How will grant performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

Performance will be evaluated through monitoring participant success as reported by the program provider and outcomes tracked through the District Attorney's Office.

3. What are the fiscal reporting requirements for this grant?

Quarterly financial reports; a final financial and progress report; and an annual audit report in accordance with the Part 200 Uniform Requirements.

**Fiscal**

1. Will we realize more benefit than this grant will cost to administer?

Yes, the grant will cover administrative costs and program staff with enough to implement community programming.

2. Are other revenue sources required? Have they already been secured?

There are no match requirements.

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

There are no match requirements.

4. Does this grant cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

Yes there is a 10% indirect rate cap.

Program Approval:

Adam S. Freer

5.7.20

Adam S. Freer

Name (Typed/Printed)

Date

Signature

**\*\* NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR \*\***

**\*\*ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY, COUNTY FINANCE OR ADMIN WILL SIGN.\*\***



**Section IV: Approvals**

<b>DIVISION DIRECTOR (or designee, if applicable)</b>		
Adam S. Freer	5.7.20	Adam S. Freer
Name (Typed/Printed)	Date	Signature

<b>DEPARTMENT DIRECTOR or ELECTED OFFICIAL (or designee, if applicable)</b>		
Name (Typed/Printed)	Date	Signature

<b>FINANCE GRANT MANAGER (or designee, if applicable; FOR FEDERALLY-FUNDED APPLICATIONS ONLY)</b>		
Toni J. Hessevick	5/7/2020	<i>Toni Hessevick</i>
Name (Typed/Printed)	Date	Signature

**Section V: Board of County Commissioners/County Administration**

*(Required for all grant applications. If your grant is awarded, all grant awards must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

**For applications less than \$150,000:**

<b>COUNTY ADMINISTRATOR</b>	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>	
Name (Typed/Printed)	Date	Signature	

**For applications greater than \$150,000 or which otherwise require BCC approval:**

BCC Agenda item #:  Date:

**OR**

Policy Session Date:

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County Administration Attestation

**County Administration: re-route to department contact when fully approved.**  
**Department: keep original with your grant file.**

May 21, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Federal Subrecipient Grant agreement with AntFarm, Inc to provide Youth Prevention Coordination for Rural Clackamas County in Sandy and Estacada

<b>Purpose/Outcome</b>	AntFarm, Inc. will provide Youth Substance Abuse Prevention services and coordination, using evidence-based prevention strategies, to build a response to prevention of alcohol and marijuana use, misuse and abuse by youth aged 12-20, living in Estacada and Sandy, Oregon.
<b>Dollar Amount and Fiscal Impact</b>	\$520,000 (approx. \$120,000 per year) Catalogue of Federal Domestic Assistance (CFDA) #93.243 No County General Funds are involved. No match required.
<b>Funding Source</b>	Substance Abuse and Mental Health Services Administration (SAMHSA) Strategic Prevention Framework – Partnership for Success Grant (SPF-PFS) (CFDA #93.243)
<b>Duration</b>	Effective date June 1, 2019 and terminates on September 30, 2024
<b>Previous Board Action/Review</b>	n/a
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
<b>Counsel Review</b>	County Counsel has reviewed and approved this document. Date of counsel review and approval: May 6, 2020
<b>Contact Person</b>	Adam Freer 562-676-7675
<b>Contract No.</b>	H3S9701

**BACKGROUND:**

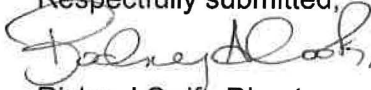
The Children, Family & Community Connections Division (CFCC) of the Health, Housing and Human Services Department requests the approval of a Federal Subrecipient Grant agreement with AntFarm, Inc. to provide a coordinated response and services to lower substance abuse risk factors and increase protective factors among youth living in Sandy and Estacada, Oregon. In 2019, CFCC was awarded a five year SAMHSA grant to create substance abuse prevention coalitions and implement evidence-based prevention strategies in Sandy and Estacada, Oregon. The partnership with AntFarm, Inc. is a centerpiece of that project. They will coordinate the efforts locally to lower youth risk factors and increase protective factors among youth aged 12-20 in each community.

This Grant agreement is funded through SAMHSA and provides funding for services starting on June 1, 2020 and terminates September 30, 2024. This agreement has a maximum value of \$520,000.

**RECOMMENDATION:**

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

Respectfully submitted,

 H3S Deputy for

Richard Swift, Director  
Health, Housing & Human Services

**CLACKAMAS COUNTY, OREGON  
FEDERAL SUBRECIPIENT GRANT AGREEMENT 20-030**

Project Name: **ANT FARM YOUTH PREVENTION COORDINATION FOR RURAL CLACKAMAS COUNTY**

Project Number: **9701**

This Agreement is between **Clackamas County**, Oregon, acting by and through its Department of Health, Housing and Human Services ("COUNTY"), and **AntFarm Inc.** ("SUBRECIPIENT"), an Oregon Non-profit Organization.

**Clackamas County Data**

Grant Accountant: <b>Mike Morasko</b>	Program Manager: <b>Brian McCrady</b>
Clackamas County Finance 2051 Kaen Road Oregon City, OR 97045 (503) 650-5435 mmorasko@clackamas.us	Children, Family & Community Connections 112 11th St. Oregon City, OR 97045 (503) 655-8020 (as of June 30) bmccrady@clackamas.us

**Subrecipient Data**

Finance/Fiscal Representative: <b>Two Foxes Singing (Nunpa)</b>	Program Manager: <b>Valerie Salazar</b>
AntFarm, Inc. 39140 Proctor Blvd Sandy, OR 97055 (971) 275-2893 nunpa@antfarmyouthservices.com	AntFarm, Inc. 39140 Proctor Blvd Sandy, OR 97055 (503) 668-9955 valerie@antfarmyouthservices.com
DUNS: 833059673	

**RECITALS**

**Problem:** Youth substance use and abuse is a significant problem in rural Clackamas County. Children, Family and Community Connections (CFCC) was awarded a five year Substance Abuse and Mental Health Services Administration (SAMHSA) grant to create substance abuse prevention coalitions and implement evidence based prevention strategies in Sandy and Estacada, OR. The partnership with ANTFARM, INC. will support staffing these efforts and providing resources to lower youth risk factors and increase protective factors among youth aged 12 – 20 in each community.

CFCC and ANTFARM, INC will work together to provide local trainings, resources and program to support each community to address underage drinking and marijuana use among youth. ANTFARM, INC, the SUBRECIPIENT is a not-for-profit agency that supports young people, families, adults, and communities to develop health and happiness through the discovery of hope.

According to the terms of this Subrecipient Grant Agreement (this "Agreement") COUNTY and SUBRECIPIENT agree as follows:

## AGREEMENT

1. **Term and Effective Date.** Pursuant to the terms of the grant award, this Agreement shall be effective **June 1, 2020** and shall expire on **September 30, 2024**, unless sooner terminated or extended pursuant to the terms hereof.
2. **Program.** The Program is described in attached **Exhibit A: Subrecipient Statement of Program Objectives**. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. SUBRECIPIENT shall comply with the requirements of Substance Abuse and Mental Health Services Administration ("SAMHSA") in accordance with the regulatory requirements provided at 45 CFR 75.113 and Appendix XII, in addition to compliance with requirements of Title 42 of the Code of Federal Regulations ("CFR"), Part 6A, Sub-Part II & III. A copy of the relevant sections of the SPF-PFS grant awarded to Clackamas County Children, Family and Community Connections have been provided to SUBRECIPIENT by COUNTY.
4. **Grant Funds.** COUNTY's funding for this Agreement is the 2019-2024 Intergovernmental Agreement for the Financing of Substance Abuse and Mental Health Services Administration (Agreement No. 1H79SP081245-01; CFDA 93.243). The maximum, not to exceed, grant amount COUNTY will pay is \$520,000. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in **Exhibit D: Required Financial Reporting and Reimbursement Request** and **Exhibit E: Monthly/Quarterly/Final Performance Report**. Failure to comply with the terms of this Agreement may result in withholding of payment or termination of the Agreement.
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty-five (45) calendar days before this Agreement expires. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement except for the final payment. The final request for payment must be submitted to COUNTY no later than fifteen (15) days after the end date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.
6. **Termination.** This Agreement may be terminated by the mutual consent of both parties or by a party upon written notice from one to the other upon thirty (30) business days-notice. This notice may be transmitted in person, by certified mail, facsimile, or by email.
7. **Funds Available and Authorized.** COUNTY certifies that funds sufficient to pay for this Agreement have been obligated to COUNTY. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
8. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 7.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and

accepts among its duties and responsibilities the following:

- a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
- b) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
- c) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal Government shall be the liability of SUBRECIPIENT.
- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Match.** Matching funds are not required for this Agreement.
- f) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: SUBRECIPIENT Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modifications change the scope of the original grant application or agreement.
- g) **Exhibit B: Subrecipient Program Budget.** SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- h) **Indirect Cost Recovery.** SUBRECIPIENT elects to use the federal *de minimis* rate of 10% for indirect cost recovery and further agrees to apply this rate to salary and fringe costs only. This amount is incorporated by reference into SUBRECIPIENT program budget in **Exhibit B: Subrecipient Program Budget**.
- i) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- j) **Payment.** SUBRECIPIENT must submit a final request for payment **no later than fifteen (15) days after the end date of this Agreement**. Routine requests for reimbursement should be submitted as specified in **Exhibit D: Required Financial Reporting and Reimbursement Request**.
- k) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in **Exhibit E: Monthly/Quarterly/Final Performance Report** for each period (monthly, quarterly, and final) during the term of this Agreement.
- l) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer Regulations at 31 CFR Part 205. Therefore, upon execution of

this Agreement, SUBRECIPIENT will submit completed **Exhibit D: Required Financial Reporting and Reimbursement Request** on a monthly basis.

- m) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (**Exhibits D & F**), performance (**Exhibit E**), and other reports as required by the terms and conditions of the federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement. At closeout, SUBRECIPIENT must account for all equipment with remaining value over \$5,000 and residual supplies valued over \$5,000 in the aggregate that were purchased with federal funds authorized by this Agreement. Compensation to the federal agency may be required for equipment or residual supplies valued over \$5,000 per 2 CFR 200.313 & 314.
- n) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering System (DUNS) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.
- o) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <https://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- p) **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- q) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. SUBRECIPIENTS of federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse ("FAC") within 9 months from SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.

- r) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY and the Substance Abuse and Mental Health Services Administration access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY and the Federal Government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- s) **Specific Conditions.** SUBRECIPIENT shall submit general ledger backup, with detail, with each claim for reimbursement for the duration of this award.
- t) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by the federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.
- u) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for Intergovernmental Agreement for the Financing of Substance Abuse and Mental Health Services Administration grant No. 1H79SP081245-01, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to Clackamas County, as grantee, under those grant documents.
- v) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met or to terminate this relationship including the original Agreement and all associated amendments.

#### 10. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal Government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all federal law governing operation of Substance Abuse and Mental Health Services Administration Programs, including without limitation, all federal laws requiring reporting of Client abuse; and (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT. Additional requirements are as specified in 45 CFR Part 96; also portions of the



2 CFR Part 200/45 CFR Part 75. No federal funds may be used to provide services in violation of 42 U.S.C. 14402.

- b) **Rights to Inventions Made Under a Contract or Agreement.** SUBRECIPIENT agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.
- c) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, SUBRECIPIENT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. SUBRECIPIENT shall include and require all Providers to include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.
- d) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- e) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request COUNTY to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) creates a problem for the design or delivery of other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- f) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- g) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT'S written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.
- h) **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:
  - 1) Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
  - 2) Procure a commercial sex act during the period of time the award is in effect; or
  - 3) Used forced labor in the performance of the Agreement or subaward under this Agreement, as such terms are defined in such regulation.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. SUBRECIPIENT must include these requirements in any subaward made to public or private entities under this Agreement.

#### 11. Federal and State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, as they pertain to the purchase of goods and services under this Agreement and which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

#### 12. General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and

employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.

To the extent permitted by applicable law, SUBRECIPIENT shall defend (in the case of the state of Oregon, subject to ORS Chapter 180), save and hold harmless COUNTY, the Substance Abuse and Mental Health Services Administration, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the operations of SUBRECIPIENT, including but not limited to the activities of SUBRECIPIENT or its officers, employees, subcontractors or agents under this Agreement.

SUBRECIPIENT(S) that are not units of local government as defined in ORS 190.003, shall indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of SUBRECIPIENT or any of the officers, agents, employees or subcontractors of SUBRECIPIENT ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by SUBRECIPIENT from and against any and all Claims.

- c) **Insurance.** COUNTY shall enforce SUBRECIPIENT compliance with the insurance requirements outlined herein, and shall take all reasonable steps to enforce such compliance. Examples of reasonable steps include issuing stop work orders until the insurance is in full force, terminating this Agreement, as permitted herein, or pursuing legal action to enforce such requirements. During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance required in Exhibit I: Insurance.
- d) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
- e) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
- f) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
- g) **Governing Law.** This Agreement is made in State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.

- h) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- j) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- k) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

This Agreement consists of twelve (12) sections plus the following exhibits which by this reference is incorporated herein.

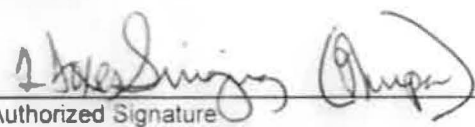
- Exhibit A – Subrecipient Statement of Program Objectives
- Exhibit B – Subrecipient Program Budget
- Exhibit C – Lobbying Certificate
- Exhibit D – Required Financial Reporting and Reimbursement Request
- Exhibit E – Monthly/Quarterly/Final Performance Report
- Exhibit F – Final Financial Report
- Exhibit G – Required State and Federal Terms & Conditions
- Exhibit H – Clackamas County Children, Family and Community Connections REQUIRED SUBRECIPIENT AGREEMENT PROVISIONS
- Exhibit I – Insurance

*(Signature Page Follows)*

**SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT**

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

**AntFarm, Inc.**

By:   
Authorized Signature  
(two foxes singing) Nunpa

Two Foxes Singing (Nunpa) 5/8/2020  
Printed Name Date

39140 Proctor Blvd  
Street Address

39140 Proctor Boulevard,  
Sandy, OR 97055  
Sandy OR 97055  
City / State / Zip

phone  
503-668-9955

**CLACKAMAS COUNTY**

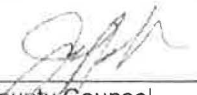
- Commissioner: Jim Bernard, Chair
- Commissioner: Sonya Fischer
- Commissioner: Ken Humberston
- Commissioner: Paul Savas
- Commissioner: Martha Schrader

**Signing on Behalf of the Board:**

Rod Cook, Director  
Health, Housing & Human Service Department

\_\_\_\_\_  
Date

**Approved to Form:**

  
County Counsel

5/6/2020  
Date

May 21, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Amendment #1 to an Intergovernmental Agreement with  
the State of Oregon, Housing and Community Services Department to administer  
COVID-19 Rental Relief Program Funds

<b>Purpose/Outcomes</b>	Board approval of Amendment #1 and the Implementation Report, that will provide rental relief funding to eligible individuals and households impacted by COVID-19
<b>Dollar Amount and Fiscal Impact</b>	\$457,097 revenue
<b>Funding Source</b>	State of Oregon, Housing and Community Services Department, Community Resources Division – State funds from the Emergency Fund. No County General Funds are involved.
<b>Duration</b>	May 1, 2020 through June 30, 2021
<b>Previous Board Action</b>	The original agreement was approved by the Board of County Commissioners on August 15, 2019.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. This funding aligns with the Social Services Division’s strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing.</li> <li>2. This funding aligns with the County’s strategic priority to ensure safe, healthy and secure communities.</li> </ol>
<b>Counsel Review</b>	The amendment was approved by County Counsel on May 19, 2020.
<b>Contact Person</b>	Brenda Durbin, Director – Social Services Division – (503) 655-8641
<b>Contract No.</b>	H3S# 9302, State# 5084

**BACKGROUND:**

The Social Services Division (SSD) of the Health, Housing and Human Services Department requests the approval of Amendment #1 to an Intergovernmental Agreement with the State of Oregon, Housing and Community Services Department (OHCS), to administer COVID-19 Rental Relief Program Funds.

OHCS is Oregon’s housing finance agency providing financial and program support to create and preserve opportunities for quality, affordable housing for Oregonians of lower and moderate income. OHCS administers Federal and State antipoverty, homeless, energy assistance, and

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community services programs. To receive these new homelessness prevention funds, SSD is required to submit an Implementation Report outlining the proposal to utilize the funding. The amendment and Implementation Report have been approved by Emergency Operations Command and County Counsel on May 19, 2020.

**RECOMMENDATION:**

Staff recommends the approval of Amendment #1 and the Implementation Report, and that Richard Swift, H3S Director, or his designee, be authorized to sign all documents on behalf of the Clackamas County.

Respectfully submitted,

 Rodney A. Cook, H3S deputy / FOR

Richard Swift, Director  
Health, Housing and Human Services Department



**State of Oregon  
Oregon Housing and Community Services Department  
Master Grant Agreement  
Amendment No. 1**

This is Amendment No. 1 (the “Amendment”) to the Master Grant Agreement No. 5084, dated July 1, 2019 (the “Agreement” or “MGA”) executed by and between the State of Oregon, acting by and through its **Housing and Community Services Department**, (“OHCS” or “Department”), and **Clackamas County** acting by and through its Health, Housing and Human Services Department (“Subgrantee”).

**Recitals:** It has now been determined by OHCS and Subgrantee that the Agreement referenced above shall be amended to add Program Element PE 15 COVID-19 Rental Relief Program, which provides state funds from the Emergency Fund to OHCS for rental assistance and safe shelter alternatives during the coronavirus (COVID-19) pandemic.

For good and sufficient consideration including the terms and conditions of this Amendment, the parties agree as follows:

1. **Amendment to Agreement.** The Agreement is hereby amended as follows effective May 1, 2020: New Language is indicated by **bolding** and **underlining** and deleted language is indicated by **bolding** and ~~striking~~ unless a section is replaced in its entirety:
  - a. Exhibit A – Definitions table only shall be deleted in its entirety and replaced with the attached revised Exhibit A – Definitions dated May 1, 2020, which is attached to this Amendment 1 and incorporated by this reference.
  - b. Amend Exhibit A, entitled Program Elements, to add Program Element PE 15, COVID-19 Rental Relief Program, which is attached to this Amendment 1 and incorporated by this reference.
2. Except as expressly amended above, all other terms and conditions of the Agreement, as amended, remain in full force and effect.
3. The parties expressly affirm and ratify the Agreement as herein amended.
4. Subgrantee certifies that the representations, warranties, and certifications contained in the Agreement are true and correct as of the effective date of this Agreement and with the same effect as though made at the same time of this Amendment.
5. This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

Certification: By signature on this Amendment, the undersigned hereby certifies for Subgrantee under penalty of perjury that the undersigned is authorized to act on behalf of Subgrantee and that Subgrantee is, to the best of the undersigned’s knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, “Oregon Tax Laws” means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321, and 323 and elderly rental assistance program.



**SIGNATURE PAGE**

**SUBGRANTEE:**

**Clackamas County**

Authorized Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
By (print name): \_\_\_\_\_  
Title: \_\_\_\_\_  
Email: \_\_\_\_\_  
TIN#: \_\_\_\_\_

**OHCS:**

**State of Oregon acting by and through its  
Housing and Community Services Department**

Authorized Signature:  
\_\_\_\_\_  
Margaret Salazar, Director or designee Date

Reviewed and Approved By: Andrea Bell, Director of Housing Stabilization via email 05/07/2020  
Contract Administrator Date

**DEPARTMENT OF JUSTICE**

Approved as to Legal Sufficiency By: Emergency procurement exemption OAR 137-045-0070  
Assistant Attorney General Date

## 2019-2021 MASTER GRANT AGREEMENT

### Exhibit A, Definitions

May 1, 2020

#### Definitions

Certain words and phrases in this agreement, including but not limited to the, applicable Program Element have the meanings provided herein, as stated in federal, state, local laws, regulations and rules or as otherwise provided by OHCS, unless the context clearly requires otherwise:

<b>Word/Phrase</b>	<b>Program Applicability:</b>	<b>Meaning</b>
“Allocation”	All Programs	Means an amount of funding made available to a CAA to be used for a specific purpose.
“Allowable Cost”	All Programs	Means the costs described in the 2 CFR Subtitle B with guidance at 2 CFR Part 200, except to the extent such costs are limited or excluded by other provisions of the Agreement, whether in the applicable NOAs, Program Elements, or otherwise.
“Applicant”	All Programs	Means any person who applies to receive program benefits.
“ASHRAE”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means the American Society of Heating and Air-Conditioning Engineers.
“Assurance 16 funds”	LIHEAP	Means the portion of LIHEAP funds used by states to provide services, including needs assessments, counseling, and assistance with energy vendors, that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance.
“Baseload services”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means any measure that reduces non- heating and cooling costs. These measures can include, but are not limited to, energy efficient lighting, water saving devices, and high efficiency water heaters.
“Client”	All Programs	Means, with respect to a particular Program Element, any individual who is receiving those program services for or through the Subgrantee.
“Committed”	All Programs	Means an amount of funding reserved for specific client or project that subgrantee believes, in their best judgement, will be spent but hasn’t been requested from OHCS.
“Crisis assistance”	LIHEAP, OEAP	Means the assistance provided to low income households for crisis situations such as supply shortages, loss of Household heating or cooling or other situations approved by OHCS as described in the LIHEAP state plan and the energy assistance operations manual.
“Deferral”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means deferring a project that is either structurally unsound or has safety hazards that cannot be addressed under the scope of the program. The project is deferred until the necessary repairs can be completed.

“Department” or “OHCS”	All Programs	Means the Housing and Community Services Department for the state of Oregon.
“DHS”	HSP	Means the Department of Human Services for the state of Oregon.
“Disallowance of Costs”	All Programs	Means money disbursed to Subgrantee by Department under this Agreement and expended by Subgrantee that: a. Is identified by the Federal Government as an improper use of federal funds, a federal notice of disallowance, or otherwise; or b. Is identified by the Department as expended in a manner other than that permitted by this Agreement; or c. Is identified by the Department of expended on the delivery of a Program Element service that did not meet the standards and requirements of this Agreement with respect to that service.
“DOE”	BPA WAP, DOE WAP, LIHEAP	Means the Federal Department of Energy.
“Elderly Household”	ERA	Means an individual living alone, a family with or without children, or a group of individuals who are living together as one economic unit, where at least one member of the household is age 58 or older.
“Eligible dependent child”	HSP	Means an unmarried or separated individual who is either under the age of eighteen (18) years OR is under nineteen (19) years and a full-time student OR is a minor parent OR an unborn child.
“Eligible family household”	HSP	Means a low income household with an eligible dependent child or children, including a single pregnant woman in the month of her due date, living together as one economic unit.
“Emergency shelter”	EHA, ESG, SHAP	Means any appropriate facility that has the primary use of providing temporary or transitional shelter for the homeless in general or for specific populations of the homeless and the use of which does not require occupants to sign leases or occupancy agreements.
“Energy education”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means the activities and instruction designed to help low-income clients make informed decisions to effectively reduce energy consumption.
“Expenditure Period”	All Programs	Means the time period in which the funds are intended to be used.
“Extremely low income”	EHA, ERA, ESG, HTBA, LIRHF, SHAP	Means an annual household income that is at or less than 30% of area median income based on HUD determined guidelines, adjusted for family size.
“Equipment”	All Programs	Means tangible personal property (including information technology systems) having a useful life of more than one year, and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by subgrantee, or as defined in 2 CFR 200.33.
“Funding agreement” or “Agreement”	All Programs	Means the master grant agreement or other written agreement, together with all incorporated documents

		and references, to be executed by and between the department and the subgrantee agency in form and substance satisfactory to the department, as a condition precedent for receipt of program funding from the department.
“Funding application”	All Programs	Means the subgrantee agency’s application to the department for a program grant.
“HHS”	CSBG, HSP, LIHEAP, LIHEAP WX	Means U.S. Department of Health and Human Services.
“HMIS”	CSBG, EHA, ERA, ESG, HSP, HTBA, LIRHF, SHAP, C19-RENTAL RELIEF	Means Homeless Management Information System.
“HOME”	HTBA	Means HUD’s HOME Investment Partnerships Program established by the HOME Investment Partnerships Act at Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, 42 U.S.C. § 12701 et seq.
“Home energy supplier”	LIHEAP	Means a supplier who either delivers home energy in bulk to households, or provides home energy continuously via wire or pipe.
“Home energy supplier”	OEAP	Means Portland General Electric and Pacific Power utility vendors.
“Homeless”	EHA, ERA, ESG, HSP, LIRHF, SHAP	Means an individual, family or household that lacks a fixed, regular, and/or adequate nighttime residence in accordance with department categorical definitions. Categorical definitions are contained in the program manual.
“Household”	CSBG, EHA, ESG, HTBA, LIRHF, SHAP	Means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.
“Household”	LIHEAP, OEAP	Means any individual residing alone or groups of individuals who are living together as one economic unit and purchase residential energy in common.
“Housing”	HTBA	Means rental unit, which may be in a rental complex or a free-standing single family home. It also includes, but is not limited to, rental manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing and single room occupancy housing. Housing does not include emergency shelters (including domestic violence shelters) or facilities, correctional facilities and student dormitories.
“Implementation Report”	All Programs	Means the Subgrantee’s OHCS approved implementation plan for the use of program funds with respect to applicable program elements.
“Income”	All Programs	Means the total household income from all sources before taxes, which may be reduced by deductions allowed by the department in compliance with program requirements. Income does not include assets or funds over which the applicant or household has no control.

“Low-income household”	CSBG	Means a household with an annual household income at or less than 125% of the federal poverty guidelines.
“Low-income household”	EHA, ERA, ESG, HTBA, LIRHF, SHAP	Means a household with an annual household income that is more than 50%, but below 80% of the area median income based on HUD determined guidelines, as adjusted for family size.
“Low-income household”	HSP	Means household with an annual income that is at or below 150% of the federal poverty guidelines and which household assets do not exceed \$2,500.
“Low-income household”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means a household with income that is at or below 200% of the federal poverty level.
“Low-income household”	LIHEAP, OEAP	Means a household with income that is at or below 60% of state median income.
“Maintenance of effort”	HSP	Means DHS allowable nonfederal cash and in-kind contributions used to supplement program services in an amount that equals the subgrantee agency’s program allocation as defined in the program manual and approved by the department.
“Migrant and seasonal farmworker organization”	CSBG	Means a private nonprofit organization organized under ORS chapter 65 that serves migrant and seasonal farmworkers and their families.
“NOA”	All Programs	Means Notice of Allocation which is issued by the Department to subgrantee to award, distribute, or recapture grant funds under this Agreement as they are requested, come available, or are revoked under a program.
“Participant”	All Programs	Means a household who receives program services.
“Peer exchange”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means an exchange of information between peers; usually a visit by one agency to another to review work and exchange ideas and best practices to enhance their programs.
“Program” or “Program Elements” or use of acronym to identify the program	All Programs	Means the program administered by the department pursuant to all applicable federal, state, local laws, rules and regulations.
“Program manual” or “manual”	CSBG, EHA, ERA, ESG, HSP, HTBA, LIRHF, SHAP, LIHEAP, OEAP, C19-RENTAL RELIEF	Means the program operations manual, as amended from time to time.
“Program requirements” or “legal requirements”	All Programs	Means all terms and conditions of the MGA, incorporated exhibits department directives (including deficiency notices), and including applicable, federal, state laws, rules and regulations, executive orders, applicable administrative rules and OHCS program manuals and local ordinances and codes all as amended from time to time.
“Program services”	CSBG, EHA, ERA, ESG, HSP, HTBA, LIRHF, SHAP, C19-RENTAL RELIEF	Means allowable services and activities as defined by the program laws, rules, regulations and eligible under the program.

“Projected (Advance) Expense”	All Programs	Means a payment made by the Department to the subgrantee before the subgrantee disburses the funds for program purposes.
“Poverty guideline”	CSBG, HSP	Means the simplified version of the federal (U.S. Census Bureau) poverty thresholds released annually by HHS to determine financial eligibility for the program.
“Qualified household” or “eligible household”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means any household that meets the qualifications to receive weatherization services.
“Real Property”	All Programs	Means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.
“REM/Design”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means a computerized residential modeling tool used for the purposes of determining the savings to investment ratio of a project or measure.
“Reimbursement”	All Programs	Means the subgrantee’s request for reimbursement of allowable expenses incurred and costs to carry out the delivery of the grant programs and services.
“Savings to investment ratio (SIR)”	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means a comparison of the annual savings to the initial investment in a measure. An SIR of 1.0 indicates that a measure will pay for itself in energy savings over the life of the measure.
“Self-sufficiency”	CSBG, EHA, HTBA	Means meeting basic needs and achieving stability in areas including, but not limited to, housing, household income, nutrition, health care and accessing needed services.
“Subgrantee” or “subgrantee agency” or “agency”	All Programs	Means is a qualified entity, which has demonstrated its capacity and desire to utilize Community Services program funds to administer Community Services programs in accordance with the terms and conditions of this Agreement, including applicable federal statutes and regulations, applicable State statutes, applicable OHCS and other administrative rules, manuals, and orders, as well as applicable local codes, ordinances (all of the foregoing, including as amended from time to time).
“Subaward”	All Programs	Means an award of financial assistance made under an award by the Subgrantee to an eligible subrecipient or by a subrecipient to a lower tier subrecipient.
“Subrecipient”	All Programs	Means a qualified entity that enters into a written agreement with the subgrantee, satisfactory to OHCS, to provide program services to qualified participants.
“TANF”	HSP	Means Temporary Assistance to Needy Families” grant as delivered by DHS.
“Very-low income”	EHA, ERA, HTBA, LIRHF, C19-RENTAL RELIEF	Means an annual household income that is at or less than 50% of the area median income based on HUD determined guidelines adjusted for family size.
“Veteran”	EHA, C19-RENTAL RELIEF	Means a person who served in the U.S. Armed Forces and was discharged under honorable conditions or is receiving a non-service-connected

		pension from the U.S. Department of Veterans Affairs as further defined in ORS 408.225 and the program manual.
"Weatherization services"	BPA WAP, DOE WAP, ECHO, WAP, LIHEAP WAP	Means conservation measures meant to reduce heating and cooling loads. These measures may include both air infiltration reduction and thermal improvements such as wall, attic and floor insulation.

**2019 – 2021 MASTER GRANT AGREEMENT**  
**Exhibit A, Program Element PE 15**  
**COVID-19 RENTAL RELIEF PROGRAM**

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1. **Description.** COVID-19 Rental Relief Program provides state funds from the Emergency Fund to the Oregon Housing and Community Services for rental assistance and safe shelter alternatives during the coronavirus (COVID-19) pandemic.

2. **Scope of Work.**

A) Subgrantee shall, and shall cause and shall require by contract that its subrecipients comply and perform all work to the satisfaction of OHCS, and in accordance with the terms of this agreement, including its implementation report as approved by OHCS and supplemented herein, together with applicable program requirements provided in ORS 458.650. The approved implementation report is incorporated herein by reference. The remaining provisions of this Section 2 are supplemental to and do not limit the obligations of Subgrantee or its subrecipients arising under this Subsection 2A or otherwise under this Agreement.

B) Subgrantee shall, and shall cause and shall require its subrecipients by contract to administer the program in a manner satisfactory to OHCS and in compliance with the program requirements, including but not limited to the following terms and conditions:

1. Conduct an initial evaluation to determine eligibility for program services in alignment with existing local Continuum of Care, developed coordinated entry requirements and department program requirements.
2. Assure that program services are available to very low income households, including but not limited to, veterans, persons more than 65 years of age, disabled persons, farm workers and Native Americans, who meet program eligibility requirements. Populations not defined in Exhibit A, Definitions, shall be defined by Subgrantee.
3. Conduct eligibility assessment for households who have lost employment or income related to COVID-19, been directly impacted by business closure related to COVID-19, diagnosed or exposed to COVID-19, or displaced or unstably housed as a result of public health measures taken to reduce the spread of COVID-19.
4. Utilization of program funds to address the specific needs of various homeless subpopulations is allowable. Specific targeting of funds shall not violate any Fair Housing Act or anti-discriminatory requirements and shall be outlined and approved by OHCS in the Subgrantee's implementation report prior to implementation.

3. **Program Specific Reporting.**

A) Subgrantee shall, and shall cause and shall require its subrecipients by contract to submit to the satisfaction of OHCS all HMIS reports as required in this Agreement. Subgrantee shall, and shall cause and shall require its subrecipients to assure that data collection and reporting, which includes personally identifiable information, be conducted through the use of OHCS-approved HMIS. Subgrantee may request a reporting deadline extension when necessary. An extension request shall be approved by OHCS.



B) Reports submitted shall include:

- a. Quarterly Provider Reports, due 20 days following the end of each fiscal quarter (October 20, January 20, April 20, July 20), to include ensuring that requests for funds have been submitted for all fiscal year expenses by July 30 of each fiscal year. Quarterly reports include personally identifiable information and other data collected through HMIS.
- b. Subgrantee shall provide additional reports as needed or requested by OHCS.

**4. Performance Measures.**

- A) Subgrantee shall, and shall cause and require its subrecipients by contract to administer the program in a manner consistent with program requirements designed to achieve the following performance goals:
- 1) Increased housing stability as measured by the percentage of total program participants who reside in permanent housing at time of their exit from the program or project funded by the program.
  - 2) Increased housing stability as measured by the percentage of program participants who reside in permanent housing (those counted in the above performance goal one) and maintain permanent housing for six months from the time of program or project exit.
  - 3) All other outcome measures indicated in the Subgrantee's approved implementation report.

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## Oregon Housing and Community Services

### COVID-19 Rent Relief Program

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The impact of COVID-19 has been immediate and severe on Oregonians with low and modest economic means. Recognizing that lack of affordable housing and rent assistance was a pre-existing issue, now exacerbated by COVID-19, the Joint Emergency Board allocated \$12 million to Oregon Housing and Community Services of which \$8.5 million is being prioritized to provide rent relief. OHCS' COVID-19 Rent Relief Program (CVRRP) provides much needed rent assistance for people who experienced a loss of income, have compromised health conditions and are at risk of homelessness due to the COVID-19 virus.

Key program elements:

- Program aims to serve households up to 50% AMI
- MGA eligible components are Homeless Prevention Rent Assistance and Rapid Rehousing Rent Assistance

<b>CVRRP Program Specific Eligibility</b>	<b>CVRRP Housing Status Eligibility</b>	<b>CVRRP Income Eligibility</b>	<b>CVRRP Eligible Program Components</b>
<ul style="list-style-type: none"><li>○ Loss of income due to COVID-19 related factors</li><li>○ Compromised health status or elevated risk of infection and vulnerability to impacts to health as related to COVID-19</li></ul>	<ul style="list-style-type: none"><li>○ Unstably Housed</li><li>○ Imminent Risk of Homelessness</li><li>○ Fleeing Domestic Violence</li></ul>	<ul style="list-style-type: none"><li>○ At or below 50% AMI</li></ul>	<ul style="list-style-type: none"><li>○ Homelessness Prevention Rent Assistance</li><li>○ Rapid Re-Housing Rent Assistance</li></ul>

### Homelessness Prevention:

Program funds are eligible for Homeless Prevention Rent Assistance services to enable households whose housing is at risk due to COVID-19 impact.

### Rapid Re-Housing:

Program funds are eligible for Rapid Re-Housing Rent Assistance to enable households who are literally homeless to transition directly to permanent housing.

### Eligible Components and Categories:

Homelessness Prevention Rent Assistance and Rapid Re-Housing Rent Assistance categories include, but are not exclusive to:

- (1) Housing move-in costs such as rent payments and arrearages
- (2) Manufactured home rental space "lot rents"
- (3) Utility payments and arrearages (Other utility assistance programs must be deferred to first, utility assistance is only eligible when other utility assistance cannot be obtained and providing utility assistance is necessary to ensure stability in housing.
- (4) Moving costs, security and utility deposits and application fees
- (5) Housing relocation assistance (**COVID-19 Rent Relief Program Funds are not eligible for client services, case management and or Housing Navigator expenses**)

**Note:** An updated State Operations Program Manual addendum providing additional detail for program uses and restrictions will be forthcoming within the week.

May 7, 2020

## Requestor Information (Implementation Report)

Agency – CCSSD

IR Amendment Contact Name: Brenda Durbin

Phone: 503-706-6746

Email: [BrendaDur@clackamas.us](mailto:BrendaDur@clackamas.us)

### Section 1: Agency Information

Legal Entity Name:

DBA Name (if applicable)

Address, City, Zip: 2051 Kaen Rd., Oregon City, OR 97045

### Section 2: COVID Related Community Needs

*The COVID-19 pandemic and subsequent economic stagnation have brought about an unprecedented need for rental assistance statewide. However, every community is different and faces its' own unique challenges. Please keep your responses as concise as possible.*

- 1. Please comment on your communities' specific needs and challenges as they relate to the COVID-19 crisis and assisting homeless populations with obtaining permanent housing in the present situation.**

Prior to COVID-19, Clackamas County lacked the resources and capacity to successfully house and support its existing houseless population. In 2019, the Coordinating Housing Access waitlist included 1,257 households on its program waitlists (452 chronically homeless, 448 literally homeless, non-chronic, and 357 imminently homeless households). COVID-19 will likely exacerbate this gap between capacity and demand by pushing more at-risk individuals and families into houselessness due to economic difficulties.

For the time period of March 1 through May 13, 2020, 211 Info fielded 326 contacts from Clackamas County residents seeking shelter and/or homeless services. This compares with 276 requests during the same time period in 2019.

The houseless population has experienced unique and difficult challenges during the COVID-19 pandemic. Clackamas County and its community partners have collaborated to ensure houseless individuals have access to food, hand washing stations, showers, face coverings and more to address their very basic needs. Clackamas has also temporarily housed using hotel vouchers 87 houseless individuals who are either experiencing symptoms or are at extreme high risk of contracting COVID-19. Outreach workers continue to engage with houseless individuals throughout the county. However, without additional funds and program capacity, the size and needs of this highly vulnerable population will only increase.

**2. Please comment on your communities' specific needs and challenges as they relate to providing rental assistance to households whose housing status has been jeopardized by the health and economic impacts of COVID-19.**

COVID-19 is wreaking havoc on the Clackamas County job market, as it is across the state, affecting thousands of residents. Between March 1 and May 9, 2020, 27,107 initial unemployment claims were filed by Clackamas County residents. Of these, 12,592 or 46% were filed by workers in job categories with median incomes below \$50,000. Based on the Oregon Housing and Community Services COVID-19 Homeless Prevention Assistance Planning Tool, using the assumptions of paying 50% of rent for 3 months, it would cost more than \$28 million to assist these 12,592 residents.

Further, the estimate based on current unemployment claims only indicates the minimum potential need. More claims are waiting to be processed, and Clackamas County, as part of the metro area, will likely remain under stay-at-home orders longer than other areas of the state. It is anticipated that unemployment claims will continue to be made in high number. Further, some residents, including workers in the "gig economy," have limited access to unemployment assistance.

While Clackamas County has an eviction moratorium in place to provide some protection for those affected by COVID-19, residents are fearful for their housing situations and are seeking assistance with rent in high numbers, as evidenced by contacts with 211 Info. Between March 1 and May 13, 2020, Clackamas residents made 3,283 contacts with 211 Info; of these 904 or 28% were housing related. This compares to 591 housing related contacts made during the same time period in 2019. For the noted time period in 2020, 528 contacts were seeking assistance with rent, compared with 288 contact for the same time period in 2019. Further, 140 of the contacts were listed as need unmet, with rent assistance the top unmet need.

The Coordinated Housing Access Line has also reported an uptick in both the number of calls it has received and the number of people seeking rental assistance. Rough estimates indicate that about 40% of the callers are seeking rental assistance.

The need for rent assistance is overwhelming and is anticipated to increase as Clackamas residents endure COVID restrictions. CCSSD's biggest challenge is the lack of funds to meet the need.

### **Section 3: Use of Funds**

*The scope and severity of the crisis call for a coordinated response utilizing federal and state funding sources and programs.*

**3. Please briefly describe how your agency will utilize these funds and how those uses relate to any strategies you have developed for the use of other funding sources focused on responding to the COVID-19 crisis.**

CCSSD will use these funds to prevent the onset of homelessness for county residents who are experiencing the negative economic and health impacts of COVID-19 and meet the COVID-19 Rent

Relief Program (CVRRP) eligibility requirements. Specific attention will be provided to county residents who must quarantine or self-isolate to keep themselves and others safe.

Focused outreach will be conducted to ensure awareness of the program among highly vulnerable populations, including agricultural and food processing workers; unaccompanied youth; and people from communities of color.

Using these dollars for direct rental assistance will keep households from entering Clackamas County's already overcapacity houseless system. It will keep individuals and families in safe shelter, thus reducing some of their risk of exposure to the virus. It will also allow other anticipated funds, such as CSBG and EFSP dollars, to be used to meet basic essential needs such as food and hygiene products for low-income residents. CCSSD identified populations for focused outreach for the following reasons:

**Agricultural and food processing workers:** As essential workers, these residents must often continue to work in groups without social distancing and are therefore at higher risk of exposure to the virus. Low wages in this sector also make these essential workers more vulnerable to homelessness without additional resources.

**Unaccompanied youth:** These youth are disadvantaged during pandemic because they often work in low-wage jobs in industries that have been particularly hard hit by the pandemic closures. Further, while they don't receive support from their parents/guardians, they are often claimed on their parents' tax returns, making these youth ineligible for stimulus economic impact payments.

**People from communities of color:** National and local reports show that people from communities of color are experiencing more severe health impacts from COVID-19. Health care costs and time away from work due to illness can quickly throw vulnerable families into financial crisis. Coordinated Housing Access (CHA) waitlist analyses have also shown that communities of color are disproportionately impacted by homelessness and housing insecurity in Clackamas County.

**4. Please identify any challenges regarding capacity to utilize these funds and ways that OHCS might help to support you.**

The main barrier in using these funds is staff capacity. As all funds must be used for direct assistance, CCSSD and its community partners will need to rely on existing staff to administer the assistance.

## **Section 4: Targeting Services**

*Data shows that the impacts of the COVID-19 crisis reach across demographics and sectors of the economy, and that some groups experience these impacts more than others do. CVRRP has an income eligibility requirement of 50% or less of AMI.*

**5. Please describe the strategies your agency will use to reach and serve those households who are impacted by income loss or health issues related to COVID-19, and who are at or below 50% of area median income (AMI)?**

CCSSD will work with the county's Public Information Officer and its Emergency Operations Center to disseminate information about the program through its regular communication channels, including social media, website posts, press releases and email distribution lists. Information will also be shared through the Continuum of Care's weekly digest, which is sent to more than 350 social service providers and interested parties. CCSSD will also work closely with community partners who have established relationships with populations who are hard hit by the pandemic to ensure broad awareness and understanding of program access.

CCSSD and its partners will use the Coordinated Housing Access (CHA) system to screen and assess potential program recipients. This will ensure that all receiving assistance will meet the program eligibility requirements.

**6. How will these efforts be inclusive of people of various cultural backgrounds, in the 50% or less AMI bracket, who live in the areas you serve?**

By conducting focused outreach to hard hit communities and using culturally responsive best practices, CCSSD and its partners will ensure implementation of the CVRRP is inclusive of all in the county in need of assistance.

CCSSD will work with the Youth Homelessness Demonstration Project's Youth Action Board to identify strategies to reach and support youth in housing crisis. The agency is participating in a community collaboration to provide COVID-19 emergency response within the Latinx community. This collaboration includes representatives from Catholic Charities, Canby Ahora, Familias en Accion, Oregon Human Development Corporation, as well as several county divisions. CCSSD is also participating actively on the county Emergency Operations Committee's workgroup addressing the needs of vulnerable populations. These connections ensure CCSSD and its community partners are aware of the needs within various communities and can disseminate information about the rent relief program quickly and widely.

CHA has in-house Spanish language capacity, and it uses a language interpretation service that facilitates access to services in more than 200 languages. CHA staff are trained and experienced in working with a diverse population to ensure respectful, competent access to services for all.

***Utilizing partnerships can be an effective strategy for reaching different populations across a community.***

**7. Will you leverage new or existing partnerships, both culturally specific and non-culturally specific, in support of your efforts, how so?**

Yes, CCSSD will work with its existing community partners, Northwest Housing Alternatives (NHA), Clackamas Women's Services (CWS), and Northwest Family Services (NWFS), to distribute these funds to individuals and families in need. Both CWS and NWFS have culturally specific programming serving the Latinx community. CCSSD will also engage with youth providers currently involved in the county's Youth Homelessness Demonstration Project to determine the best methods to reach the unaccompanied youth population. Information about CVRRP and how to access it will be distributed widely through the CoC Digest, to which many of our partners subscribe (mentioned in #5 above).

**8. How will these efforts reach across and serve people in the various geographic areas that your agency covers?**

CHA is the established access point for homeless and at-risk housing services in the county. It is well marketed throughout the county and social service providers consistently refer clients to it for assistance. Calls to CHA are tracked and monitored quarterly to analyze need distribution by community. In the most recent quarter for which data is available, July-September, 2019, 57% of calls originated in the county's most populated areas – Clackamas, Milwaukie and Oregon City. The remaining 43% came from the rest of the county, indicating a wide geographic range of use.

CCSSD, in working with the county's Public Information Officer, will ensure that communication reaches all of the communities in the county to ensure maximum awareness of the program.

**Section 5: Budget**

State the % of Program Funds to be allocated to Homeless Prevention Rental Assistance:100

State the % of Program Funds to be allocated to Rapid ReHousing Rental Assistance:0

**Signature Approval**

**CAA Coordinator Signature:** Erika Silver

**CAA ED Signature:** Brenda Durbin



# Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

## \*\* CONCEPTION \*\*

*Note: The processes outlined in this form are not applicable to disaster recovery grants.*

### Section I: Funding Opportunity Information - To be completed by Requester

Lead Department: H3S - Social Services Division

Application for:  Subrecipient Assistance  Direct Assistance  
Grant Renewal?  Yes  No

If renewal, complete sections 1, 2, & 4 only

If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC

Name of Funding Opportunity: COVID-19 Rental Relief Program Funds

Funding Source: Federal  State  Local

Requestor Information (Name of staff person initiating form): Jessica Diridoni

Requestor Contact Information: jdiridoni@clackamas.us

Department Fiscal Representative: Jennifer Snook

Program Name or Number (please specify): COVID 19 RENT RELIEF PROGRAM-05469

Brief Description of Project:

Oregon Housing and Community Services has allocated funding through an existing IGA with the County. COVID-19 Rental Relief Program Funds under Amendment #1 will provide rental relief funding to eligible individuals and households impacted by COVID-19. Social Services will distribute funding to existing subrecipients and also retain a portion of funding internally. Funding will serve communities and populations impacted by COVID-19 that meet the State's eligibility requirements.

Name of Funding Agency: Oregon Housing and Community Services

Agency's Web Address for funding agency Guidelines and Contact Information:

OR

Application Packet Attached:  Yes  No

Completed By: Jessica Diridoni

5-18-2020

Date

\*\* NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE \*\*

### Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Application

Non-Competing Application

Other

CFDA(s), if applicable:	<u>N/A</u>	Funding Agency Award Notification Date:	<u>May 7, 2020</u>
Announcement Date:	<u>May 7, 2020</u>	Announcement/Opportunity #:	<u>N/A</u>
Grant Category/Title:	<u>COVID-19 Rental Relief Program Funds</u>	Max Award Value:	<u>457,097</u>
Allows Indirect/Rate:	<u>No</u>	Match Requirement:	<u>none</u>
Application Deadline:	<u>ASAP</u>	Other Deadlines:	<u></u>
Award Start Date:	<u>May 1, 2020</u>	Other Deadline Description:	<u></u>
Award End Date:	<u>June 30, 2021</u>	Program Income Requirement:	<u>50% Area Median Income</u>
Completed By:	<u>Jessica Diridoni</u>		
Pre-Application Meeting Schedule:	<u></u>		

**Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff**

**Mission/Purpose:**

1. How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?

This funding aligns with the Social Services Division's strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing.

2. What, if any, are the community partners who might be better suited to perform this work?

Social Services will utilize existing subrecipients and collaborate with community partners.

3. What are the objectives of this funding opportunity? How will we meet these objectives?

Individuals/households must be assessed for eligibility. The main objective is homelessness prevention due to impact of COVID-19.

4. Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?

The purpose of the funding is to provide rent relief to low income households impacted by COVID-19.

**Organizational Capacity:**

1. Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?

Social Services will retain some funding to assist eligible individuals and households, and a portion will be distributed to existing subrecipients, Clackamas Women's Services, Northwest Housing Alternatives, and Northwest Family Services.

2. Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?

While not required, Social Services plans to partner with the Youth Advisory Board and Oregon

3. If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

N/A.

4. If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?

Funds are already allocated by the State. Program continuation is unknown at this time.

**Collaboration**

1. List County departments that will collaborate on this award, if any.

Community Development, Housing Authority of Clackamas County, Public and Government Affairs

**Reporting Requirements**

1. What are the program reporting requirements for this grant/funding opportunity?

Quarterly and annual reporting based on entries in Homeless Management Information System database. Additional requirements for reporting and performance may be addressed

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

Performance measures are defined by funder. Evaluate client destination at client exit and 6 months after exit.

3. What are the fiscal reporting requirements for this funding?

Same requirements as other fund sources within the current Intergovernmental Agreement with funder.

**Fiscal**

1. Will we realize more benefit than this financial assistance will cost to administer?

Yes.

2. Are other revenue sources required? Have they already been secured?

N/A

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

N/A

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

No. Administrative funds will not be available to grantees. Funds are solely targeted to service delivery. The lack of administrative funds could be prohibitive regarding the capacity of

Program Approval:

Erika Silver

5-18-2020

Erika Silver

Digitally signed by Erika Silver  
Date: 2020.05.18 15:03:18 -07'00'

Name (Typed/Printed)

Date

Signature

**\*\* NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR \*\***

**\*\*ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY, COUNTY FINANCE OR ADMIN WILL SIGN.\*\***

**Section IV: Approvals**

<b>DIVISION DIRECTOR (or designee, if applicable)</b>		
<b>Brenda Durbin</b>	<b>5-18-2020</b>	<b>Brenda Durbin</b> <small>Digitally signed by Brenda Durbin Date: 2020.05.18 16:45:40 -07'00'</small>
Name (Typed/Printed)	Date	Signature

<b>DEPARTMENT DIRECTOR (or designee, if applicable)</b>		
<b>Richard Swift</b>		
Name (Typed/Printed)	Date	Signature

<b>FINANCE GRANT MANAGER</b>		
Name (Typed/Printed)	Date	Signature

<b>EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)</b>		
Name (Typed/Printed)	Date	Signature

**Section V: Board of County Commissioners/County Administration**

*(Required for all grant applications. If your grant is awarded, all grant awards must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)*

**For applications less than \$150,000:**

<b>COUNTY ADMINISTRATOR</b>	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

**For applications greater than \$150,000 or which otherwise require BCC approval:**

BCC Agenda item #:

Date:

OR

Policy Session Date:

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County Administration Attestation

**County Administration: re-route to department contact when fully approved.  
Department: keep original with your grant file.**

## E-Board

Origination Date	5/5/2020	Originator	Megan Bolton
------------------	----------	------------	--------------

Biennium	2019-2021
Program Year	2020
Grant period	
Allocation Description	Joint Emergency Board - \$8.5 million

Total Award Amount	\$ 8,500,000.00
OHCS Admin/Discretionary %	0.00%
Agency Admin %	0.00%
OHDC Amount (if applicable)	\$ 455,813.00

Program Award Amount	\$ 8,500,000.00
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OHCS Admin/Discretionary Amt	\$ -
Net Agency Amount	\$ 8,500,000.00
• Agency Admin Amount	\$ -
• Agency Program Amount	\$ 8,500,000.00

Agency	Admin	Program	Total	% of Agency Funds
ACCESS	\$ -	\$ 459,585.00	\$ 459,585.00	5.41%
CAO	\$ -	\$ 764,957.00	\$ 764,957.00	9.00%
CAPECO	\$ -	\$ 186,271.00	\$ 186,271.00	2.19%
CAT	\$ -	\$ 299,610.00	\$ 299,610.00	3.52%
CCNO	\$ -	\$ 162,250.00	\$ 162,250.00	1.91%
CCSSD	\$ -	\$ 457,097.00	\$ 457,097.00	5.38%
CINA	\$ -	\$ 96,070.00	\$ 96,070.00	1.13%
CSC	\$ -	\$ 583,383.00	\$ 583,383.00	6.86%
KLCAS	\$ -	\$ 196,738.00	\$ 196,738.00	2.31%
LCHHS	\$ -	\$ 929,025.00	\$ 929,025.00	10.93%
MCCAC	\$ -	\$ 140,357.00	\$ 140,357.00	1.65%
MULTCO	\$ -	\$ 1,639,002.00	\$ 1,639,002.00	19.28%
MWVCAA	\$ -	\$ 771,012.00	\$ 771,012.00	9.07%
NIMPACT	\$ -	\$ 438,696.00	\$ 438,696.00	5.16%
OHDC	\$ -	\$ 455,813.00	\$ 455,813.00	5.36%
ORCCA	\$ -	\$ 233,165.00	\$ 233,165.00	2.74%
UCAN	\$ -	\$ 489,779.00	\$ 489,779.00	5.76%
YCAP	\$ -	\$ 197,192.00	\$ 197,192.00	2.32%
<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 8,500,002.00</b>	<b>\$ 8,500,002.00</b>	<b>100.00%</b>



**DAN JOHNSON**  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of a Contract with Eagle-Elsner, Inc. for the  
Highland Paving Package**

<b>Purpose/Outcomes</b>	This Contract will resurface 18.1 miles of roads. It will resurface portions of Upper Highland Road, Ferguson Road, Carus Road, and Lower Highland Road
<b>Dollar Amount and Fiscal Impact</b>	Total contract value is \$5,065,021.50
<b>Funding Source</b>	Upper Highland Road: Road Fund; Ferguson Road: Community Road Fund; Carus Community Road Fund; and Lower Highland Road: Road Fund
<b>Duration</b>	Contract execution through December 31, 2020
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	This project will provide strong infrastructure and ensure safe communities by maintaining the County's existing road infrastructure.
<b>Counsel Approval</b>	May 12, 2020
<b>Contact Person</b>	Vince Hall, Project Manager 503-650-3210

**Background:**

This contract will resurface 18.1 miles of road along four (4) road sections. Sections of road include: (1) Upper Highland Road between the Beaver Creek Road and Highway 211. Upper Highland Road has an average daily traffic of 1,500 vehicles per day and is classified as a minor arterial. (2) A portion of Ferguson Road between Beaver Creek Road and the end of County maintenance. Ferguson Road has an average daily traffic of 1,030 vehicles per day and is classified as a local. (3) A portion of Carus Road between Beaver Creek Road and Lower Highland Road. Carus Road has an average daily traffic of 225 vehicles per day and is classified as a local. (4) Lower Highland Road between the Beaver Creek Road and Upper Highland Road. Lower Highland Road has an average daily traffic of 1,475 vehicles per day and is classified as a minor arterial. This contract will include placing asphalt; grinding asphalt; placing pavement markings and striping; installing, maintaining, and removing temporary work zone traffic control measures; and performing additional incidental work as called for by the specifications and plans.

The project work is anticipated to begin immediately following contract signing. Substantial completion will be not later than September 25, 2020, with final completion no later than December 31, 2020.

This will be the first paving contract to use Community Road Fund.

**Procurement Process:**

This project was advertised in accordance with ORS and LCRB Rules on March 3, 2020. Bids were opened on April 16, 2020. The bid was advertised as a base bid with an additional alternative. The base bid included Upper Highland, Ferguson Road, and Carus Road. The additional alternative included Lower Highland Road. The County received three (3) base bids: Eagle-Elsner, Inc., \$3,992,348.75; Granite Construction, Co., \$5,984,984.00; and Knife River Corporation, \$5,064,345.55. After review of the base bids, Eagle-Elsner, Inc. was determined to be lowest responsive bidder.

Upon acceptance of the base bid, DTD elected to accept the bid alternative to include Lower Highland Road for an additional \$1,072,672.75, increasing the contract total to \$5,065,021.50.

**Recommendation:**

Staff respectfully recommends that the Board approve and sign this public improvements contract with Eagle-Elsner, Inc. for the Highland Road Paving Package.

Sincerely,

Mike Bezner  
Assistant Director of Transportation

Placed on the BCC Agenda \_\_\_\_\_ by Procurement



**CLACKAMAS COUNTY  
PUBLIC IMPROVEMENT CONTRACT**

Contract #2841

This Public Improvement Contract (the "Contract"), is made by and between the Clackamas County, a political subdivision of the State of Oregon, hereinafter called "Owner," and **Eagle-Elsner, Inc.**, hereinafter called the "Contractor" (collectively the "Parties"), shall become effective on the date this Contract has been signed by all the Parties and all County approvals have been obtained, whichever is later.

Project Name: **#2020-22 Highland Paving Package**

**1. Contract Price, Contract Documents and Work.**

The Contractor, in consideration of the sum of **five million sixty-five thousand twenty-in dollars and fifty cents (\$5,065,021.50)** (the "Contract Price"), to be paid to the Contractor by Owner in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Instructions to Bidders and other Contract Documents (as defined in the Clackamas County General Conditions for Public Improvement Contracts (1/1/2020) ("General Conditions") referenced within the Instructions to Bidders), all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents. The Work will include paving Upper Highland Road, a portion of Ferguson Road, a portion of Carcus Road and Lower Highland Road between Beaver Creek and Upper Highland Road. The Contract Price is the amount contemplated by the Base Bid plus **Alternate #1**, as described in the accepted Bid.

Also, the following documents are incorporated by reference in this Contract and made a part hereof:

- Notice of Contract Opportunity
- Supplemental Instructions to Bidders
- Bid Form
- Performance Bond and Payment Bond
- Supplemental General Conditions
- Payroll and Certified Statement Form
- Addenda 1-5
- Instructions to Bidders
- Bid Bond
- Public Improvement Contract Form
- Clackamas County General Conditions
- Prevailing Wage Rates
- Plans, Specifications and Drawings

**2. Representatives.**

Contractor has named Richard Eagle as its Authorized Representative to act on its behalf. Owner designates, or shall designate, its Authorized Representative as indicated below (check one):

Unless otherwise specified in the Contract Documents, the Owner designates Vince Hall as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to Contract performance, payment, authorization, and to carry out the responsibilities of the Owner.

Name of Owner's Authorized Representative shall be submitted by Owner in a separate writing.

**3. Key Persons.**

The Contractor's personnel identified below shall be considered Key Persons and shall not be replaced during the project without the written permission of Owner, which shall not be unreasonably withheld. If the Contractor intends to substitute personnel, a request must be given to Owner at least 30 days prior to the intended time of substitution. When replacements have been approved by Owner, the Contractor shall provide a transition period of at least 10 working days during which the original and replacement personnel shall be working on the project concurrently. Once a replacement for any of these staff members is authorized, further



replacement shall not occur without the written permission of Owner. The Contractor's project staff shall consist of the following personnel:

**Project Executive:** Richard Eagle shall be the Contractor's project executive, and will provide oversight and guidance throughout the project term.

**Project Manager:** Curtis Cooksey shall be the Contractor's project manager and will participate in all meetings throughout the project term.

**Job Superintendent:** David Elsner shall be the Contractor's on-site job superintendent throughout the project term.

**Project Engineer:** Curtis Cooksey shall be the Contractor's project engineer, providing assistance to the project manager, and subcontractor and supplier coordination throughout the project term.

#### **4. Contract Dates.**

COMMENCEMENT DATE: Upon Issuance of Notice to Proceed

SUBSTANTIAL COMPLETION DATE: September 25, 2020

FINAL COMPLETION DATE: December 31, 2020

Time is of the essence for this Contract. It is imperative that the Work in this Contract reach Substantial Completion and Final Completion by the above specified dates.

#### **5. Insurance Certificates.**

In accordance with Section G.3.5 of the General Conditions and item 2 of the Supplemental General Conditions, Contractor shall furnish proof of the required insurance naming Clackamas County as an additional insured. Insurance certificates may be returned with the signed Contract or may be emailed to [Procurement@clackamas.us](mailto:Procurement@clackamas.us).

#### **6. Tax Compliance.**

Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

**7. Confidential Information.**

Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is confidential to Owner. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract shall be deemed confidential information of Owner (“Confidential Information”). Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor 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 Contract.

**9. Counterparts.**

This Contract may be executed in several counterparts, all of which when taken together shall constitute an agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

**10. Integration.**

All provisions of state law required to be part of this Contract, whether listed in the General or Special Conditions or otherwise, are hereby integrated and adopted herein. Contractor acknowledges the obligations thereunder and that failure to comply with such terms is a material breach of this Contract.

The Contract Documents constitute the entire agreement between the parties. There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Contract. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

**11. Liquidated Damages**

The Contractor acknowledges that the Owner will sustain damages as a result of the Contractor’s failure to substantially complete the Project in accordance with the Contract Documents. These damages may include, but are not limited to delays in completion, use of the Project, and costs associated with Contract administration and use of temporary facilities.

11.1 Liquidated Damages shall be as follows if the actual Substantial Completion exceeds the required date of Substantial Completion:

11.1.1. \$1,000 per Calendar day past the Substantial Completion date.

**12. Compliance with Applicable Law.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract including, but not limited to, compliance with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default.

**13. Responsibility for Taxes.** Contractor is solely responsible for payment of any federal, state, or local taxes required as a result of the Contract or the Work including, but not limited, to payment of the corporate activity tax imposed under enrolled HB 3427 (2019 Oregon regular legislative session). Contractor may not include its federal, state, or local tax obligations as part of the cost to perform the Work.

**Signature page to follow.**

**In witness whereof**, Clackamas County executes this Contract and the Contractor does execute the same as of the day and year first above written.

Contractor DATA:  
**Eagle-Elsner, Inc.**  
**P.O. Box 23294**  
**Tigard, Oregon 97281**

Contractor CCB # 27112    Expiration Date: 4/2/2022  
Oregon Business Registry # 135009-13    Entity Type: DBC    State of Formation: Oregon

*Payment information will be reported to the IRS under the name and taxpayer ID# provided by the Contractor. Information must be provided prior to contract approval. Information not matching IRS records could subject Contractor to 28 percent backup withholding.*

Eagle-Elsner, Inc.

Clackamas County Board of County Commissioners

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name / Title Printed

\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Date

DRAFT

Approval of Previous Business Meeting Minutes:

March 26, 2020

# BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

<https://www.clackamas.us/meetings/bcc/business>

**Thursday, March 26, 2020 – 10:00 AM**

**Virtual Meeting via Zoom**

**PRESENT:** Chair Jim Bernard  
Commissioner Sonya Fischer  
Commissioner Ken Humberston  
Commissioner Paul Savas  
Commissioner Martha Schrader

Commissioners encourage public to refrain from attending public meetings of the Board; instead participate digitally.

## CALL TO ORDER

- Roll Call
- Pledge of Allegiance

Chair Bernard:

- We are holding this meeting virtually. If you've joined us on the Zoom app for this meeting, and you are interested in providing public comment, we will prompt you regarding how to do that when the time is right.
- You will have the option of providing your comments to us live.
- Alternatively, anyone can send in a comment to be read during the Citizen Communication portion of our meeting over email. Just send it in at any time during the meeting by emailing [ClackCoNews@clackamas.us](mailto:ClackCoNews@clackamas.us).
- Be sure to include your name and area when you email.

## \*\*\*COVID-19 Update

Nancy Bush gave a brief update regarding COVID-19.

Gary Schmidt, County Administrator:

The following items were approved and signed in accordance with Clackamas County [Emergency Declaration 2020-14](#) due to the COVID-19 Public Health Emergency.

	DEPARTMENT	ITEM
1	Health, Housing & Human Services (H3S) Signed by Gary Schmidt, 3-19-2020 and brought to issues 3-24-2020	Approval of Amendment No. 3 to a Grant Agreement with Do Good Multnomah for COVID-19 Services <a href="#">Staff Report 1.pdf</a>
2	Health, Housing & Human Services (H3S) Signed by Chair Bernard, 3-24-2020	Approval of Amendment No. 1 to the Intergovernmental Grant Agreement with the State of Oregon, Housing & Community Services Department COVID-19 Operating Expenses <a href="#">Staff Report 2.pdf</a>

## MOTION:

Commissioner Humberston: I move we ratify the two agreements as presented.  
Commissioner Fischer: Second.  
all those in favor/opposed:  
Commissioner Fischer: Aye.  
Commissioner Humberston: Aye.  
Commissioner Savas: Aye.  
Commissioner Schrader: Aye.  
Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

## **I. PUBLIC HEARING**

1. Second Reading of **Ordinance No. 03-2020** Amending the Clackamas County Code Chapter 8.02, Transient Room Tax – *1<sup>st</sup> Reading was 3-12-2020*

Haley Fish, Finance presented the staff report.

Chair Bernard opened the public hearing and asked if anyone would like to speak, seeing none he closed the public hearing and asked for a motion.

### **MOTION:**

Commissioner Humberston: I move we read the Ordinance by title only.

Commissioner Fischer: Second.

all those in favor/opposed:

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

Chair Bernard asked the Clerk to read the Ordinance by title only, he then asked for a motion.

### **MOTION:**

Commissioner Humberston: I move we adopt Ordinance No. 03-2020 amending the Clackamas County Code Chapter 8.02, Transient Room Tax.

Commissioner Schrader: Second.

all those in favor/opposed:

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

## **II. CONSENT AGENDA**

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

### **MOTION:**

Commissioner Humberston: I move we approve the consent agenda.

Commissioner Fischer: Second.

the Clerk called the roll

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

### **A. Health, Housing & Human Services**

1. Approval for Amendment No. 6 to Agreement #646 to a Revenue Agreement with Providence Health Plan, Providence Health Assurance for the New Oregon Health Plan Compliance Provisions – *Heath Centers*
2. **Board Order No. 2020-24** Designating a Clackamas County Housing and Urban Development Certifying Officer – *Community Development*
3. **Board Order No. 2020-25** Authorizing the Community Development Division Manager to sign Housing Rehabilitation Program Lan and Grant Documents – *Community Development*
4. Approval of a Federal Subrecipient Grant Agreement with Clackamas Women's Services for Emergency Shelter Services – *Social Services*

5. Approval of Amendment #07 to the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority for Operation as the Local Public Health Authority for Clackamas County – *Public Health*
6. Approval of a Personal Services Contract with the Mental Health Association of Oregon for Zero Suicide Peer Wellness Specialist – *Procurement*

**B. Department of Transportation & Development**

1. Approval of a Contract with North Santiam Paving Company for the Clackamas River Drive Paving Package - *Procurement*

**C. Elected Officials**

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

**D. Department of Human Resources**

1. Approval of a Contract with Cascade Centers Inc. for the Clackamas County Employee Assistance Program (EAP) Services - *Procurement*

**E. Technology Services**

1. Approval to Add 19 Additional Redundant Fiber Connections to the Service Level Agreement between Clackamas Broadband eXchange and the North Clackamas School District
2. Approval of an End User License Agreement with WMWare, Procurement of Software Services from Dell Inc. for Security Compliance Requirements - *Procurement*

**III. CITIZEN COMMUNICATION**

Dylan Blaylock, Public & Government Affairs Staff moderated this portion of the agenda.

<https://www.clackamas.us/meetings/bcc/business>

1. Grover Bornefeld, Oak Grove – wanted to thank the Board for their work.
  2. Lea Sundquist, Extension Service – Oregon City – thank you for your hard work.
  3. Jebadia, Oregon City via email –requests a Disc Golf Course in Clackamas County and a rent freeze until restrictions are lifted.
  4. Marci Slater, Hoodland – via email – asked for a formal extension to the Hoodland MOU.
- ~Board Discussion~ this will be brought forward for consideration.

**IV. COUNTY ADMINISTRATOR UPDATE**

<https://www.clackamas.us/meetings/bcc/business>

**V. COMMISSIONERS COMMUNICATION**

<https://www.clackamas.us/meetings/bcc/business>

**MEETING ADJOURNED 10:55 AM**

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



Evelyn Minor-Lawrence  
Director

DEPARTMENT OF HUMAN RESOURCES  
PUBLIC SERVICES BUILDING  
2051 Kaen Road | Oregon City, OR 97045

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of Contract between Clackamas County, Department of Human Resources and Navia Benefit Solutions, Inc., for Flexible Spending Account (FSA) Services

<b>Purpose/Outcomes</b>	Approval of Flexible Spending Account Contract through 12/31/2024
<b>Dollar Amount and Fiscal Impact</b>	Not to exceed \$189,100.00 over the life of the Contract.
<b>Funding Source</b>	Benefits Division pays \$5 per employee per month (PEPM) for administrative fees funded from the department Benefits Administration Fee. Employees fund their account through payroll deduction.
<b>Duration</b>	January 1, 2020 through December 31, 2024
<b>Previous Board Action</b>	No previous action
<b>Strategic Plan Alignment</b>	County departments and employees will benefit from increased engagement, productivity and benefit/needs alignment as evidenced by: <ul style="list-style-type: none"> <li>○ 80% of employees return to work within 90 days of initial non-occupational short-term disability</li> <li>○ By 2025, annual alignments of wellness programs with workforce needs</li> </ul> The FSA is a financial well-being tool to help employees have tax savings and pay for health care and dependent care needs.
<b>Counsel Review</b>	May 7, 2020
<b>Contact Person</b>	Kristi Durham, Benefits Manager 503-742-5470
<b>County Contract No.</b>	#2738

**BACKGROUND:**

A Flexible Spending Account (FSA) provides a tool for employees to use pre-tax earnings to pay for eligible health care and/or dependent daycare expenses administered by Navia Benefit Solutions, Inc. Employees designate a pre-determined amount to be deducted from each pay-period.

There are two types of FSAs:

- The **Health Care FSA** is used to pay for most out-of-pocket medical, vision, and dental care expenses for the employee and their eligible dependents.
- The **Dependent Care FSA** is for eligible day care expenses for a dependent child age under the age of 13, or elder care for a dependent adult, while the employee and their spouse work (or if spouse is a full-time student or disabled).





Evelyn Minor-Lawrence  
Director

DEPARTMENT OF HUMAN RESOURCES  
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**PROCUREMENT PROCESS:**

Flexible Spending Account (FSA) Services is exempt from the standard procurement process under the LCRB rule C-047-0288(10) Class Special Procurement, Insurance Contracts.

**RECOMMENDATION:**

Staff respectfully recommends the Board of County Commissioners approve the contract with Navia Benefit Solutions, Inc. for Flexible Spending Account (FSA) Services

Respectfully submitted,

Evelyn Minor-Lawrence, Director

Placed on the Agenda of \_\_\_\_\_ by the Procurement Division



**NAVIA BENEFIT SOLUTIONS ADMINISTRATIVE SERVICES AGREEMENT (v. 2020)**

**CONTRACT INFORMATION PAGE**

This NAVIA ADMINISTRATIVE SERVICES AGREEMENT ("Agreement") is entered into as of the Effective Date by and between Navia Benefit Solutions, Inc. ("Navia"), a Washington Corporation, and the Clackamas County ("County").

Name of County:	Clackamas County
Effective Date:	<b>January 1, 2020</b>
Expires on:	<b>December 31, 2024</b>
Notices Sent to County:	2051 Kaen Rd #310 Oregon City, OR 97045
Notices Sent to Navia	600 Naches Ave SW Renton, WA 98057

IN WITNESS WHEREOF, County and Navia have reviewed the forgoing Agreement in its entirety and have caused their undersigned Representative(s) to execute this Agreement, the same being duly authorized to do so.

**CLACKAMAS COUNTY**

**NAVIA BENEFIT SOLUTIONS, INC.**

\_\_\_\_\_  
Board of County Commissioners – Chair

SIGNATURE: \_\_\_\_\_

\_\_\_\_\_  
Recording Secretary

NAME: HILARIE AITKEN

\_\_\_\_\_  
Date

TITLE: CEO

DATE: \_\_\_\_\_

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## **NAVIA ADMINISTRATIVE SERVICE AGREEMENT**

County has asked Navia to provide administrative services for certain employee Benefit Plans maintained by County as described in this Agreement. In consideration of the mutual promises contained in this Agreement, County and Navia agree as follows:

### **GENERAL TERMS AND CONDITIONS**

#### **ARTICLE I: DEFINITIONS**

All capitalized terms in this Agreement not defined in this Section shall have the meanings set forth in the Sections or Schedules of this Agreement in which they are defined.

##### **1.1 AFFILIATE**

“Affiliate” means a business entity now or hereafter controlled by, controlling or under common control with a Party. Control exists when an entity owns or controls directly or indirectly 50% or more of the outstanding equity representing the right to vote for the election of directors or other managing authority of another entity.

##### **1.2 AGREEMENT**

“Agreement” means the following: the Contract Information Page, the General Terms and Conditions, the Schedules and the Exhibits that are specifically incorporated by the Parties into this Agreement by reference.

##### **1.3 BENEFIT PLANS**

“Benefit Plan(s)” means one or more employee benefits plans, 132 Transportation benefits, COBRA Administration, or Direct Billing Administration established and maintained by County for the benefit of its employees and their eligible dependents for which Navia provides Services in accordance with this Agreement.

##### **1.4 BUSINESS DAY**

“Business Day” means Monday through Friday, excluding days deemed to be federal holidays.

##### **1.5 CARD RECIPIENT**

“Card Recipient” means the individual to whom Card Services Provider issues an Electronic Payment Card in accordance with this Agreement.

##### **1.6 CARD SERVICES PROVIDER**

“Card Services Provider” means the third party chosen by Navia to issue Electronic Payment Cards in accordance with this Agreement and/or process electronic payment card transactions.

##### **1.7 CARRIER**

“Carrier” means the insurance Carrier or other benefit provider designated by the County.

##### **1.8 CLAIMS ADMINISTRATOR**

“Claims Administrator” means Navia.

##### **1.9 COBRA ELECTION NOTICE**

“COBRA Election Notice” means the election form included in the Specific Rights Notice.

#### **1.10 CODE**

“Code” means the Internal Revenue Code of 1986 and the regulations thereunder, as amended from time to time.

#### **1.11 COVERED DEPENDENT**

“Covered Dependent” means any person other than the Covered Employee who is covered under a Benefit Plan by virtue of his relationship to the Covered Employee.

#### **1.12 COVERED EMPLOYEE**

“Covered Employee” means any of County’s employees or former employees who are enrolled in a Benefit Plan or who have established a Health Savings Account as defined in Code Section 223.

#### **1.13 COVERED INDIVIDUAL**

“Covered Individual” means a Covered Employee or a Covered Dependent.

#### **1.14 DISBURSEMENT REPORT**

“Disbursement Report” means a file or report created by Navia, posted to the Website that details the benefit disbursements.

#### **1.15 ELIGIBILITY AND PAYROLL DEDUCTION REPORT (“EDR”)**

“Eligibility and Payroll Deduction Report” means a file or report created by Navia, posted to the Website, and verified by the County against payroll deductions for each processing date.

#### **1.16 ELECTRONIC PAYMENT CARD**

“Electronic Payment Card” means a debit card or store value card used to pay for eligible expenses under the Benefit Plan(s).

#### **1.17 ELIGIBLE EMPLOYEE**

“Eligible Employee” means an employee that is eligible for the Benefit Plan(s) as determined by the County.

#### **1.18 EXHIBIT**

“Exhibit” means the document or documents specifically incorporated by the Parties into this Agreement by reference that describe the specific rights, duties, and obligations of the Parties.

#### **1.19 FEES**

“Fees” means the amount that must be paid as indicated in each Schedule.

#### **1.20 GRACE PERIOD**

“Grace Period” means the 2.5-month period after the end of the Plan Year during which eligible expenses incurred during that time may be applied toward the previous Plan Year.

#### **1.21 INTELLECTUAL PROPERTY RIGHTS**

“Intellectual Property Rights” means all intellectual property rights throughout the world, including copyrights, patents, mask works, trademarks, service marks, trade secrets, inventions (whether or not patentable), know how, authors’ rights, rights of attribution, and other proprietary rights and all applications and rights to apply for registration or protection of such rights.

#### **1.22 PARTY OR PARTIES**

“Party” means County or Navia collectively, and County and Navia shall be referred to as “Parties”.

**1.23 PLAN ADMINISTRATOR**

“Plan Administrator” means County.

**1.24 PLAN APPLICATION**

“Plan Application” means the online or form questionnaire provided by Navia to County used to gather County and Plan design information.

**1.25 PLAN DOCUMENT**

“Plan Document” means a document that describes the Plan’s terms and conditions related to the operation and administration of the plan.

**1.26 PLAN YEAR**

“Plan Year” means a period of time determined by the County no longer than 12 months.

**1.27 REPRESENTATIVE**

“Representative” means an officer, director, or individual with authority to bind the Party.

**1.28 RUN-OUT-PERIOD**

“Run-out Period” means the period of time after the end of the Plan Year during which Covered Individuals can submit claims.

**1.29 SCHEDULE(S)**

“Schedule(s)” means the document or documents specifically incorporated by the Parties into this Agreement by reference that describe the specific Services and the specific rights and obligations of the Parties with respect to such Services.

**1.30 SERVICES**

“Services” means Benefit Plan related administrative services as described specifically in the Schedules, together with any materials, supplies, tangible items or other goods Navia furnishes in connection with the Services.

**1.31 SPECIFIC RIGHTS NOTICE**

“Specific Rights Notice” means the notice that must be provided to each qualified beneficiary in connection with a COBRA qualifying event.

**1.32 SUBCONTRACTOR**

“Subcontractor” means a third-party to whom a Party has delegated or subcontracted any portion of its obligations set forth herein.

**1.33 WE OR US**

“We” or “Us” means Navia.

**1.34 YOU OR YOUR**

“You” or “your” means County.

**1.35 YEAR-TO-DATE REPORT**

“Year-to-Date Report” means a file or report created by Navia, posted to the Website that details contributions, disbursements, and benefit election, if applicable.



## **ARTICLE II. RELATIONSHIP AND TERM**

### **2.1 RELATIONSHIP OF THE PARTIES**

Navia is an independent contractor. Nothing in this Agreement or in the activities contemplated by the Parties hereunder shall be deemed to create an agency, partnership, employment, or joint venture relationship between the Parties, their Affiliates, or any of their Subcontractors or Representatives County acknowledges that Navia is not an accounting or law firm. No Services, and no written or oral communications made by Navia during the course of providing Services, are or should be construed by County as tax or legal advice.

### **2.2 TERM OF THE AGREEMENT**

This Agreement shall be in effect from **January 1, 2020**, Effective Date and will continue until **December 31, 2024** (“Term”). County and Navia acknowledge that services have been performed previous to Agreement signing and desire to affirm and pay for such services pursuant to this Agreement. Provided, however, that nothing herein shall constitute a waiver of any right or claim County may have against Navia for previously performed services. Each Schedule may have a later effective date than this Agreement to the extent that County and Navia agree to the terms set forth in the Schedule after this Agreement has already become effective. If the County uses the Services of Navia, this Agreement will be deemed to be in effect as of the date Navia begins providing such Services even if a copy of this Agreement has not been signed and returned by the County—all fees and monthly charges will be due and payable as set forth herein.

### **2.3 TERMINATION WITHOUT CAUSE**

Either Party may terminate this Agreement for convenience, without cause, at any time without further charge or expense with at least thirty (30) calendar days prior written notice to the other Party.

### **2.4 TERMINATION FOR CAUSE**

In addition to any other remedies available to a Party, a Party may immediately terminate this Agreement upon the occurrence of a Termination Event by the other Party by providing written notice of termination to the other Party.

The following events constitute a Termination Event:

- (a) County fails to pay the applicable Fees or satisfy the applicable funding requirements as set forth herein;
- (b) Failure of a Party to cure a material breach (to the extent curable) within thirty (30) calendar days after written notice of the breach and intent to terminate is provided by the non-breaching Party;
- (c) County files for bankruptcy, becomes or is declared insolvent (generally unable to pay its debts as they become due), is the subject of any proceedings (not dismissed within 30 days) related to its liquidation, insolvency or the appointment of a receiver or similar officer, makes an assignment for the benefit of all or substantially all of its creditors, takes any corporate action for its winding-up, dissolution or administration, enters into an Agreement for the extension or readjustment of substantially all of its obligations, or recklessly or intentionally makes any material misstatement as to its financial condition. In the interest of risk reduction for both Parties, Navia may immediately suspend Benefit Plan processing (including debit cards) without notice upon the occurrence of any of the circumstances described in this section (c). Upon written notice to County, Navia may terminate services for a Covered Employee for persistent abusive, offensive, or similar behavior toward Navia employees.

## **2.5 POST TERMINATION OBLIGATIONS**

- (a) If County terminates this Agreement, Navia shall reasonably cooperate with County to transition information to County or a new third party pursuant to the reasonable instructions of County, in accordance with the terms of this Agreement, as necessary to enable the new service provider to perform services without disruption to Covered Individuals. County is obligated to reimburse all reasonable costs and expenses incurred by Navia for continued administration during the transition process (including administration Fees during the claims run-out period) and transitioning any necessary information as set forth herein. Covered Individual claims submitted to Navia after termination of the Agreement or expiration of the claims run-out period, whichever is later, will be denied and Participants will be redirected to the County and Navia will have no further responsibility with respect to Covered Individual claims received after such time.
- (b) The rights and obligations of the Parties that by their nature must survive termination or expiration of this Agreement in order to achieve its fundamental purposes include, without limitation, Section 5.1 through Section 5.5, Article VI, Section 7.7, and the Business Associate Agreement in Exhibit A.
- (c) Termination of this Agreement shall not terminate the rights or obligations of either Party arising prior to the effective date of such termination. Notwithstanding anything to the contrary herein upon termination of this Agreement, all Fees, funding, and other amounts owed will become immediately due and payable.

## **ARTICLE III. FEES**

### **3.1 FEES FOR SERVICES**

The Fees that County must pay Navia for Services are set forth in the Fee section of each Schedule. To the extent that Navia sends a monthly invoice, all Fees are due upon receipt of the monthly invoice; however, there is a thirty (30) day period after which 1.5% interest per month will accrue with respect to any unpaid Fees to the extent Navia does not terminate the Agreement in accordance with Article III herein. If the invoice is mailed by Navia, the recipient is deemed to have received the invoice within three (3) Business Days after Navia mails the invoice. Failure to timely and completely pay such Fees may also result in suspension of all or part of the Services provided or, in Navia's discretion, termination of the Agreement.

### **3.2 FEES FOR ADDITIONAL SERVICES**

Additional Fees for additional Services not listed in the Schedules shall be as mutually agreed in writing between County and Navia prior to performance. Such Fees may result from County's specific requests for legal guidance provided by an outside firm, development time, or third-party audit Fees.

### **3.3 FEE TERMS AND CHANGES IN FEES**

- (a) Fees are effective beginning with the Effective Date unless otherwise provided herein.
- (b) Navia may change Fees to the extent that (i) changes are made in applicable law that materially affect the rights and obligations of Navia set forth herein, (ii) County amends the Benefit Plan in a manner that materially impacts the Services provided herein; or (iii) Navia provides written notice of a proposed Fee change to County. Fee changes shall only be effective upon execution of a mutually acceptable written amendment to this Agreement. If County does not agree with a proposed Fee change, County may terminate the Agreement.

## **ARTICLE IV. WARRANTIES AND REPRESENTATIONS**

### **4.1 MUTUAL WARRANTIES AND REPRESENTATIONS**

Each Party represents and warrants the following:

- (a) the Party's execution, delivery and performance of this Agreement: (i) have been authorized by all necessary corporate action, (ii) do not violate the terms of any law, regulation, or court order to which such Party is subject or the terms of any material agreement to which the Party or any of its assets may be subject and (iii) are not subject to the consent or approval of any third party;
- (b) This Agreement is the valid and binding obligation of the representing Party, enforceable against such Party in accordance with its terms;
- (c) Such Party is not subject to any pending or threatened litigation or governmental action which could interfere with such Party's performance of its obligations hereunder; and
- (d) Both Parties will perform their respective obligations under this Agreement in compliance with all laws, rules, regulations, and other legal requirements applicable to the Party.

### **4.2 NAVIA'S WARRANTIES AND REPRESENTATIONS**

- (a) Navia represents and warrants that the Services shall reasonably conform to the Schedules described herein.
- (b) Other than as specifically set forth herein, Navia makes no representation or warranty, express or implied, written or oral, and, to the full extent permitted by law, disclaims all other warranties including, but not limited to, the implied warranties of merchantability or fitness for a particular purpose.

### **4.3 COUNTY'S WARRANTIES AND REPRESENTATIONS**

County represents and warrants they are not subject to any pending or threatened litigation, governmental action, or investigation from the IRS, DOL, HHS, or otherwise with respect to any Benefit Plans. If County is subject to any litigation, action, or investigation, or becomes subject while this Agreement is in effect, County shall promptly notify Navia in writing in advance of the Effective Date of this agreement, or within 10 days of County becoming aware of such litigation, action, or investigation.

## **ARTICLE V: INFORMATION AND RECORDS**

### **5.1 RECORDS GENERALLY**

County and Navia shall retain records and supporting documentation sufficient to document its satisfaction of its obligations under this Agreement in accordance with laws and generally accepted accounting principles for at least seven (7) years from the date such record or documentation is created.

### **5.2 CONFIDENTIAL AND PROPRIETARY INFORMATION - GENERALLY**

- (a) The term "Confidential Information" shall mean this Agreement and all non-public data, trade secrets, business information and other information of any kind whatsoever that a Party ("Discloser") discloses, in writing, orally, visually or in any other medium, to the other Party ("Recipient") or to which Recipient obtains access and that relates to Discloser or, in the case of Navia, its customers. A "writing" shall include an electronic transfer of information by e-mail,

over the Internet or otherwise. Confidential Information shall not include Benefit Plan information (i.e. card swipe data, Benefit Plan reports, claims, explanation of benefits and other Protected Health Information). Such information will be protected under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) Health Information Technology for Economic and Clinical Health Act (HITECH”), and/or other applicable privacy and security laws.

- (b) Each of the Parties, as Recipient, hereby agrees that it will not, and will cause its Representatives, Affiliates, vendors, Subcontractors, and third-parties not to disclose Confidential Information of the other Party, during or after the Term of this Agreement, other than on a “need to know” basis and then only: (a) for the purposes of providing, enhancing, optimizing, or auditing the Services or to satisfy a legal or contractual requirement; (b) provided that any Representatives, Affiliates, vendors, Subcontractors, and third-parties who receive Confidential Information are subject to a written confidentiality agreement that shall be no less restrictive than the provisions of this Section.
- (c) Recipient shall not use or disclose Confidential Information of the other Party for any purpose other than to carry out its obligations set forth herein.
- (d) Recipient shall treat Confidential Information of the other Party with no less care than it employs for its own Confidential Information of a similar nature that it does not wish to disclose, publish, or disseminate, but not less than a reasonable level of care.
- (e) Upon the Discloser’s written request following expiration or termination of this Agreement for any reason, the Recipient shall promptly return or destroy all Confidential Information in the possession of Recipient or Recipient’s Representatives, Affiliates, vendors, Subcontractors, and third-parties, provided that either Party may retain copies of such files as needed to administer the Benefit Plan(s) or to protect its interests. If it is determined that returning or destroying all Confidential Information of County is infeasible Navia shall extend the protections of this Agreement to such Confidential Information.
- (f) The obligations of confidentiality in this Section shall not apply to any information that (i) Recipient rightfully has in its possession when disclosed to it, free of obligation to Discloser to maintain its confidentiality; (ii) Recipient independently develops without access to Discloser’s Confidential Information; (iii) is or becomes known to the public other than by breach of this Section; (iv) is rightfully received by Recipient from a third party without the obligation of confidentiality; (v) or disclosures permitted under applicable law. Any combination of Confidential Information disclosed with information not so classified shall not be deemed to be within one of the foregoing exclusions merely because individual portions of such combination are free of any confidentiality obligation or are separately known in the public domain.
- (g) A Party’s Confidential Information and any results of processing Confidential Information or derived in any way therefrom shall at all times remain the property of that Party.
- (h) Provided, however, that Navia expressly acknowledges and agrees that County’s obligations under this section are only to the extent permitted by the Oregon Public Records Act. Each party is solely responsible for defending its position as to the confidentiality of any Confidential Information that may be requested by a third party.

### **5.3 MEDIA RELEASES AND PUBLIC ANNOUNCEMENTS**

County may not issue any media releases, public announcements and public disclosures, relating to this Agreement or use the name or logo of Navia, including, without limitation, in promotional or marketing material or on a list of vendors, provided that nothing in this paragraph shall restrict any disclosure required by legal, accounting or regulatory requirements beyond the reasonable control of the releasing Party.

#### **5.4 PROTECTED HEALTH INFORMATION**

Protected Health Information (“PHI”), as defined by 45 C.F.R. 160.103, if any, that is used or disclosed by the Parties in accordance with this Agreement, will be governed by the terms and conditions set forth in the Business Associate Agreement between the Parties. County agrees that Navia may communicate confidential, PHI or otherwise sensitive information to County and, subject to the limits of the Oregon Constitution and the Oregon Tort Claim Act, hold Navia harmless in the event County misroutes or improperly uses or discloses such information where such information was used or disclosed by Navia for purposes of administration of the Benefit Plan(s) or used or disclosed for the purposes of carrying out Navia’s duties and responsibilities under this Agreement.

#### **5.5 INTELLECTUAL PROPERTY RIGHTS**

Each Party shall retain all rights in and/or title to its respective Intellectual Property Rights. Other than as expressly provided in this Agreement, (a) nothing contained herein shall be construed as granting a Party any license, right, title, or interest in or to any of other Party’s Intellectual Property Rights and (b) neither Party is developing any work product for the other.

#### **5.6 ONLINE SERVICES**

- (a) Navia may provide access to a password-protected website maintained by Navia or Navia’s Subcontractor(s) in connection with the Services (the “Website”). Navia may unilaterally make reasonable adjustments and improvements to the Website at any time and without prior notice. Neither Navia nor Navia’s Subcontractor is under any obligation to make any adjustments to the Website that are requested by County or any other third party.
- (b) The Website may include information related to Navia’s other services and/or links to other websites to the extent permitted by law. Navia neither grants a license for nor is responsible for any external links to third party websites provided on the Website.
- (c) County acknowledges that County and the Covered Individuals are solely responsible for maintaining the hardware and/or software necessary to access the Website.

### **ARTICLE VI: LIABILITY AND INDEMNIFICATION**

#### **6.1 LIMITATION ON LIABILITY**

- (a) NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF DATA, OR COST OF SUBSTITUTE SERVICES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED HEREUNDER UNDER ANY THEORY OF LIABILITY EVEN IF SUCH PARTY ALLEGED TO BE LIABLE HAS KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES, PROVIDED, HOWEVER, THAT THE LIMITATIONS SET FORTH IN THIS SECTION SHALL NOT APPLY TO OR IN ANY WAY LIMIT THE OBLIGATIONS OF THE SECTIONS ENTITLED “INDEMNITY,” AND “CONFIDENTIALITY AND PROPRIETARY INFORMATION”. IF NAVIA IS FOUND LIABLE TO COUNTY FOR ANY DIRECT DAMAGES, SUCH DAMAGES SHALL NOT EXCEED AN AMOUNT EQUAL TO ACTUAL DAMAGES OR THE FEES PAID FOR SERVICES GIVING RISE TO THE CLAIM WITHIN THE TWELVE (12) MONTHS PRECEDING THE CLAIM, WHICHEVER IS LESS. THIS LIMITATION OF LIABILITY EXCLUDES CLAIMS ARISING FROM PERSONAL INJURY, PROPERTY DAMAGE, GROSS NEGLIGENCE, OR A BREACH OF A PARTY’S CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT.

- (b) Navia is not liable for the acts or omissions of a prior administrator or the acts or omissions of County if prior administration was conducted by County.
- (c) Navia shall not be liable for any action, conduct, or activity taken by Navia, or any failure to act, at the request of County.
- (d) Neither party will be liable for and will be excused from any failure or delay in satisfying its obligations set forth herein if such failure or delay is caused by circumstances beyond its control, including but not limited to any natural disaster (such as earthquakes, hurricanes or floods), emergency conditions (such as war, riot, fire, theft, severe inclement weather, or labor dispute), outages, legal constraint or governmental action or inaction, breakdown or failure of equipment not due directly to the negligence of the Party maintaining the equipment, or the act, omission, negligence or fault of the other party.
- (e) Navia neither assumes nor underwrites any liability of County under the Benefit Plans, and acts only as provider of the services specifically described herein. Navia shall not be responsible for any over disbursed benefits, including but not limited to over disbursements due to insurance claim adjustments after benefits have been reimbursed. The Services performed shall be ministerial in nature and shall be performed in accordance with the direction, guidance, framework, and interpretation of the Benefit Plan(s) established and communicated by County. Navia shall have no discretionary authority or control over the Benefit Plan(s), funds, and Covered Individuals. Specifically, the County has the absolute authority with respect to the control, management, investment, or disposition and utilization of all plan assets, if any; and Navia shall neither have nor be deemed to exercise any discretion, control, or authority with respect to the disposition of any plan assets.

## **6.2 INDEMNITY**

- (a) Each Party (“Indemnitor”) shall indemnify, defend, and hold harmless the other Party, its Representatives, successors and permitted assigns (collectively, the “Indemnitee”) from and against any and all claims made or threatened by any third party and all related losses, expenses, damages, costs and liabilities, including reasonable attorneys' Fees and expenses incurred in investigation or defense (“Damages”), to the extent such Damages arise out of or relate to the following:
  - i. Any negligent act or omission or willful misconduct by an Indemnitor, its Representatives or its Subcontractor; or
  - ii. Any material breach in a representation, covenant, or obligation of the Indemnitor contained in this Agreement.
- (b) Indemnitee shall give Indemnitor reasonably prompt notice of, and the Parties shall cooperate in, the defense of any such claim, suit or proceeding, including appeals, negotiations and any settlement or compromise thereof, provided that Indemnitee must approve the terms of any settlement or compromise that may impose any un-indemnified or nonmonetary liability on Indemnitee.
- (c) Navia shall not be liable to County for mistakes of judgment or other actions taken in good faith unless such error results directly from an intentionally wrongful or negligent act of Navia.

## **6.3 REMEDIES**

The remedies under this Agreement shall be cumulative and are not exclusive. Election of one remedy shall not preclude pursuit of other remedies available under this Agreement or at law or in equity.

## **6.4 STATUTE OF LIMITATIONS**

[RESERVED]

## **ARTICLE VII: MISCELLANEOUS**

### **7.1 SECTION HEADINGS**

Section headings are included for convenience or reference only and are not intended to define or limit the scope of any provision of this Agreement and should not be used to construe or interpret this Agreement.

### **7.2 WAIVER OF RIGHTS**

No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under this Agreement shall operate to limit, impair, preclude, cancel, waive, or otherwise affect such right or remedy. Any waiver by either Party of any provision of this Agreement shall not imply a subsequent waiver of that or any other provision of this Agreement.

### **7.3 INVALID/ILLEGAL/UNENFORCEABLE PROVISIONS**

If any provision of this Agreement is held invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions shall in no way be affected or impaired thereby.

### **7.4 AMENDMENT**

Except as otherwise set forth herein, no amendments of any provision of this Agreement shall be valid unless made by an instrument in writing signed by both Parties specifically referencing this Agreement.

### **7.5 AGREEMENT**

- (a) This Agreement, the Government Addendum as Exhibit C, the Schedules, and any Exhibits reflect the final, full and exclusive expression of the agreement of the Parties and supersedes all prior agreements, understandings, writings, proposals, representations and communications, oral or written, of either Party with respect to the subject matter hereof and the transactions contemplated hereby.
- (b) This Agreement may be executed by the Parties in one or more counterparts, and each of which when so executed shall be an original but all such counterparts shall constitute one and the same instrument. The Parties agree to accept a digital image of this Agreement, as executed, as a true and correct original and admissible as best evidence to the extent permitted by a court with proper jurisdiction
- (c) Notwithstanding the general rules of construction, both County and Navia acknowledge that both Parties were given an equal opportunity to negotiate the terms and conditions contained in this Agreement and agree that the identity of the drafter of this Agreement is not relevant to any interpretation of the terms and conditions of this Agreement.

### **7.6 NOTICES**

- (a) All legal notices required to be sent by one Party to the other Party under this Agreement shall be given to the Parties in writing to the addresses identified on the Contract Information Page or to such other addresses as the Parties may substitute by written notice given in the manner prescribed in this Section as follows:
  - i. By first class, registered or certified United States mail, return receipt requested and postage prepaid,
  - ii. Over-night express courier,
  - iii. By hand delivery to such addresses, or
  - iv. Electronic mail with return receipt.
- (b) Such notices shall be deemed to have been duly given (i) five (5) Business Days after the date of

mailing as described above, (ii) one (1) Business Day after being received by an express courier during business hours, or (iii) the same day if by hand delivery or by email

#### **7.7 CONSENT**

Wherever this Agreement requires either Party's approval or consent such approval or consent shall not be unreasonably withheld or delayed.

#### **7.8 THIRD PARTY BENEFICIARIES**

Except as expressly set forth in this Agreement, the Parties do not intend the benefits of this Agreement to inure to any third party, including but not limited to Covered Individuals and Eligible Employees, and nothing contained herein shall be construed as creating any right, claim or cause of action in favor of any such other third party, against either of the Parties hereto.

#### **7.9 ADVERTISING**

Navia may indicate in its marketing materials and proposals to other prospective customers that this Agreement has been awarded and may describe the nature and objective(s) of this engagement. No such statements by, or materials of, Navia will disclose any County Confidential Information.

#### **7.10 INSURANCE**

Navia agrees throughout the term of the Agreement to maintain in full force and effect commercial general liability, umbrella liability, error and omissions liability, and professional liability insurance coverage in the amounts set forth in the Government Addendum executed contemporaneously herewith, and workers' compensation insurance in the amount required by law, at its own expense. Upon request, Navia shall furnish to County a certificate of insurance evidencing the same.



## **BENEFIT PLAN SERVICE SCHEDULE(S) AND FEES**

County has established one or more of the following Benefit Plans (the “Plan” or “Plans”) for purposes of providing benefits administration and/or reimbursement of certain eligible expenses incurred by Covered Individuals:

- Cafeteria Plan Document and Forms
- Health and Dependent Care Flexible Spending Arrangements
- Health Reimbursement Arrangements
- Section 132 Transportation and Parking Plan
- Code Section 223 Health Savings Account

In addition, County may offer one or more of the following other Plans for purposes of complying with applicable laws or providing additional benefits.

- Wellness Plan
- Federal COBRA Administration
- Direct Billing or Direct Billing Administration

County has asked Navia to assist it with its administrative obligations under one or more of the Plans identified above. The specific Plan-related Services are described in each Schedule. Only those Services chosen by County pursuant to an Application and for which the applicable Fee is paid as set forth in the Fee section of each Schedule (or, as set forth below with respect to additional requested Services), will be provided by Navia.

## **ARTICLE I. STANDARD BENEFIT PLAN SERVICES**

- 1.1. County is solely responsible for the operation and maintenance of the Plans. It is County’s sole responsibility and duty to ensure that each Plan complies with the applicable laws and regulations, and Navia’s provision of Services under this Agreement does not relieve County of this obligation.
- 1.2. If applicable to the particular Plan, Navia will provide Navia’s standard plan document, summary plan description, and forms to be used by County as a template for creating the governing documents for the Plan(s). Such standard documents and forms have been prepared in accordance with the standard of care set forth in the Agreement but are general in nature and do not take into consideration facts and circumstances specific to County and County’s Plans. Consequently, Navia makes no warranties and representations that such documents and forms will comply with applicable law as they relate to the Plan(s). Navia is not responsible for making any changes or amending the documents. It is County’s responsibility to review the documents and ensure they conform to the facts and circumstances specific to County and the Plans, and ensure the documents comply with applicable laws. County shall also make such documents available to Covered Individuals as required by law.
- 1.3. County will provide to Navia timely, accurate and complete information relating to the Covered Individuals and the Plans as is necessary for Navia to satisfy its obligations hereunder. County shall provide information in the format and method approved by Navia (consolidated spec file) In the event such information (i.e. data reports and files) requires manual processing or requires a method not in Navia’s business process, such processing shall be subject to Fees (Noncompliant File Processing Fee) as provided in the applicable Schedule. In the event that the

information is not timely reported or verified, and in the event that there are disbursements made by Navia that would not have been made if the occurrence had been reported on the same day of each such occurrence, then County shall be responsible for such disbursements and shall reimburse Navia therefore upon request by Navia. County shall be responsible for accurate Participant payroll deductions, reporting of deductions, and W-2 reporting and shall ensure that any terminated employer contacts (human resources, payroll, broker contacts, or other County contacts with access to the Website) are immediately reported to Navia on the same day of the occurrence. County shall be responsible for any consequences of failing to report such terminations on the same day of the occurrence, including but not limited to the unauthorized disclosure of information to former County contacts. Navia is not “a person” who is responsible for administering or providing benefits under the COBRA benefit within the meaning of Internal Revenue Code section 4980B (e)(1)(B). Navia is not responsible for the payment of excise taxes imposed under Internal Revenue Code section 4980B and is not responsible for the preparation or filing of Internal Revenue Service Form 8928. Navia shall provide such information as County reasonably requests in order to calculate excise taxes imposed under Internal Revenue Code section 4980B or to prepare IRS Form 8928. With respect to COBRA services, Navia is merely a collection agent for the employer and any amounts collected belong to the County. County agrees to reimburse Navia for any taxes, or other similar charges, in connection with COBRA administration, assessed against Navia.

County understands and agrees that Navia may rely on all information provided to it by Covered Individuals and/or County in accordance with this Agreement as true and accurate without further verification or investigation by Navia. Navia shall not be responsible and shall be held harmless for the receipt of inaccurate and/or incomplete information or data files. Navia shall not be responsible for any delays in providing services under this Agreement and any financial or adverse consequences due to the receipt of the inaccurate and/or incomplete information or data files or for County’s failure to send data files.

- 14 If applicable to the Plan(s), Navia will send education and engagement materials in the form of electronic mail campaigns direct to Employees and make enrollment kits (describing the benefit), enrollment forms, online enrollment specification files, and claim forms available on the Website and/or to County for distribution to Covered Individuals. Navia is only obligated to process claims submitted to Navia in accordance with the instructions set forth on Navia’s claim forms. Navia will process claims in accordance with applicable law, its standard operating procedures, and the terms of the Plan to the extent that such terms are provided to Navia and are consistent with Navia’s standard operating procedures. Navia may also provide claims submission capabilities via online and through a smart phone application for certain Plans. If Navia denies a request for reimbursement, Navia will review the 1st level appeal. If the Plan provides for 2 levels of appeal County will be responsible for the final determination. County shall be the fiduciary and Plan Administrator of the Benefits Plans and shall be responsible for interpreting the Plans, its provisions, terms and conditions and make any and all determinations as to eligibility, appeal, and change in status events, as applicable.
- 15 In the event that a Covered Employee is reimbursed less than is otherwise required by the Plans, Navia will promptly adjust the underpayment to the extent that County has satisfied its funding obligations as set forth herein. If it is discovered that a Covered Employee was overpaid, or the Covered Employee fails to substantiate an Electronic Payment Card Transaction as required by applicable rules and regulations, Navia will make reasonable attempts to request repayment of overpaid or unsubstantiated Electronic Payment Card claims or offset the ineligible payment against any claims for future eligible expenses in accordance with applicable rules and regulations. If the Covered Employee fails to repay or offset, Navia will notify County upon County’s written request for such report or data. County is responsible for taking any additional action permitted or required by law (e.g., including such amounts in income or garnishing wages consistent with applicable laws). Navia shall have no obligation to request repayment or offset to the extent such

overpayment is a result of County's acts or omissions, such payments were authorized by County or County has failed to satisfy its funding obligations.

- 1.6 The specific funding requirements are set forth in each Schedule. Generally, County shall make sufficient employer funds from its general assets available to pay benefits under the Plan(s). These employer funds shall not be deemed employee salary reductions or plan assets. County shall grant Navia withdrawal authority over the account sufficient to enable it to pay benefits. If at any time the amount of benefits payable under the Plan exceeds the amount received County shall transfer an amount necessary to fulfill its funding obligations under the applicable Plan(s). Navia will deposit these County funds into a Navia owned account to facilitate the payment of claims. Any interest generated by County funds deposited into the Navia owned account shall belong to Navia as reasonable compensation under this Agreement. Navia may use such funds for any legal purpose including, but not limited to, to offset any fees of the financial institution with respect to such account. To the extent that such interest (after deducting applicable fees) is not in excess of LIBOR plus 2-percent, Navia shall be entitled to retain such interest. Navia will return interest in excess of these permissible amounts to the County and the County agrees that it will use such amounts in accordance with applicable laws, including but not limited to ERISA when applicable.

Navia may suspend processing all benefit payments, electronic payment cards, and any other reimbursements, and distributions in the event County fails make sufficient funds available to pay benefits under the Plan(s) and/or fails to fund the Plan(s) according to the relevant Schedule. Navia shall not be responsible or liable for the funding of claims for benefits under any Plan. If at any time Navia has paid out more in benefits than received in funding (based upon either individual Covered Employee accounts or the Plan(s) aggregate balance) County shall deliver to Navia an amount equal to that deficit upon Navia's written request. If such funding is not received within two (2) days Navia may suspend all Services including but not limited to suspension of Electronic Payment Cards and benefit reimbursements.

- 1.7 If relevant to the Plan(s), Navia shall provide on-site enrollment meetings and attendance at benefits fairs, as reasonably requested by County, for the Fee and costs set forth in the Schedule.
- 1.8 Navia shall provide customer support weekdays, 5 a.m. to 5 p.m. Pacific Time, excluding holidays.
- 1.9 Navia will conduct Nondiscrimination Testing ("NDT") required under the Code for the attached Schedules. Navia will provide County with a Request for Information ("RFI") form requesting the data necessary to complete the NDT or provide an online version of the RFI. Within a reasonable amount of time after receipt of the requested information, Navia will provide test results, which will be based solely on the information provided by County and/or information maintained by Navia in accordance with the Schedule. Such test results are not intended as legal or tax advice and shall not be relied upon as legal or tax advice. Navia is under no obligation to advise County regarding specific corrective measures beyond providing the test results.
- 1.10 County may review reports summarizing the Plan via the Website. County is responsible for reviewing the reports submitted by Navia and notifying Navia of any errors of which it is aware within a reasonable period of time after reviewing them.

## **ARTICLE II. ELECTRONIC PAYMENT CARD SERVICES**

21. If applicable to the Plan(s) selected in the attached Schedule(s), at County's request and payment of all applicable Fees, the Card Services Provider may make an Electronic Payment Card available to Covered Individuals through which eligible expenses may be paid in accordance with the following terms:
22. Covered Employees or County shall provide to Navia a valid email address for each Covered Employee requesting an Electronic Payment Card.
  221. The Card Services Provider will issue an Electronic Payment Card to each Card Recipient within thirty (30) days of Navia's receipt of the Covered Employee's enrollment data or the Covered Employee's online, electronic mail or form request. County understands and acknowledges that the Card Services Provider issues Electronic Payment Cards based solely on the information provided by County. Navia and the Card Services Provider have no obligation to verify or confirm that Card Recipients are Covered Individuals.
  222. Card Recipients must agree to use the Electronic Payment Card in accordance with the terms of the Cardholder Agreement that accompanies the Electronic Payment Card. The Electronic Payment Card will be deactivated if the Covered Individual fails to use the Electronic Payment Card in accordance with the Cardholder Agreement or as otherwise required by applicable law.
  223. The Electronic Payment Card may be used by Card Recipients to pay for eligible expenses (as defined by applicable law and the applicable Plan to the extent consistent with Navia's standard operating procedures) in accordance with the applicable rules and regulations.
  224. Navia will require substantiation of expenses paid with the Electronic Payment Card in accordance with the requirements set forth in the Code and/or other applicable guidance. The Electronic Payment Card will be deactivated if the Card Recipient fails to provide the requested substantiation in a timely manner as determined by Navia in accordance with Federal guidelines.
  225. All Cards will be deactivated on the date this Agreement is terminated, the date that County fails to satisfy its funding obligations as set forth herein, the date County files for bankruptcy and/or as necessary to prevent fraud or abuse (as determined by Navia).

## **CAFETERIA PLAN SERVICE SCHEDULE**

County has established a Code Section 125 Plan to allow eligible employees to pay for their share of certain Benefit Plan coverage with pre-tax salary reductions (including but not limited to County contributions).

This Schedule is incorporated into and made a part of the Agreement. The responsibilities of the Parties set forth in this Schedule are in addition to any responsibilities set forth in the Agreement. If there is a conflict between this Schedule and any other part of the Agreement with respect to the subject matter of this Schedule, the Schedule will control. In all other conflicts, the Agreement controls. Capitalized terms not otherwise defined herein are defined as set forth in the Agreement.

### **ARTICLE III. STANDARD SERVICES**

1. Navia will provide a sample Code Section 125 plan document, summary plan description, and forms for review by County and County's legal counsel. Such standard documents and forms have been prepared in accordance with the standard of care set forth in the Agreement but are general in nature and do not take into consideration facts and circumstances specific to County and the Benefit Plans. Consequently, Navia makes no warranties and representations that such documents and forms will comply with applicable law as they relate to the Benefit Plans. Navia is not responsible for making changes or amending the documents.
2. All Benefit Plan elections and changes to elections will be processed as instructed by County and in accordance with the terms of the sample plan document referenced in 1.1 above and applicable law. County will provide Eligible Employees with election and change of election forms provided by Navia. If necessary for Navia to administer the other Services provided under this Agreement, County will collect and submit the completed election forms and/or change of election forms to Navia as soon as possible after receipt of such forms but no later than the effective date of such elections or change of elections. County is responsible for determining who is eligible for the Benefit Plan and who has satisfied the requirements to become a Covered Individual in the Benefit Plan. In addition, County is ultimately responsible for determining whether a requested change in election is permitted.

#### **HEALTH FLEXIBLE SPENDING ARRANGEMENT ("HEALTH FSA") AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENT ("DAY CARE FSA") SCHEDULE BENEFIT PLAN SERVICE SCHEDULE(S) AND FEES**

This Schedule is incorporated into and made a part of the Agreement. The responsibilities of the Parties set forth in this Schedule are in addition to any responsibilities set forth in the Agreement. If there is a conflict between this Schedule and any other part of the Agreement with respect to the subject matter of this Schedule, the Schedule will control. In all other conflicts, the Agreement controls. Capitalized terms not otherwise defined herein are defined as set forth in the Agreement.

As part of the Services, County has asked Navia to assist it with Flexible Spending Arrangement ("FSA") administration as more particularly described in this Schedule below.

#### **1. RESPONSIBILITIES OF NAVIA**

- 1.1. **IMPLEMENTATION**  
Navia shall implement the Plan subject to the Plan Application and the direction and approval of County.
- 1.2. **PLAN PROCESSING AND ADMINISTRATION** Navia shall:
  - 1.2.1. Provide claim reimbursements by check or direct deposit. Such claim reimbursements will be issued within two (2) Business Days after the later of: (1) the scheduled processing date; (2) the date County reconciles the Eligibility and Payroll Deduction Report ("EDR") or submits an approved payroll report; or (3) the receipt of funds as required in the funding section.
  - 1.2.2. Provide notification of online availability of the EDR, Disbursement, and Year-to-Date report.
  - 1.2.3. Provide annual year-end report within ninety (90) days after the claims Run-Out Period has expired.

- 1.2.4. Perform claims adjudication, including verification of date, service, and cost of service.

1.3. **PLAN DESIGN OPTIONS**

- 1.3.1. If County provides for the Grace Period under IRS Notice 2005-42 (the “Grace Period”) Navia shall process claims against the prior Plan Year for services incurred through the 15th day of the third month following the end of the Plan Year. If applicable, apply any residual balance of Grace Period claims against the current Plan Year benefit.

- 1.3.2. If County provides for Carryover Administration under IRS Notice 2013-71 (the “Carryover”) Navia shall:

- 1.3.2.1. Carry over the lesser of the balance in the Health FSA as of the Carryover Date or \$500, from the previous year into the immediately following Health FSA Plan Year. The “Carryover Date” shall mean the date on or about the 15th day after the last day of the Run-Out Period. The “Balance” shall mean Health FSA Plan Year election less disbursements of the Health FSA.

- 1.3.2.2. Reduce the prior year Health FSA election according to the amount of the Carryover.

- 1.3.2.3. Establish a Health FSA election for Covered Employees with Carryover amounts that failed to enroll in the Health FSA in the immediately following Health FSA Plan Year. Monthly participant Fees shall apply as of the Carryover Date.

- 1.3.2.4. Adjudicate and process claims against the carryover amount after the Carryover Date. Upon request, Navia shall apply claims incurred in the immediately following year against unused amounts in the prior year before the Carryover Date. Such adjustments shall be subject to a Fee of \$65.00 per adjustment.

**2. RESPONSIBILITIES OF COUNTY**

2.1. **IMPLEMENTATION**

County shall timely provide the Plan Application and any other information reasonably necessary for Navia to satisfy its obligations hereunder.

2.2. **REPORTING**

County shall submit an approved payroll file or reconcile the EDR against payroll deductions for each processing date through the Website. If County cannot or does not perform this responsibility, Navia may charge \$65.00 per reconciled report. If County fails to provide the approved payroll file or reconcile the EDR for more than forty-five (45) days from the pay date deduction Navia may suspend claim processing.

2.3. **FUNDING**

For the initial term, County shall remit to Navia within 30 days after the commencement of the FSA Plan Year an County deposit equal to ten percent (10%) of the projected annual elections for the Plan (the “Deposit”) or \$2,500, whichever is greater. At the beginning of each subsequent Plan Year Navia reserves the right to recalculate the Deposit for that Plan Year to be paid by County within 30 days after the commencement

of such Plan Year. Said sum, or the portion thereof not utilized, shall then be reimbursed to County one-hundred and eighty days (180) after the end of the final Plan Year.

### 3. FEES

- 3.1. Plan Year Fees:  
  
WAIVED
- 3.2. Monthly Processing and Administration Fees:
  - 3.2.1. \$5.00 per month per FSA Covered Employee (\$100 Monthly minimum)
- 3.3. Enrollment form processing: \$4.00 per enrollment for received and processed.
- 3.4. Summary Plan Description Fee: \$3.50 per Summary Plan description printed and mailed to County or Covered Employees. Provided only upon County request.
- 3.5. Electronic Funds Transfer: \$10.00 per returned item, from attempted deposit in Covered Employee account.
- 3.6. Electronic Funds Transfer: \$10.00 per failed direct debit from County account.
- 3.7. Enrollment Meetings and Benefit Fairs: For on-site enrollment meetings and attendance at benefit fairs by Navia:
  - 3.7.1. County shall pay to Navia \$75.00 per hour, or \$300.00 per eight-hour day, whichever is less;
  - 3.7.2. County will reimburse Navia for Travel Related expenses per Clackamas County's Contractor Travel Reimbursement Policy for the associated calendar year as listed here: <https://www.clackamas.us/finance/terms.html>
- 3.8. Ad Hoc Reporting: \$75 per hour for manual reports not part of the Navia reporting suite.
- 3.9. Noncompliant File Processing Fee: \$150 per month
- 3.10. Mailing Fee: \$1.10 per mailing.

**EXHIBIT A  
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement is entered into as of **January 1, 2020**, and executing signature to this Agreement (“Effective Date”) by and between **Clackamas County** (“Covered Entity”) and **Navia Benefit Solutions, Inc.** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996, and its regulations (“HIPAA”).

**RECITALS**

**Whereas**, the Covered Entity has engaged the services of the Business Associate, as defined under 45 CFR §160.103, for or on behalf of the Covered Entity;

**Whereas**, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Agreement”);

**Whereas**, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

**Whereas**, the Parties agree to establish safeguards for the protection of such information;

**Whereas**, the Covered Entity and Business Associate desire to enter into this Business Associate Agreement to address certain requirements under the HIPAA Rules;

**Now, Therefore**, the parties hereby agree as follows:

**SECTION I – DEFINITIONS**

- 1.1 “Breach” is defined as any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
  - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within an Workforce member’s course and scope of employment or placement;
  - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Work force members; and
  - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Effective Date” shall be the Effective Date of this Business Associate Agreement.
- 1.5 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Business Associate Agreement.
- 1.6 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.7 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.



- 1.8 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.9 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.10 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
- 1.11 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
- 1.12 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.13 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.14 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.15 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.16 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

**SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE**

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Business Associate Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Business Associate Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Business Associate Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Business Associate Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual’s designee as necessary to meet the Covered Entity’s obligations under 45 CFR §164.524; provided, however, that this Section 2.6 is applicable

- only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section 2.7 is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
  - 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
  - 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
  - 2.10 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Business Associate Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
  - 2.11 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such Electronic PHI agrees to implement reasonable and appropriate security measures to protect the information. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
  - 2.12 To retain records related to the PHI hereunder for a period of six (6) years unless the Business Associate Agreement is terminated prior thereto. In the event of termination of this Business Associate Agreement, the provisions of Section V of this Business Associate Agreement shall govern record retention, return or destruction;
  - 2.13 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach in accordance with 45 CFR §164.410. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
  - 2.14 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

**SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:**

- 3.1 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity’s minimum necessary policies and procedures.
- 3.2 Except as otherwise limited in this Business Associate Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by the Covered Entity; and,
- 3.3 Except as otherwise limited in this Business Associate Agreement, the Business Associate may:
  - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and,
  - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

**SECTION IV – NOTICE OF PRIVACY PRACTICES**

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate’s permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate’s use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Standards if done by the Covered Entity, except as set forth in Section 3.2 above.

**SECTION V – BREACH NOTIFICATION REQUIREMENTS**

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
  - a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
  - b. In plain language including and to the extent possible:
    - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
    - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;

- 4) A brief description of what the Covered Entity and/or Business Associate is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
  - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
  - d. Provided to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

## SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Business Associate Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Business Associate Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Business Associate Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Business Associate Agreement if cure is not reasonably possible.

If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.

Upon the Business Associate's knowledge of a material breach of this Business Associate Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Business Associate Agreement and the Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Business Associate Agreement if the Covered Entity has breached a material term of this Business Associate Agreement if cure is not reasonably possible.

- 6.3 **Effect of Termination.**
- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Business Associate Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
  - b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide

to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Business Associate Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

## **SECTION VII – GENERAL PROVISIONS**

- 7.1 **Regulatory references.** A reference in this Business Associate Agreement to the HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Business Associate Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification.** Each Party agrees to indemnify, defend and hold harmless the other Party and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Sections II and III of this Business Associate Agreement. Accordingly, on demand, the Indemnifying Party shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Indemnifying Party’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Survival.** The respective rights and obligations of Business Associate under Section II of this Business Associate Agreement shall survive the termination of the Services Agreement and this Business Associate Agreement.
- 7.6 **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.

*Signature Page Follows*

**SIGNATURE PAGE FOR BUSINESS ASSOCIATE AGREEMENT**

The Parties hereto have duly executed this Agreement as of the Effective Date as defined here above.

**Business Associate**  
*Navia Benefit Solutions, Inc.*

**Covered Entity**  
*Clackamas County*

By: \_\_\_\_\_  
Signature Authority

By: \_\_\_\_\_  
Evelyn Minor-Lawrence

Title: \_\_\_\_\_

Title: Human Resources Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT B COUNTY CERTIFICATION**

This Exhibit is incorporated into and made part of the Agreement. The responsibilities of the Parties set forth in this Exhibit are in addition to any responsibilities set forth in the Agreement. If there is a conflict between this Exhibit and any other part of the Agreement with respect to the subject matter of this Exhibit, this Exhibit will control. In all other conflicts, the Agreement controls.

County sponsors a Benefit Plan or Benefit Plans where certain members of County's workforce perform services in connection with administration of the Benefit Plan(s). County acknowledges and agrees that the Standards for Privacy of Individually Identified Health Information (45 CFR Part 164, the "Privacy Standards"), prohibit the Benefit Plan(s) or its Business Associates from disclosing Protected Health Information (as defined in Section 164.501 of the Privacy Standards) to members of County's workforce unless County agrees to the conditions and restrictions set out below. To induce the Benefit Plan(s) to disclose Protected Health Information to members of County's workforce as necessary for them to perform administrative functions for the Benefit Plan(s), County hereby accepts these conditions and restrictions and certifies that the Benefit Plan(s) documents have been amended to reflect these conditions and restrictions. County agrees to:

1. Not use or further disclose the information other than as permitted or required by the Plan Document or as required by law;
2. Ensure that any agent or subcontractor, to whom it provides Protected Health Information received from the Benefit Plan(s), agrees to the same restrictions and conditions that apply to County with respect to such information;
3. Not use or disclose Protected Health Information for employment-related actions and decisions or in connection with any other benefit or employee Benefit Plan of County;
4. Report to the Benefit Plan(s) any use or disclosure of the Protected Health Information of which it becomes aware that is inconsistent with the uses or disclosures permitted by the Benefit Plan(s) or required by law;
5. Make available Protected Health Information to individuals in accordance with Section 164.524 of the Privacy Standards;
6. Make available Protected Health Information for amendment by Covered Individuals and incorporate any amendments to Protected Health Information in accordance with Section 164.526 of the Privacy Standards;
7. Make available the Protected Health Information required to provide an accounting of disclosures to Covered Individuals in accordance with Section 164.528 of the Privacy Standards;
8. Make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from the Benefit Plan(s) available to the Department of Health and Human Services for purposes of determining compliance by the Benefit Plan(s) with the Privacy Standards;

9. If feasible, return or destroy all Protected Health Information received from the Benefit Plan(s) that County still maintains in any form, and retain no copies of such Information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
10. [RESERVED]



**EXHIBIT C**

**CLACKAMAS COUNTY  
GOVERNMENTAL CONTRACTING ADDENDUM  
Contract #2738**

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon (“County”), on behalf of its Human Resources department and **Navia Benefit Solutions, Inc.** (“Contractor”). This Addendum shall be attached to, and incorporated into, the Flexible Spending Agreement (FSA) for County Employees (“Vendor Agreement”). As used below, "Contract" means this Addendum and the Vendor Agreement. To the extent there is any conflict between the Addendum and the Vendor Agreement, the terms of this Addendum shall control.

- A. Term.** This Contract shall become effective **January 1, 2020** and upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **December 31, 2024**.
- B. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed one hundred eighty six thousand, five hundred and two dollars (**\$186,502.00**), for accomplishing the work required by this Contract. The estimated fees per Contract year are listed below in the table:

<b>Fiscal Year</b>	<b>Contract Year</b>	<b>Current Enrollment 1/1/20</b>	<b>Monthly Cost 1/1/20</b>	<b>April 2020 Employee Roll-Over Enrollment</b>	<b>Monthly Cost (\$5 PEPM)</b>	<b>Annual Cost Estimate</b>
FY 19-20	2020	523	\$ 2,615.00	600	\$ 3,000.00	\$ 31,337.26
FY 20-21	2021			600	\$ 3,000.00	\$ 36,000.00
FY 21-22	2022			630	\$ 3,150.00	\$ 37,800.00
FY 22-23	2023			662	\$ 3,307.50	\$ 39,690.00
FY 23-24	2024			695	\$ 3,472.88	\$ 41,674.50
<b>Total Contract Value</b>						<b>\$ 186,501.76</b>

- C. County Contract Administrator.** The County Contract Administrator for this Contract is **Kristine Durham**, 503-742-5470 or email [kdurham@clackamas.us](mailto:kdurham@clackamas.us).

- D. Invoices and Payments.** Invoices shall be submitted to: **Tamra Dickinson**, 503-742-5486 or email [tamradic@clackamas.us](mailto:tamradic@clackamas.us).

Payment and late fees shall only be in accordance with ORS 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor.

- E. Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on

all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [procurement@clackamas.us](mailto:procurement@clackamas.us). \_

Required - Workers Compensation: Contractor shall comply with the workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

The insurance described in this section shall not be cancelled or materially changed without Contractor providing at least sixty (60) days written notice to the County. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

**F. Debt Limitation.** The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

**G. Public Contracting Requirements.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes (“ORS”) Chapter 279B.220 through 279B.235, Contractor shall:

1. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
2. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
3. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished by the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
4. As applicable, Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.

**H. Governing Laws; Venue.** [RESERVED]

**I. Termination.** This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor and, upon receipt of the written notice, Contractor shall stop performance, and County shall pay Contractor for the goods or services delivered and accepted; (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; (iii) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.

- J. Compliance.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. This includes, but is not limited to: (i) Titles VI and VII of Civil Rights Act of 1964; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990; (iv) Executive Order 11246; (v) The Age Discrimination in Employment Act of 1967; (vi) the Health Insurance Portability and Accountability Act of 1996; the Age Discrimination Acts of 1967 and 1975; (vii) The Vietnam Era Veterans' Readjustment Assistance Act of 1974; (viii) ORS Chapter 659; (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (x) all federal and state laws governing the handling, processing, packaging, storage, labeling, and delivery of food products; (xi) all regulations and administrative rules established pursuant to the foregoing laws; and (xii) County Local Contract Review Board Rules, containing language required to be in all public contracts, which is specifically incorporated by reference as if set forth herein.
- K. Tax Compliance.** Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- L. Indemnification.** Each Party agrees to indemnify, hold harmless and defend the other Party, its officers, elected officials (if applicable), agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Indemnifying Party or Indemnifying Party's employees or agents. Any obligation of the County to indemnify, hold harmless and defend Contractor, its officers, elected officials, agents and employees, or any other indemnitee, shall only be to the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300) from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based on damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the County or the County's employee or agents.
- M. Dispute Resolution.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel. Any requirements contained in this Contract waiving a right to a jury trial or requiring binding arbitration are void.
- N. Records.** Contractor shall maintain all accounting records relating to this Contract according to GAAP and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant County, the federal government, and their duly authorized representatives access to the Records, including reviewing, auditing, copying, and making transcripts. Any documents that are requested to be maintained as confidential by either party shall only be maintained as confidential to the extent permitted by the Oregon Public Records Law ORS 192.
- O. Subcontractors.** Contractor shall ensure that its subcontractors, if any, comply with the requirements of this Addendum.
- P. Counterparts.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**Q. Waiver.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

By their signatures below, the parties to this Addendum agree to the terms, conditions, and content expressed herein.

**Navia Benefits Solutions, Inc.**

**Clackamas County**

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Name / Title (Printed)

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Date

**Approved as to Form:**

\_\_\_\_\_  
County Counsel                                      Date



May 14, 2020  
 21

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of Local Grant Agreement between Clackamas County and  
 Micro Enterprise Services of Oregon (MESO) for MESO to provide technical assistance  
 to businesses, and a small grants and micro-loan program on behalf of Clackamas County  
 in an effort to support the local business community impacted by the COVID-19 pandemic

<b>Purpose/Outcomes</b>	Approve a Local Grant Agreement between Clackamas County and MESO for MESO to provide assistance to the Clackamas County minority-owned business community in three ways: <ol style="list-style-type: none"> <li>1) Place MESO staff in Clackamas County for 2-3 days a week (24 hours minimum) to provide technical assistance to 35-45 businesses over the coming year. Technical assistance includes access to MESOs large number of programmatic services.</li> <li>2) Provide 65 \$1,500 grants (\$100,000 worth) to minority owned businesses in unincorporated Clackamas County impacted by COVID-19.</li> <li>3) Provide \$100,000 in micro-loans to minority owned businesses in unincorporated Clackamas County impacted by COVID-19.</li> </ol>
<b>Dollar Amount and Fiscal Impact</b>	Clackamas County Business and Community Services (BCS) will provide \$326,500 to MESO to fund the above listed programs. These funds were previously budgeted for another project and have been redirected.
<b>Funding Source</b>	Funding utilized is from Oregon State Lottery dollars, previously designated for the formation of the Clackamas County Land Bank Authority, a project that has been put on hold indefinitely due to the COVID-19 pandemic.
<b>Duration</b>	May 14, 2020 through May 31, 2021
<b>Previous Board Action</b>	BCS Director Laura Zentner briefed the Board of County Commissioners on this plan and forthcoming agreement at Administrator's Issues on April 14, 2020 and April 28, 2020.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1) This grant agreement supports the BCS goal of giving businesses access to innovative tools and programs to help them locate or expand in Clackamas County. Providing technical assistance to business impacted by COVID-19 will help them make it through the pandemic so they can reopen under the new normal, and eventually expand when economic times improve.</li> <li>2) This grant agreement supports County strategic priority of Growing a Vibrant Economy by providing much needed assistance to Clackamas County minority-owned businesses so they can remain in business throughout the COVID-19 pandemic.</li> </ol>
<b>County Counsel Review</b>	County Counsel Review Date: May 7, 2020 Counsel Initials: ARN
<b>Procurement Review</b>	Was the item processed through procurement? N/A
<b>Contact Person</b>	Laura Zentner, BCS Director (503) 742-4351 Sarah Eckman, BCS – Deputy Director (503) 742-4303
<b>Contract No.</b>	N/A

**BACKGROUND:**

Business and Community Services has developed a program with MESO to provide economic and social assistance to those affected by COVID-19. This program will help vulnerable businesses impacted by COVID-19 by providing much needed cash, as well as technical support to develop new talents and skills that make them more marketable.

MESO will provide financial support to the business community via:

- Approximately 65, \$1,500 grants (\$100,000 total)
- Micro-loans leveraged with the MESO funds (\$100,000 Clackamas County funds)
- Criteria that will be used to determine an eligible applicant:
  - Located in unincorporated Clackamas County
  - Can demonstrate having experienced significant loss
  - 10 or fewer employees
  - <\$1mil in gross sales
  - <80% average median income
  - In business for one year or more
  - Minority owned, including women and vets
  - Preference given to childcare providers and those needing childcare

In addition to the financial assistance described above, MESO personnel will place trained personnel in Clackamas County 2-3 days per week (24 hours minimum) to provide technical assistance to 35-45 Clackamas County businesses. Assistance will be targeted towards prosperity zones and low-income regions of the County, supporting the areas most impacted by COVID-19. This program will run one full year, and potentially beyond.

**RECOMMENDATION:**

Staff respectfully recommends the BCC approve the grant agreement with MESO.

**ATTACHMENT:**

Local Grant Agreement between Clackamas County and Micro Enterprise Services of Oregon (MESO)

Respectfully submitted,



Laura Zentner, CPA  
Director, Business & Community Services

**CLACKAMAS COUNTY, OREGON  
LOCAL GRANT AGREEMENT BCS-20-001**

Program Name: **COVID-19 Clackamas County Business Support Package**

Program/Project Number:

This Agreement is between **Clackamas County, Oregon**, acting by and through its  
Department of Business and Community Services ("COUNTY") and  
**Micro Enterprise Services of Oregon** ("RECIPIENT"), an Oregon Non-profit Organization.

**COUNTY Data**

Financial Analyst: **Tracy Grambusch**

Program Contact: **Jon Legarza**

Clackamas County Business and Community Services  
Financial Analyst  
150 Beavercreek Rd.  
Oregon City, OR 97045  
503-742-4368  
tgrambusch@clackamas.us

Clackamas County Business and Community Services  
Business and Economic Development Coordinator  
150 Beavercreek Rd.  
Oregon City, OR 97045  
503-742-4366  
jlegarza@clackamas.us

**RECIPIENT Data**

Finance/Fiscal Representative: **David Wilcox**

Program Representative: **Nita Shah**

Micro Enterprise Services of Oregon (MESO)  
4008 NE MLK Jr Blvd  
Portland OR 97212  
503-841-3351  
dwilcox@mesopdx.org

Micro Enterprise Services of Oregon (MESO)  
4008 NE MLK Jr Blvd  
Portland OR 97212  
503-841-3351  
nshah@mesopdx.org

FEIN: 20-4379510

**RECITALS**

1. RECIPIENT'S mission is to improve the economic opportunities of underserved individuals impacted by COVID-19 through empowerment, education, entrepreneurship and childcare assistance for the benefit of the greater community.
2. RECIPIENT's access to capital for small and minority businesses will address the challenges and disparities hindering the small businesses community from achieving economic prosperity.
3. RECIPIENT has over 12 years helping small-scale entrepreneurs succeed. RECIPIENT's staff has technical expertise in all areas of micro-enterprise development and small business growth. RECIPIENT emphasizes development of a core business foundation and implementation of strategies focused on financial management, basic and advanced business planning, marketing, customer service and effective operations. Services are based on proven models that are shaped for the local community and individual entrepreneurs..

4. RECIPIENT will provide business development services to assist 35-45 new clients in Clackamas County. RECIPIENT staff will be on location in Clackamas County for 2-3 days per week (minimum 24 hours per week) and provide RECIPIENT's programs and services for one year.
5. RECIPIENT will facilitate a grants and loan program to distribute approximately \$200,000 in funds, equally divided between grants and loans, to Clackamas County businesses impacted by the COVID-19 pandemic.
6. This Grant Agreement of financial assistance sets forth the terms and conditions pursuant to which RECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Local Grant Agreement ("Agreement"), COUNTY and RECIPIENT agree as follows:

### **AGREEMENT**

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used by RECIPIENT for expenses approved in writing by COUNTY relating to the project incurred no earlier than **May 1, 2020** and not later than **May 31, 2021**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit A: RECIPIENT Statement of Program Objectives. RECIPIENT agrees to perform the Program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** RECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, RECIPIENT shall comply with the requirements of the Oregon State Video Lottery dollars that is the source of the grant funding as stated in Oregon Revised Statute ("ORS") 461.512 which prescribes for the management of lottery moneys received by counties and stipulates the required reporting on the use of those lottery dollars. Per the ORS, Oregon State Video Lottery funds are distributed to the counties into a dedicated fund which is set aside for purposes that further economic development, as defined in ORS 461.540(3)(c). SUBRECIPIENT shall further comply with any requirements required by the State of Oregon, together with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
4. **Grant Funds.** COUNTY's funding for this Agreement is the Oregon State Video Lottery dollars distributed to COUNTY by the Oregon State Lottery. The maximum, not to exceed, grant amount that COUNTY will pay is **\$321,500**.
5. **Disbursements.** Disbursements will be made in lump sum according to the following schedule:
  - 5.1. \$226,500 immediately upon execution of this agreement for programmatic expenditures allocated as follows:
    - 5.1.1. \$100,000 for small grants to small businesses
    - 5.1.2. \$100,000 for micro-loans to small business
    - 5.1.3. \$20,000 administrative fee to Recipient
    - 5.1.4. \$1,500 fee for online tool set-up



- 5.1.5. \$25,000 for MESO to provide technical assistance to Clackamas County businesses for initial programmatic activities
- 5.2. \$75,000 to fund Recipient's technical assistance program in Clackamas County, per Exhibit A, disbursed as follows:
  - 5.2.1. August 1<sup>st</sup>, 2020: payment of \$25,000
  - 5.2.2. November 1<sup>st</sup>, 2020: payment of \$25,000
  - 5.2.3. February 1<sup>st</sup>, 2021 payment of \$25,000
6. **Repayment of Loan Dollars.** Upon repayment of loan dollars from loan applicant to Recipient, County has first option to be repaid for grant dollars received by Recipient. County, at its discretion, may choose to allow Recipient to retain funds and use for future loans.
7. **Requests for Disbursement.** Disbursements outlined in section 5, above, shall be invoiced by RECIPIENT to COUNTY on RECIPIENT letterhead and referencing agreement number BCS-20-001. Disbursements made from section 5.2 are contingent on receiving programmatic reports as outline in Exhibit C: Performance Reporting and review of program performance by COUNTY.
8. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. **RECIPIENT must submit a written request including a justification for any amendment to the COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully effective before RECIPIENT performs work subject to the amendment.
9. **Termination.** This Agreement may be terminated with the mutual consent of both parties, for convenience by one party upon 30 day's written notice to the other, or upon default by a party. This notice may be transmitted by mail, facsimile, or by email, with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. B.
10. **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release RECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:
  - 10.1. Has already accrued hereunder;
  - 10.2. Comes into effect due to the expiration or termination of the Agreement; or
  - 10.3. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, RECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received by RECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that will become due and payable as a result of the termination of this Agreement.
11. **Funds Available and Authorized.** COUNTY certifies that it has been awarded funds sufficient to finance the costs of this Agreement. RECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
12. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this Agreement.
13. **Administrative Requirements.** RECIPIENT agrees to its status as a RECIPIENT, and accepts among its duties and responsibilities the following:

- a) **Financial Management.** RECIPIENT shall comply with Generally Accepted Accounting Principles (“GAAP”) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
- b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are “earned”. All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to COUNTY by July 30, 2021, as described in 11.h, below.
- c) **Budget.** RECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: RECIPIENT Program Budget. RECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modifications change the scope of the original grant application or agreement.
- d) **Allowable Uses of Funds.** RECIPIENT shall use funds only for those purposes authorized in this Agreement and in accordance with ORS 461.512 and ORS 461.540(3)(c).
- e) **Period of Availability.** RECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the term and effective date. Cost incurred prior or after this date will be disallowed.
- f) **Match.** RECIPIENT match will be provided per Exhibit D: MESO 40/60 Loan Program.
- g) **Payment.** Routine requests for payment should be submitted as outlined in Section 5.
- h) **Performance Reporting.** RECIPIENT must submit Performance Reports according to the schedule specified in Exhibit C: Performance Reporting. On July 15, 2021, unless extended by amendment, RECIPIENT shall provide to COUNTY a summary of expenses against the budget outlined in Exhibit B: Program Budget. Any funds not expended under the program shall be returned to COUNTY by July 30, 2021.
- i) **Audit.** RECIPIENT shall comply with the audit requirements prescribed by State and Federal law.
- j) **Monitoring.** RECIPIENT agrees to allow access to conduct site visits and inspections of financial and programmatic records for the purpose of monitoring. COUNTY, the State of Oregon Lottery Division, and their duly authorized representatives shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of RECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. Monitoring may be performed onsite or offsite, at COUNTY’s discretion.
- k) **Record Retention.** RECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years following the filing of the final financial report on July 15, 2021 or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.
- l) **Failure to Comply.** RECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and RECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the this Agreement. Such material breach shall give rise to COUNTY’s right,

but not obligation, to withhold RECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by RECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.

**14. Compliance with Applicable Laws**

- a) **Public Policy.** RECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and as applicable to RECIPIENT.
- b) **State Statutes.** RECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- c) **Conflict Resolution.** If conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances and other laws applicable to the Services under the Agreement, RECIPIENT shall in writing request COUNTY resolve the conflict. RECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement.

**15. State Procurement Standards**

- a) To the extent this Agreement permits RECIPIENT to purchase of goods or services with the funds provided herein, RECIPIENT shall comply with applicable rules governing public contracts, including the Local Contract Review Board (“LCRB”) regulations (Appendix C of Clackamas County Code, located at <http://www.clackamas.us/code/>), which are incorporated by reference herein.
- b) Procurements for goods and services under this award shall use processes as outlined below:

\$0-\$5,000	Direct procurement	One vendor contact
\$5,000-\$50,000	Intermediate procurement	Obtain & document three quotes, award on best value
\$50,000-\$150,000	Intermediate Plus procurement	Issue request for quotes or other appropriate form of solicitation, award on best value
+\$150,000	Formal	Formal solicitation process following written procurement policies

- c) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements in excess of \$5,000 must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to RECIPIENT. Justification for sole-source procurement in excess of \$5,000 should include a description of the project and what is

being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information.

- d) RECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. RECIPIENT shall follow chapter 244 of the Oregon Government Ethics Law relating to conflicts of interest. Contractors that develop or draft specifications, requirements, statements of work, and/or solicitations for proposals for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- e) RECIPIENT agrees that, to the extent they use contractors or subcontractors, RECIPIENT shall use small, minority-owned, and/or women-owned businesses when possible.

#### 16. General Agreement Provisions.

- a) **Indemnification.** RECIPIENT agrees to indemnify, defend, and hold COUNTY harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to RECIPIENT's performance under this Agreement or RECIPIENT's negligent or willful acts or those of its employees, agents or those under RECIPIENT's control. RECIPIENT's obligations hereunder include, but is not limited to, any claim by the State of Oregon regarding misuse of the funds provided by COUNTY under this Agreement. RECIPIENT is solely responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to RECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- b) **Insurance.** During the term of this agreement, RECIPIENT shall maintain in force, at its own expense, each insurance noted below:
  - 1) **Commercial General Liability.** RECIPIENT shall obtain, at RECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury, death, and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
  - 2) **Commercial Automobile Liability.** RECIPIENT shall obtain at RECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.
  - 3) **Professional Liability.** RECIPIENT shall obtain and furnish COUNTY evidence of Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this Agreement, with limits not less than \$2,000,000 per occurrence for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.
  - 4) **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers'

compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.

- 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured, but only with respect to RECIPIENT's activities under this Agreement.
  - 6) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 day notice of cancellation provision shall be physically endorsed on to the policy.
  - 7) **Insurance Carrier Rating.** Coverage provided by RECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
  - 8) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, RECIPIENT shall furnish a Certificate of Insurance to COUNTY. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
  - 9) **Primary Coverage Clarification.** RECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
  - 10) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
  - 11) **Waiver of Subrogation.** RECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
- c) **Assignment.** RECIPIENT shall not enter into any subcontracts or subawards for any of the Program activities required by the Agreement without prior written approval. This Agreement may not be assigned in whole or in part with the express written approval of COUNTY.
  - d) **Independent Status.** RECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. RECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. RECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
  - e) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed.

Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.

- f) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state. Any litigation between COUNTY and RECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- g) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- h) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- i) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- j) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- k) **Integration.** This Agreement contains the entire Agreement between COUNTY and RECIPIENT and supersedes all prior written or oral discussions or Agreements.
- l) **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.
- m) **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.

(Signature Page Attached)

SIGNATURE PAGE TO RECIPIENT AGREEMENT

(CLACKAMAS COUNTY)

AGREED as of the Effective Date.

CLACKAMAS COUNTY, OREGON

MICRO ENTERPRISES SERVICES OF OREGON

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
Nita Shah, Executive Director

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Recording Secretary

Dated: \_\_\_\_\_

Approved to Form

By: \_\_\_\_\_  
County Counsel

- Exhibit A: RECIPIENT Statement of Program Objectives
- Exhibit B: RECIPIENT Program Budget
- Exhibit C: Performance Reporting
- Exhibit D: RECIPIENT Match Requirements

## **EXHIBIT A**

### **STATEMENT OF PROGRAM OBJECTIVES**

#### **GOAL**

Micro Enterprise Services of Oregon (“MESO” or “RECIPIENT”) will establish presence in Clackamas County, providing technical assistance to local businesses. RECIPIENT will also administer a small grants and micro-loan program on behalf of Clackamas County in an effort to support the local business community impacted by the COVID-19 pandemic.

#### **Support to the local business community will be structured as follows:**

- MESO personnel will establish a presence in Clackamas County and provide technical assistance to 35-45 Clackamas County businesses. Assistance will be targeted towards prosperity zones and low-income regions of the County, supporting the areas most impacted by COVID-19. This program will run one full year.
- MESO will provide approximately 65 \$1,500 grants (up to \$100,000 in aggregate)
  - Criteria that will be used to determine an eligible applicant:
    - Located in unincorporated Clackamas County
    - Can demonstrate having experienced significant loss
    - 10 or fewer employees
    - <\$1mil in gross sales
    - <80% average median income
    - In business for one year or more
    - Applicant business must be minority owned. Minority owned definition includes women and veterans
    - Preference given to childcare providers and those needing childcare
    - Low-Barrier Minimum Eligibility (as defined below)
    - Business Small Loan Criteria in Exhibit E
- MESO will provide micro-loans leveraged with the MESO funds (\$100,000 in aggregate)
  - Criteria that will be used to determine an eligible applicant:
    - Located in unincorporated Clackamas County
    - Can demonstrate having experienced significant loss
    - 10 or fewer employees
    - <\$1mil in gross sales
    - <80% average median income
    - In business for one year or more
    - Applicant business must be minority owned. Minority owned definition includes women and veterans
    - Preference given to childcare providers and those needing childcare
    - Low-Barrier Minimum Eligibility (as defined below)
    - Business Small Loan Criteria in Exhibit E
  - Loan terms will be defined per Recipient’s proposal outlined in Exhibit F



## **OBJECTIVES / OUTCOME MEASURES**

RECIPIENT expects to provide a 95% success rate in all activities.

Outcome measures seek to quantify the outreach and impact of RECIPIENT's technical assistance programs. Impacts will also include qualitative and quantitative measures such as: numbers paying taxes, generating savings, increased assets, improved credit and bankability and inform interested parties on best practices to work in the business community.

RECIPIENT will provide the following results and will collect data via evaluation, surveys and quarterly assessments:

- # small grants distributed
- # small loans made, and amounts per loan
- % repayment of loans
- 95% of the entrepreneurs will increase incomes by 25%
- 95% will receive access to capital
- 95% will improve their credit
- 95% will open matched savings accounts
- 95% will increase marketing activities through technology, and direct marketing
- 95% will have a business plan for future growth
- 95% will understand financial statements
- 95% will complete survey for best practices

## **ACTIVITIES**

- 1) RECIPIENT to provide staff to be on location in Clackamas County two to three days per week (minimum 24 hours per week) to provide technical assistance to 35-45 new clients for one year.
- 2) Administer a small grants program, distributing \$100,000 in funds via approximately 65, \$1,500 small grants
- 3) Administer a micro-loan program, distributing micro-loans to small businesses meeting pre-agreed upon criteria
  - Up to \$5,000 Clackamas County funds per loan using funding from this Agreement. (RECIPIENT may increase loan size using leveraged money from SBA, USDA and CDFI)
  - Low-Barrier Minimum Eligibility (as defined below)
  - Business Small Loan Criteria in Exhibit E

MESO shall ensure that grantees and loan recipients meet the following criteria:

- Located in unincorporated Clackamas County
- Can demonstrate having experienced significant loss
- 10 or fewer employees
- <\$1mil in gross sales
- <80% average median income
- In business for one year or more
- Applicant business must be minority owned. Minority owned definition includes women and veterans
- Preference given to childcare providers and those needing childcare

RECIPIENT will screen for businesses meeting the Low-Barrier Minimum Eligibility utilizing the questions/criteria outlined below.

*Note: Business may be asked to provide additional documentation upon request to verify answers.*

1. Has business been negatively affected by the current COVID-19 pandemic? (Yes/No) (Yes = Eligible)
  
  2. Is business physically located in unincorporated Clackamas County? (Yes/No) (Yes = Eligible)
  
  3. If business is part of a chain, is location an individually-owned franchise within Clackamas County? (Yes/No/Not Applicable) (Yes = Eligible)
- Note: National chains do not qualify unless individually-owned and location is within Clackamas County.*
4. Did business have no more than \$1M in gross revenue in 2019? (Yes/No) (Yes = Eligible)
  
  5. Did business average less than 80% the average median income in 2019? (Yes/No) (Yes = Eligible)
  
  6. Did business have no more than 10 employees between January 1, 2020 and March 23, 2020 (date “Stay Home, Save Lives” Executive Order issued)? (Yes/No) (Yes = Eligible)
  
  7. Has business received funds from similar programs established within Clackamas County after March 23, 2020 (e.g. US Small Business Administration (SBA) Payroll Protection Program, US SBA Economic Injury Disaster Loan Program, etc.)? (Yes/No) (No = Eligible)

*Note: Businesses that have received funds from other local programs do not qualify. Businesses that have received federal or state aid still qualify.*

7. Is the business a minority and/or woman-owned business enterprise? (Yes/No) (Yes = Eligible)
  
8. Has business been in operation for at least 1 year? (Yes/No) (Yes = Eligible)

9. Do you as the business owner have an inability to pay for childcare due to the COVID-19 pandemic? (Yes/No) (Yes = Higher priority)

Allowed Expenditures - RECIPIENT will collect information from grantees and loan applicants to verify proper use of funds and report with quarterly progress report. Allowed expenditures are the following:

1. Payroll costs
2. Rent, mortgage, and utilities
3. Childcare costs

**EXHIBIT B  
PROGRAM BUDGET**

<b>Category</b>	<b>Amount</b>			
Business Development Services Program	\$ 100,000.00			
Small Grants	\$ 100,000.00			
Small Grants Administration Fee	\$ 10,000.00			
Micro-Loans	\$ 100,000.00			
Micro-Loan Administration Fee	\$ 10,000.00			
Online Tool Setup Fee	\$ 1,500.00			
	\$321,500.00			

## **EXHIBIT C**

### **PERFORMANCE REPORTING**

#### **PERFORMANCE REPORTING SCHEDULE**

RECIPIENT will report progress of program activities on a quarterly basis, except in the case of the grants and small loan programs. For these programs, RECIPIENT will submit weekly progress reports until all funds are distributed.

#### **PERFORMANCE REPORTING REQUIREMENTS**

##### **Grants and Small Loans Program – submitted weekly until all grants/loans are distributed, quarterly thereafter**

Reporting data elements shall be submitted in an excel spreadsheet and include the following information collected from program recipients:

- Business Name
- Date Business Established
- Impact from Covid19
- Number of Employees
- Major Industry (Accommodations, Tourism, Healthcare, Childcare, Manufacturing)
- Use of Grant Funds
- Minority Status
- Gross Sales per month before and after Covid19
- Projected Growth Rate over next 5 years
  
- # small grants distributed and amount per grant
- # small loans made, amounts per loan, and source of loan funds
- % repayment of loans

RECIPIENT shall report aggregate information on technical assistance program activities in a second excel spreadsheet

- % of the entrepreneurs with incomes increased by 25%
- % business with access to capital
- % of business with improved credit
- % businesses with open matched savings accounts
- % businesses with increased marketing activities through technology, and direct marketing
- % business with a business plan for future growth
- % businesses with trained personnel to understand financial statements
- % businesses that completed survey for best practices

## EXHIBIT D MATCH REQUIREMENTS



### 40/ 60 Open for Business - A Flexible- Forgivable Loan

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MESO created the 40/60 Open for Business Loan Program (“40/60”) to reactivate under-resourced businesses from closures due to COVID-19. MESO expects these businesses to need access to flexible and patient capital to navigate the challenging environment that will inevitably follow. 40/60 will provide critical funding that will enable these businesses to resume operations, restore stability and rebuild towards future prosperity. 40/60 loans will be made available to businesses operating in Multnomah, Washington, Clackamas, Yamhill, Columbia, Benton, Marion and Hood River Counties in Oregon and Clark County in Washington. Key features of the 40/60 loan product will include:

- Targeted to small businesses that are owned by individuals who (i) are unable to access credit at reasonable terms; (ii) are income qualified; and (iii) in business for at least six months.
- 40/60 provides loans up to \$50,000 (maximum for forgiveness), leveraged and stacked with other MESO lending capital which is not forgivable.
- 40% of the loan will be forgiven during the first four years. This represents 40% in principal forgiveness and 23.5% in interest subsidy.
- Interest-only loan payments for six months followed by an 18-month interest-only period at a 5% interest rate.
- Amortizing monthly payments at discounted interest rate of 5% from month 25.
- Business support from MESO’s extensive suite of technical assistance offerings.

All 40/60 loans will feature highly-flexible terms that are designed to address the need for capital while also minimizing the future debt burden on the business. The loans will require no debt service payments during the first six months of the loan term, followed by an 18-month interest-only period with a reduced interest rate. In addition to providing debt service flexibility during the first two years of the loan term, up to 40% of the 40/60 loan amount will be forgiven during the first four years, with 10% forgiveness per year if the borrower meets certain conditions, including: consistent loan payment history; business growth demonstrated by 15% annual increases in revenue; self-funding a savings account; hiring; remaining current on tax payments; and other conditions as determined by MESO during underwriting.

Additionally, debt forgiveness will be conditioned upon the borrower's continued participation in MESO's intensive, customized, hands-on technical assistance programs that provide entrepreneurs with as much assistance as they need to help grow and stabilize their businesses. MESO's business assistance offerings include tools to strengthen entrepreneurs and support asset growth, such as financial education, matched savings grants, market research, industry-specific classes and credit building programs. These tools provide pathways to achieve the goals that entrepreneurs set for themselves, their businesses and their families.

**ABOUT MESO**

Micro Enterprise Services of Oregon (MESO) formed as a grassroots initiative in 2005 to assist small businesses that were experiencing challenges in the wake of gentrification in North and Northeast Portland. Since then we have expanded to cities and counties to support small and local businesses. MESO is a designated SBA microlender, an IDA fiduciary, a USDA RMAP (Rural Microentrepreneur Assistance Program) lender, and a Certified CDFI. MESO fills a much-needed niche, working with small businesses through every stage – from asset building and credit preparedness to first loans and business launches to dozens of business expansions every year.

**EXAMPLE TERM SHEET**

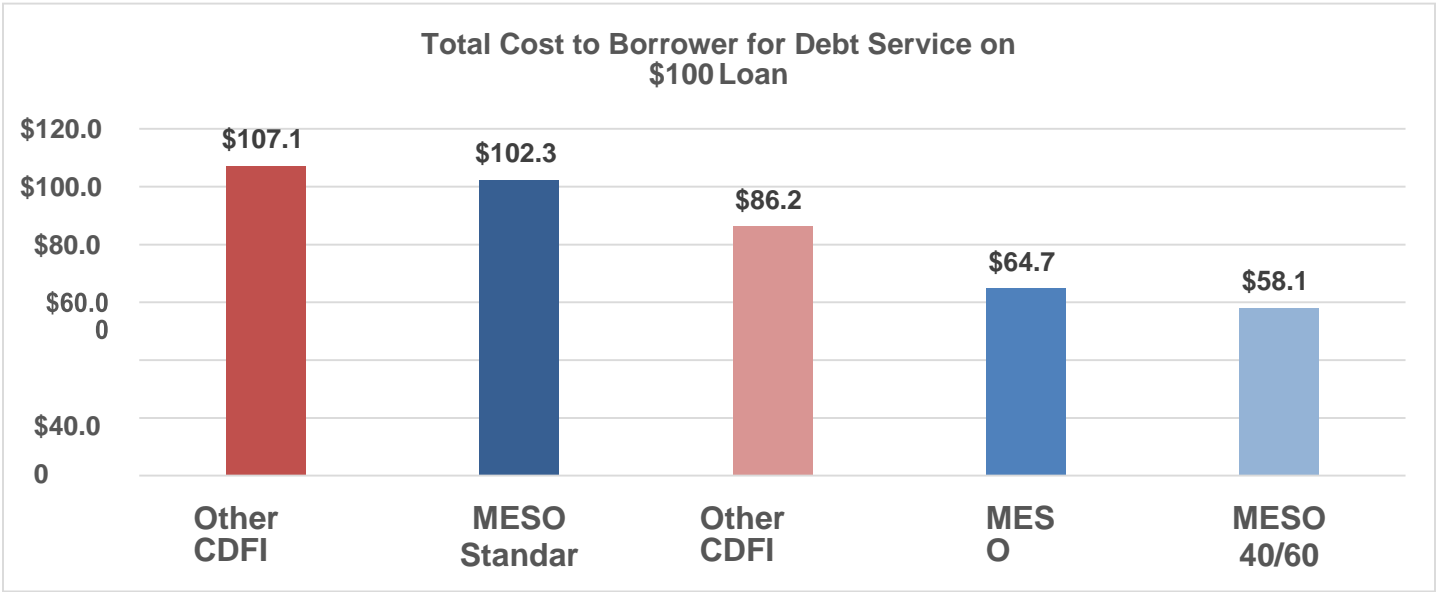
<p><b>Investment Purpose</b></p>	<p>_____ (“Grantor/Donor”) will provide \$_(the “Investment”) to help launch MESO’s 40/60 Open for Business Loan Program (“40/60”). 40/60 will provide flexible loans to support businesses in Multnomah, Washington, Clackamas, Columbia, Yamhill, Linn, Benton, Marion and Hood River Counties in Oregon and Clark County in Washington. 40/60 will be targeted to businesses who:</p> <ul style="list-style-type: none"> <li>- Are unable to access credit at reasonable terms</li> <li>- Have been in business for at least six months</li> <li>- Are open to receiving MESO’s hands-on technical assistance</li> </ul> <p>40/60 will provide critical flexible and patient funding that will enable these businesses to reactivate operations, restore stability and rebuild towards future prosperity.</p>
<p><b>Investment Terms</b></p>	<p>The Investment will be provided as a grant to MESO. Grantor/Donor’s sole expectation will be to see under-resourced communities receive financing support with highly flexible terms. Any funds recovered by MESO will be used for new lending to similar businesses in the communities MESO serves.</p>
<p><b>40/60 Loan Terms</b></p>	<ul style="list-style-type: none"> <li>- Loan Amount: Up to \$50,000 from 40/60, which may be combined with additional funds from other MESO sources to provide larger packaged loans</li> <li>- Loan Term: up to 84 months</li> <li>- Interest-Free Period: 6 months</li> <li>- Interest-Only Period: 18 months</li> <li>- Interest-Only Rate: 5.00% fixed</li> <li>- Interest-Rate Thereafter: 8.00% fixed (beginning in month 25)</li> <li>- Loan Forgiveness: During the first 48 months of the loan, 10% of the 40/60 loan amount will be forgiven upon each 12-month anniversary of the loan closing if MESO determines in its sole discretion that the borrower has met certain conditions, which are expected to include:             <ul style="list-style-type: none"> <li>o Consistent loan payment history</li> <li>o Growth demonstrated by 15% annual revenue increases</li> <li>o Employee count increases</li> <li>o Self-funded savings account contributions</li> <li>o Remaining current on tax payments</li> <li>o Ongoing participation in MESO’s technical assistance programs</li> <li>o Other conditions as determined by MESO during underwriting</li> </ul> </li> <li>- Loan Fee: Up to 2%</li> </ul>





**COMPARISON OF LOAN TERMS: \$10,000 - \$50,000**

	MESO Standard	Other Lender Standard	MESO 40/60	Other Lender Emergency	MESO 40/60 Alternate
<b>Loan Terms</b>					
Loan Fee	3%	2%	2%	2%	2%
Term	4 years	4 years	5 years	4 years	5 years
<b>Interest Rate/Amortization</b>					
Zero Interest/ No PMT	N/A	N/A	first 6 months	first 3 months	first 6 months
Interest-Only Period	N/A	N/A	next 18 months	next 3 months	next 18 months
Interest Rate	8%	10-12% (Assume 11%)	8%	5%	5%
Forgiveness	N/A	N/A	10% per year for 4 years	N/A	10% per year for 4 years
<b>Underwriting</b>					
Credit Score	No Minimum	>640	No Minimum	>640	No Minimum
Collateral	1 to 1	1.5 to 1	Blanket UCC	Blanket UCC	Blanket UCC
Character	Emphasis	N/A	Emphasis	N/A	Emphasis
Cash Flow	Low Emphasis	Important	Low Emphasis	Important	Low Emphasis
Start Up	Accepted	N/A	Accepted	N/A	Accepted
Technical Assistance	Integrated	N/A	Integrated	N/A	Integrated
<b>Borrower Cost of \$100 Loan</b>					
PV of Debt Service @ 8% Disc. Rate	\$102.32	\$107.15	\$64.76	\$86.24	\$58.15
Borrower Surplus (\$) vs. MESO STD	N/A	(\$4.84)	\$37.56	\$16.07	\$44.17
Borrower Surplus (%) vs. MESO STD	N/A	-4.7%	36.7%	15.7%	43.2%





**EXHIBIT E**  
**BUSINESS SMALL LOAN EVALUATION CRITERIA**

**Balance Sheet**

1. Does the company collect?
  - a. Are days receivable nearly equal to payment terms?
2. Does the company pay its bills?
  - a. Are days payable about equal to the payment terms?
  - b. Are accounts payable < inventory?
  - c. Are days accrual equal to or less than the payroll cycle?
  - d. Are days accrual equal to or less than the payroll cycle?
  - e. Are taxes current?
3. Does the company control its inventory?
  - a. Are days inventory nearly equal to the inventory cycle?
4. Are the officers of the company committed?
  - a. Are there notes receivable-officers?
  - b. Are there notes payable-officers or subordinated officer debt?
  - c. Is the debt to equity reasonable?
5. Does the company have a profitable operating history?
  - a. Are retained earnings positive?
  - b. Is Net Worth positive?

**Profit & Loss Statement**

1. Is the company growing?
  - a. Are sales rising?
2. Does the company maintain its margins?
  - a. Is the COGS/sales ratio stable or falling?
3. Does the company control its overhead?
  - a. Is the SGA/sales ratio stable or falling?
  - b. Is officers compensation reasonable?
4. Is the company profitable?
  - a. Is operating profit/sales stable or rising?
  - b. Is EBT/sales stable or rising?
5. Is there any hidden cash flow?

**Can the Company Digest its growth?**

As companies grow, they need to invest more cash into their operations. This cash investment is called permanent working capital (PWC). As a company grows and invests into PWC, it gets cash from internally generated funds (profits) or from outside sources (debt and equity). We are asking MESO to understand if the company can digest growth with internal funds. If not, how can the company seek funds from MESO resources through our funding to them.



### **Analyzing Cash Flow**

1. Is the company managing its cash wisely?
2. Does the company have any operating cash flow?



**EXHIBIT F**

4/10/2020

Dear Mr. Legarza

Thank you for the opportunity to submit this proposal. We are requesting \$100,000 to assist 35-45 new clients, with business development services in Clackamas County. MESO staff will be on location for 2-3 days per week and provide MESO’s programs and services.

Micro Enterprise Services of Oregon’s (MESO) mission is “to improve the economic opportunities of underserved and low-income individuals through entrepreneurship, education and empowerment for the benefit of families in the greater community.”

Since 2005, our prime function is to offer business development services to communities that are underserved. We offer a full continuum of small business services and small group trainings to entrepreneurs and have accomplished phenomenal results in business retention, job creation and financial growth.

The following chart is a snapshot of our services and some of our accomplishments.

<i>Services Provided</i>	<i>Delivery Methods</i>	<i>Clients</i>	<i>Accomplishments</i>
1) 1:1 Technical assistance	✓ Meet at business location	• Pre-Businesses	a. 100% success in meeting outcomes
2) Mentoring & Networking	✓ One on One Assistance	• Start-Up’s	b. 85% of our clients have increased their revenues from 30% to as high as 600%
3) Access to Capital/Financing	✓ Small group technical assistance	• Existing Businesses	c. 92% of clients remain in business after graduating from MESO’s 3 yr. program
4) Credit Repair	✓ Classroom training and assistance	• Individuals living below 80% MFI	d. Placed \$10,450,000 in loans
5) Access to Markets	✓ Experts and consultants	• Individuals with Limited English Proficiency	e. Placed \$4,000,000 in IDA savings
6) Financial Literacy & Management	✓ Community linkages	• Individuals of Color	
7) Asset Development		• Individuals Located in Distressed Communities	
8) Business Education & Training			

As point of contact for this proposal, I am happy to verify the accuracy of this proposal and welcome the opportunity to talk with you about MESO's programs and successes.

Sincerely,

Nita Shah, Executive Director

[nshah@mesopdx.org](mailto:nshah@mesopdx.org)

4008 NE Martin Luther King Jr Blvd.

Portland, Oregon 97211

ph (503) 841-3351



### *What MESO is implementing with COVID-19 challenges for Small Businesses*

MESO's COVID work has taken two directions. Firstly, MESO has actively supported Prosper Portland, City of Tigard and Washington County to research, design and distribute a grants and loan programs. In Portland, MESO provided feedback and helped with distributing approximately \$400,000 in grants to small businesses. MESO staff prepared minority and income qualified entrepreneurs to access and navigate links and websites, and successfully apply on time access these resources. MESO is also providing similar service to City of Tigard with a combination of grants and loan program and in Washington County for a grants and loan program. MESO is managing the process from beginning to end and designed forms with criteria from the county.

Secondly, as small businesses are facing tremendous challenges, MESO has pivoted our programming to help small businesses become more adept with the current challenges. The following support is being provided to small businesses. MESO recently launched an online platform, "Open for Business", to help our clients market online or by delivering.

#### Non-Essential Businesses:

- Daily/Weekly interactions with businesses with technical advisor
- Launching workshops to get everyone's digital marketing in place:
- Basic website build program
- Scheduling online workshops
- Building online persona with Instagram, Facebook, Etsy platform set ups
- Set up online cohort groups to keep businesses connected and motivated.
- Recently our Latino cohort group participated in an Empowerment and Motivation workshop and our African American Women business owners participated in how to do a podcast with Steven Christensen
- Since Farmers Markets are still accepting vendors, we are preparing clients to participate with essential items.

#### Essential Businesses:

- Construction opportunities, referring these businesses to construction projects
- Service opportunities in healthcare field (can people get employed/subcontracted at this moment to support the COVID environment?),
- Helping businesses to become essential for example, diffusers (candles/perfumes) turning into 'health perfumery, Drinks are turning into health immunity building drinks
- Encouraging and supporting transportation drivers to doing "chores" for people.

MESO continues to look to the future and provide robust resources and support to clients so that they are ready to reboot when the time is right.



### *Administering a Small Grants/Loan Program*

As noted above MESO can take guidelines from the County to design and implement a grant and loan program. The program can be geared to fit the Counties criteria, such as focusing on businesses in unincorporated Clackamas County and cities, with businesses making below \$1,000,000 and less than 10 employees. 50% of the funds can be designated for minority owned, veteran and low income businesses. MESO can pull database reports to identify businesses that meet these criteria's.

MESO has forms and process in place. Our administration fee is 10% of the funds designated to place and \$1,500 for designing links and forms customized to Clackamas County. Once grantees are picked, MESO can distribute grant funds through ACH, wire or physical checks.

MESO cannot process payments for cannabis based businesses.

MESO will provide reports and proof of funds distributed. We expect 3 weeks' minimum for all activities to be completed. At this time, we find the need is to continue support to operational businesses and support businesses that are willing to pivot to other methods of business operation. This might change in the next week and businesses that are closed, might start to operate again. The market conditions are very fluid and MESO is able to be as flexible as possible.

We recommend a grant/loan program combination. If the County has \$500,000 to distribute, \$350,000 can go towards grants of \$1,500 each and \$150,000 can be designated for a micro loan program. MESO can provide loans up to \$25,000 to businesses that are in need of this support.

The terms are simple, with no payments for 6 months, interest at 0%. After 6 months' interest would be at 5%. If additional time is needed MESO would defer payments as long as we can see the business flourishing. We strongly believe that patient capital is needed for the next 12 months.

If and when loan payments do come back, the County's funds will be used as loan loss reserve for future loans. Though historically MESO's default has been less than 1%, we expect and are forecasting a heavy default rate at this time. MESO will leverage funds that are paid back with our own financing capital such as SBA, USDA and CDFI. The funds from the County will be leveraged 3x, so far a loan of \$5,000, MESO will leverage its own funds of \$15,000 to businesses in Clackamas County with the loan loss reserve.



## ABOUT MESO

### *Qualifications and Experience*

For the past fifteen years, Micro Enterprise Services of Oregon (MESO), with an experienced and dedicated staff of sixteen, has successfully provided customized business services to entrepreneurs from low-income and underserved communities in Oregon. MESO has demonstrated that low-income individuals, operating small businesses, can provide for their families, create jobs, increase their net worth and support their communities. MESO is a CDFI, an SBA micro lender and a USDA lender.

Over 1500 small businesses, (typically operated by 1-5 employees) have received intensive one-on-one services in business planning, financing and marketing, as well as, ongoing management and business education. An additional 600 entrepreneurs in one year alone have received 1 to 10 hours of staff time through consultations, trainings, referrals to business

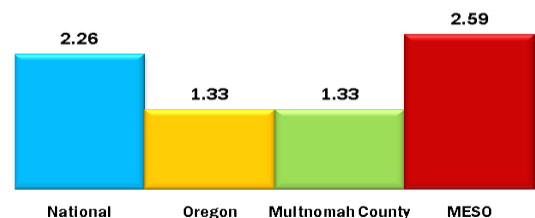
resources, participation in Individual Development Accounts (IDA), and access to marketing and financing resources.

Based on the philosophy that you cannot “mass produce successful small businesses”, we provide intensive support services on an “as needed and as often as needed” basis. This has allowed us to accomplish results that beat national standards in job creation and business retention.

MESO has created a thriving and successful community of diverse small businesses. Some of the highlights of our accomplishments are as follows:

- 85% of clients increased revenues from 30% to as high as 600%
- 92% of clients remain in business after graduating from MESO’s program (surpassing the national standard of 44%)
- \$10,450,000 provided in loans with among what are typically considered high-risk clients with 1% in default (average bank default is 5-8%)
- Clients created new jobs (*see graph at right, 2009*), purchased homes and improved their credit
- 95% success with matched savings grant (IDA)

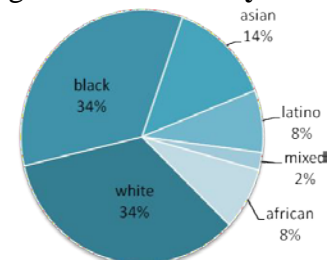
**Number Employed by Micro-Businesses**  
(Employee to Micro-Business Ratio)



### Our Experience with Target Audiences

**100%** of MESO’s existing clients are within the Target Audience for this proposal. We reach these communities through our diverse staff, partnerships, and events. As one funder remarked, “MESO has succeeded in serving a target population that was slipping through the cracks. **Very few organizations** have their in-depth understanding of what it takes to run

a small business or the intensive hands-on approach that is often necessary to help them grow.”







- **People with Limited English/Immigrants/People of Color** While 66% of MESO’s current clients are minority-owned businesses, 28% come from immigrant/refugee communities. With a diverse and well-versed staff in culturally specific services we meet client needs with one-on-one assistance. We listen well to understand each client’s unique situation and to identify his or her specific challenges. From there we build solutions, provide access to resources and increase their capacity to be successful.

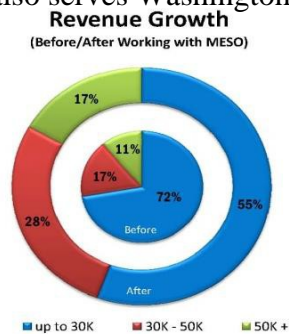
- **Economically Challenged Communities**

MESO has provided direct assistance to businesses operating in N-NE Portland since our inception. We have expanded to include other underserved areas, such as the Lents neighborhood in response to the trend of poverty and disadvantage shifting towards the outer edges of the city, and continue to serve Alberta Main Street, Martin Luther King Jr. Blvd, St. Johns, NE 42nd Avenue, and NE Cully. In these areas we address the devastating economic shifts resulting from gentrification by providing accessible entrepreneurial services. MESO also serves Washington County and City of Gresham

- **People with Modest Incomes**

Approximately 85% of our clients subsisted at or below 50% of the area’s median family income at the time of enrollment, and many had businesses that were struggling to survive. After one year in MESO’s program, the number of clients with incomes above

\$30,000 jumped from 28% to 45% of clients (*right image*). By the third year in MESO’s program, **85%** have increased their revenues from **30% to as high as 600%** of their previous revenues.



**Our Experience in Business Development Services**

We emphasize development of a core business foundation and the implementation of strategies focused on financial management, basic and advanced business planning, marketing, customer service, and streamlined and effective operations. Screening for highly motivated individuals, providing client-centric resources and access to capital, and providing services in a timely manner and at appropriate learning levels has helped clients grow successful businesses.

- **One-on-one Technical Assistance**

Since the beginning MESO has assisted clients one-on-one. We have gained confidence of our clients, understood their challenges and brought in resources that are effective and centric to their needs. Clients readily share financial information when we meet with them individually, share their inability to fill forms, complete business plans and participate fully in social media/marketing. We become consultant/partner to our clients business, set individualized goals, and provide needed assistance. As their abilities and confidence grows, they are able to participate more fully during group meetings and training.

- **Quality and Customer Service**

MESO emphasizes quality in product/service and in the appearance of the client’s business. Our clients and their employees are provided one-on-one training regarding delivering excellent



customer service. For example, Yenetilla, originally from Ethiopia, received extensive one-on-one training to develop his phone skills which now support his business, A-1 Carpet Cleaning.

- *Access to Capital*

MESO provides access to low interest loan funds to clients who traditionally do not have access through the mainstream financial institutions. Our goal is make them bankable and help them develop prudent saving habits. To this end, we provide creative financing, such as guaranteed credit lines, revolving loans and credit enhancement loans and report to credit bureaus, improving their credit scores and their bankability.

Our success is evident by the success of our clients. MESO clients help restore vitality in distressed neighborhoods, support local vendors and create new jobs. Concurrent with their success in business, is improvement in personal development, long-term financial security, and increased community participation.

## *Project Approach and Methods*

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### **Description of Target Population**

- ◆ Individuals living at or below 80% MFI (100% of clients served)
- ◆ Individuals with limited English proficiency
- ◆ Individuals of color (minimum of 50% of clients served)
- ◆ Businesses located in economically challenged priority areas
- ◆ Businesses with 5 or fewer employees

**Barriers and challenges:** Achieving financial independence is a challenging goal for low-income, minority and immigrant/refugee communities. This is due to the multiple barriers they face, such as lack of financial resources, a first language other than English, and difficulty understanding the financial and business service systems. Entrepreneurship is a viable choice for these communities.

**Strengths:** These entrepreneurs are resilient, hardworking, put-in long hours, are willing to take risks and remain optimistic about a better life in the future. Given appropriate support they are able to achieve the “American Dream”. As an example, MESO’s client Tonalli’s Donuts, a family-run enterprise (supporting eight family members), is open from 6 am to 12 am, seven days a week. They work hard to not only support the family, but to provide an education for their children. Over the last five years revenues have increased from \$75,000/yr to \$550,000. When asked if she would return to her Office job, Victoria, says that there she would still be a cashier, without hope of an increase in salary. This example resonates with many of our clients.

**Needs:** Success for our clients is dependent on them receiving assistance in meeting the following needs:

- ◆ **Accessibility and culturally appropriate support:** Timely business development services provided by culturally sensitive, skilled and compassionate professionals.
- ◆ **System navigation:** Focused assistance to understand US business procedures, licensing and policies for self-employment.
- ◆ **Access to business resources:** Support with bookkeeping, marketing, taxes, legal, vendors and planning for growth.



- ◆ **Access to capital:** Establishment of credit through access to affordable loans.

#### **How Target Audience Will Be Identified and Served**

Our mission to assist underserved entrepreneurs guides us to identify clients based on income, geography and demographics. Our intake procedure includes multiple interviews, site visits and reference checks. We review income through previous year taxes, employment history, and collective household income. For geographic identification, we look at the client's home and business address to determine a match to our Target Audience. For demographics, clients complete an intake form which requests this information.

We follow basic criteria in determining whether to take on an individual as a client, including adequate experience with business operation, functioning of an ongoing business, and appropriate business preparedness regarding startups. Clients are assessed for needed services, goals are set and staff monitors progress and provides and support to meet goals. Follow-up appointments are made with each visit, thus encouraging clients to meet their assigned goals. Relationship building begins immediately.

#### **Experience Delivering Services to Target Audience**

MESO has consistently and successfully served this target audience over the past fifteen years. Women, minorities or immigrants own 66% of businesses currently served. 95% of our clients subsisted 50% of the area's median family income at the time of enrollment.

Though determined to succeed, lack of business understanding, the current economic climate and access to capital restricts potential for growth for these groups. As an example, a non-English speaking client shopped daily for her restaurant. By introducing her to a vendor that delivers, providing a credit enhancement loan to establish credit and helping her with a credit application so she could purchase in bulk has led to substantial saving in time and finances, allowing her to focus more on marketing her business.

#### **Outreach Strategies for Target Audience**

We find optimal located to serve the target community. Our strategies are:

- Office located for convenient access
- Solid reputation maintained for effective services and culturally competent staff
- Engagement "at the door" and active recruitment of visiting businesses
- Presentations and trainings at events such as job fairs and main street business events
- Referrals from community-based non-profits, SBDC, and employment offices
- Provision of business Individual Development Accounts to the community

#### **Business Development Services offered**

What distinguishes MESO from conventional small business support services programs is our approach to service delivery. We customize our services to each business, providing a hands-on approach that fosters a professional relationship with each business owner and respects their needs, education, and culture. Staff provides timely services to clients on-site at clients' locations allowing us to troubleshoot businesses from the inside out, providing on-the-spot recommendations and guidance, while enabling businesses to continue operations.



We provide these Business Development Services:

- Technical Assistance (ANCHOR)
- Training (EDUCATE)
- Access to Capital (ACE)
- Mentoring/Networking (CONNECT)

Our technical assistance program, **ANCHOR**, begins with a comprehensive assessment allowing us to identify the immediate and long term needs of the entrepreneur. We provide the following assistance:

Program and Topics	Method	Duration
<b>“ANCHOR”</b> Business Planning <ul style="list-style-type: none"> <li>◆ Growth and Capacity</li> <li>◆ Human Resources</li> <li>◆ Licensing</li> </ul>	One-on-One at the business location, MESO’s office, or out in the field	3-years minimum or as long as the client needs

<ul style="list-style-type: none"> <li>◆ Technology</li> </ul> Marketing <ul style="list-style-type: none"> <li>◆ Communications and Branding</li> <li>◆ Website and Social Media</li> </ul> Accounting <ul style="list-style-type: none"> <li>◆ Cash Flow and Management</li> <li>◆ Taxes and Financial Recordkeeping</li> </ul> Other Business Related <ul style="list-style-type: none"> <li>◆ Customer Service</li> <li>◆ Sales Skills Development</li> <li>◆ Time Management</li> <li>◆ Legal Assistance</li> </ul> Personal Development <ul style="list-style-type: none"> <li>◆ Confidence-Building Activities</li> </ul>		the support to succeed
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Our **Access to Capital for Entrepreneurs (ACE)** program, identifies capital needs, works one on-one with clients to fill forms, provide bookkeeping and tax support and coach on presentation skills for our external loan committee.

Program and Topics	Method	Duration
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<p><u>“ACE”</u>          Micro-Financing (No-interest-to low-interest)</p> <ul style="list-style-type: none"> <li>◆ Loan Packaging</li> <li>◆ Loan Support</li> <li>◆ Tiered Loans</li> <li>◆ Revolving Loans</li> <li>◆ Emergency Loans</li> <li>◆ Guaranteed Credit-lines</li> <li>◆ Term Loans</li> </ul> <p>Individual Development Accounts          Credit Enhancement Loans</p>	<p>One-on-One support and coaching</p>	<p>3 to 7 years, depending on need</p>
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Our **EDUCATE** program, provides **training** and classes to keep up with business trends, strengthen business and financial knowledge, and enrich client abilities to access markets through social media. In the past seven years, 40 training sessions have been offered.

Recently, we have increased our capacity and space to be able to provide more frequent classes and open it to the larger community.

Program and Topics	Method	Duration
<p><u>“EDUCATE”</u>            Net Worth building (12 hour series)            Business Planning (8 hour series)            QuickBooks and Abacus Marketing            Social-media (Facebook, websites etc.)            Taxes and Legal Issues            Time Management and Resiliency</p>	<p>Small groups of businesses needing similar skills</p> <p>Learning is secured through one-on-one support</p>	<p>3 years</p>

MESO did not intend to form a **mentoring/networking program (CONNECT)**. However, clients themselves formed groups that meet regularly to support and learn from each other. Staff facilitate these groups and bring speakers and executive coaches to enhance learning. Long term relationships is build not only with the staff but we encourage clients to get to know each other, and mentor and support one another. As one client says, “we are a family”.





Program and Topics	Method	Duration
<u>“CONNECT”</u> Women’s Group Tax Group Marketing Group	Small groups of businesses needing similar skills or in similar circumstances	3 years

**Approach and Service Model**

We have incorporated the Tupelo Model (*image right*) in economic development where human and leadership developments are the foundational layers. In order to be successful at building these foundations, we form robust, long-term relationships with clients.

Along with best practices from the Training Microenterprise and the Lending Microenterprise Models, which respectively focus on training in business plans and providing access to capital, we then assist clients to operate, manage and grow their businesses.

MESO selects entrepreneurs who are motivated and have a business or idea with potential. These entrepreneurs are open to scrutiny and willing to implement plan to meet goals. Our services are integrated and seamless. Our approach emphasizes innovation and timely support. We cultivate, nurture and encourage clients through the ups and downs of business. Staff brings broad experience, unique strengths and technical qualifications to benefit clients. Services are provided at the business location as much and as often as needed.

Exit from the program is self-selected by the business owners, generally between 3-5 years. MESO maintains an open door policy. On any given day, between three to five clients drop in to resolve various needs. 80 to 90% of our clients maintain ongoing contact after graduating. We invite clients to networking and training events. Clients are encouraged to “give back” by mentoring new clients. MESO provides continued support and access to capital as graduated clients grow their enterprises. Combining our open door policy with customized support and culturally competent service providers has enabled MESO to build strong, lasting relationships.



**Client Process: Screening and Selection**

Screening includes several interviews, site visits, and references. For pre-businesses, we assess the potential for success of the ideas. We conduct a thorough evaluation of the owner’s business practices, work ethics and passion. Besides quantifiable reviews of finances, we also consider their attitudes towards change and adaptability to learning additional skills.



Our client review includes assessment of business knowledge, business documentation, formation status, permits and licenses, credit report and tax filings, insurance status, financials and recordkeeping systems, and marketing materials. We also assess the client’s business environment to review their customer service skills, computer literacy, and how the business operates. The final assessment step is determining if their basic necessities are met such as transportation, childcare and housing.

**Assistance:** Following assessment and acceptance, we develop a plan for work with each individual client. We begin by identifying resources that may be of benefit to the entrepreneur. Staff and the client work together to accomplish business and personal goals. Clients are connected to consultants on an as-needed basis, and provided trainings and resources along their path to success. Clients receive help with business formation, planning, operations, marketing, financing, and other services. Loan applicants are assessed for barriers, and an action plan is implemented to address those barriers and bridge readiness gaps.

**Evaluation and Adjustments:** Ongoing evaluations based on growth in revenues, skills, assets, jobs and net worth allow staff to help owners make needed adjustments to their marketing and business plan. Annual evaluations include business, marketing, and financial plans; job retention and creation; owner’s draw and credit score; Federal and State tax filings; business and health insurance; and approved, awarded and repaid loans. Owners know that their business plan is a living document that needs to be used and



adjusted as needed.

**Client Profile**

MESO seeks clients who are motivated to improve or launch their businesses. These are micro-enterprises of 5 or fewer employees. We are uniquely qualified and experienced to work with disenfranchised communities. We prioritize work with clients who are below 80% Portland MFI, operate their businesses in economically challenged priority areas of Portland, and are from communities of color and/or have limited English proficiency. Client businesses may be in Pre-Business, Start-up, or Ongoing Operations phases.



**Plan for Long-Term, Core Relationships**

Our model is based on forming long term, genuine relationships that are sustained even after clients graduate from our program. Due to the level of one-on-one and small group support, we have historically had strong success maintaining contact with clients. MESO clients feel they are part of a family and return to MESO for help with difficulties and to report their successes.

Clients mentor new businesses, are invited to trainings and our annual graduation banquet.

To this end, we have developed the following guidelines:

- ◆ Clients formally sign a 3-year commitment form
- ◆ MESO has an open door policy so clients can drop in as fits their schedules and needs
- ◆ Staff provide assistance, support and training in a safe, non-judgmental environment
- ◆ Clients are informed of reporting expectations and understand that MESO will contact them within a given time period to collect data
- ◆ Clients are matched with MESO’s loan products or Individual Development Accounts
- ◆ The duration of loans is generally 3-5 years, which allows us to maintain contact
- ◆ A schedule for monthly visits and other activities is established immediately following the assessment phase

**Measuring Success**

<b><i>Outcomes (3 years tracked)</i></b>	<b><i>Measurements</i></b>	<b><i>Timeline</i></b>
Sustained business operations	➤ Years in business	Quarterly review
Growth of businesses	➤ Gross sales ➤ Gross payroll ➤ Jobs created, retained ➤ Access to capital ➤ Net Income ➤ Profit and Loss, Balance Sheet ➤ Cash flow	Enrollment Review  Quarterly review  Annual Review for three years from enrollment
Asset growth	➤ 10% growth in business assets	Annual review
Increased employment	➤ Number of jobs created and retained	Quarterly review
Improved credit	➤ 25% will have improvement in credit scores	Annual review
Increased access to capital	➤ 75% will have approved and awarded loans or participate in IDAs	Annual review
One-on-one TA, Mentoring, Training	➤ 100% clients will receive staff assistance	Staff timesheets
Client demographics	➤ 100% at or below 80% MFI ➤ 40% minority owned	Annual review
Clients served	➤ 30-45 new clients	Annual review





Gregory L. Geist  
Director

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval of a Contract Amendment #4 with James W. Fowler Company for the Tri-City Water Resource Recovery Facility (WRRF) Solids Handling Improvements Project

<b>Purpose/Outcomes</b>	Execution of the Amendment between Water Environment Services and James W. Fowler Company for the Tri-City WRRF Solids Improvements Project.
<b>Dollar Amount and Fiscal Impact</b>	This contract amendment is for \$661,368.81, making the total amended contract value \$34,407,260.36.
<b>Funding Source</b>	Capital Improvement : 639-01-20100-481020-P632162
<b>Duration</b>	This amendment adds 7 days to the contract bringing the total duration up to 927 days from Notice to Proceed, ending on January 30, 2021.
<b>Previous Board Action</b>	The Board approved the original Contract on July 12, 2018.
<b>Strategic Plan Assignment</b>	1. This project supports the WES Strategic Plan goal to provide properly functioning infrastructure that supports healthy streams and reduces flooding.
<b>County Review</b>	May 12, 2020
<b>Contact Person</b>	Jeff Stallard, 503-742-4694

**BACKGROUND:**

The Work under this amendment to amend the contract with James W. Fowler to add the necessary cleaning of Digesters #1 and #2 to facilitate the improvements necessary to this existing infrastructure. The original plan for this portion of work was to have WES staff hire and manage the cleaning of the exiting digesters once the new digester #3 was brought online. Based on recent challenges experienced in managing a digester cleaning schedule, it was determined that adding this scope to the contract with James W. Fowler was the best path forward for the solids improvements project. Adding this scope to the contract will make James W. Fowler responsible for managing the digester cleaning sub and take responsibility for any schedule impacts associated with this digester cleaning scope. Per the attached proposal, the contractor will process and dewater the sludge remaining in digester #1 and #2 once they are taken offline. Once dewatered, the contractor will haul it away from the Tri-City WRRF and dispose of it properly.

WES will only be responsible to pay for the actual dry tons (verified via lab analysis) of dewatered sludge hauled away from our site and disposed of properly.

**PROCUREMENT PROCESS:**

This project was advertised in accordance with ORS and LCRB Rules on April 17, 2018. On May 24, 2018, three (3) bids were received: Slayden, \$37,876,800.00; James W. Fowler Company \$33,473,352.00; and Stellar J, \$35,792,038.00. After review of the bids and all necessary documentation, James W. Fowler Company was determined to be the lowest responsive bidder.

**RECOMMENDATION:**

Staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of Water Environment Services, approve and execute the amendment between Water Environment Services and James W. Fowler Company for the Tri-City WRRF Solids Handling Improvements Project. This amendment has a value of \$661,368.81 for a total contract amount not to exceed \$34,407,260.36.

Respectfully submitted,

Greg Geist, Director  
Water Environment Services

Placed on the BCC Agenda \_\_\_\_\_ by Procurement.

**AMENDMENT #4**

**TO THE CONTRACT DOCUMENTS WITH JAMES W. FOWLER CO. FOR TRI-CITY  
WATER RESOURCE RECOVERY FACILITY (WRRF) SOLIDS HANDLING  
IMPROVEMENTS PROJECT  
CONTRACT # 2423**

This Amendment #4 is entered into between James W. Fowler Co. (“Contractor”) and Water Environment Services (“Owner”) and it shall become part of the Contract documents entered into between both parties on July 12, 2018 (“Contract”).

The Purpose of the Amendment #4 is to make the following changes to the Contract:

- 1. Item 1. Contract Price, Contract Documents and Work** is hereby amended as follows:  
The Contract work is amended to include necessary work associated with the cleaning and disposing of dewatered sludge from Digester’s 1 and 2 that was identified in change proposal request 16. The details for the digester cleaning including associated drawings and supporting information for backup are attached as **Exhibit C** and hereby incorporated by reference. The amount for the additional work is approved for **\$661,368.81**. The total contract compensation shall not exceed \$34,407,260.36.
  
- 2. Item #4. Contract Dates** is hereby amendment as follows:  
Milestone No. 3 “Final Completion of Entire Contract” is hereby changed from 920 days from Notice to Proceed (“NTP”) to **927** days from NTP. NTP was issued July 18, 2018. During the process of negotiating these change orders, 7 additional days were necessary to complete the work associated with added scope included in these changes.

Original Contract Amount	\$ 33,473,352.00
Amendment #1	Additional Language
Amendment #2	\$ 101,503.89 + Time Extension
Amendment #3	\$ 171,035.66
<b><u>Amendment #4</u></b>	<b><u>\$ 661,368.81 + Time Extension</u></b>
<b>TOTAL AMENDED CONTRACT</b>	<b>\$ 34,407,260.36</b>

**SIGNATURE PAGE FOLLOWS**

Except as expressly amended above, all other terms and conditions of the Contract shall remain in full force and effect. By signature below, the parties agree to this Amendment #4, effective upon the date of the last signature below.

**James W. Fowler Co.**  
12775 Westview Dr.  
Dallas, OR 97338

**Water Environment Services**

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Name / Title (Printed)

\_\_\_\_\_  
Recording Secretary

119368-12 / DBC / Oregon  
Oregon Business Registry #

\_\_\_\_\_  
Date

63701 Expires 1/17/2022  
Oregon CCB License #

**Approved as to Form:**

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Date

**EXHIBIT C**  
**DIGESTER CLEANING AND ASSOCIATED DOCUMENTATION**