



Clackamas County Sheriff's Office

ANGELA BRANDENBURG
Sheriff

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Contract #4061 with ChemImage Corporation for the purchase of Mail
Scanning Equipment for the Clackamas County Jail

Purpose/Outcomes	To detect and prevent contraband from entering the correctional facility and to ensure the safety of staff and adults in custody as well as the capacity to hold offenders accountable.
Dollar Amount and Fiscal Impact	The purchase price including 5-years extended warranty is \$179,694.00. This includes \$132,899 for equipment costs, \$46,000 for the extended 5-year warranty and \$795 for shipping. The purchase price will be reimbursed over the course of five years.
Funding Source	State Forfeiture Funds.
Duration	The extended warranty through this purchase is good through September 1, 2026.
Previous Board Action	None.
Strategic Plan Alignment	1. How does this item align with your department's Strategic Business Plan goals? This contract aligns with the Jail Program's strategic goal to provide a secure custody environment and social, medical, food, and education services to inmates so they can be safe while they are held accountable, prepare for release, and become productive members of the community. 2. How does this item align with the County's Performance Clackamas goals? This contract furthers the County's Performance Clackamas goal to ensure safe, healthy and secure communities.
Procurement Review	1. Was this item processed through Procurement? <input checked="" type="checkbox"/> yes <input type="checkbox"/> no 2. If no, provide a brief explanation:
Counsel Review	Reviewed Date: May 18, 2021 ARN
Contract No.	#4061
Contact Person	Barb MCCullough 503-722-6703

Background:

Over the past few years an increase in drugs entering the jail facility through mail has become an increasing problem with over 2% of all incoming mail being processed containing contraband (this represented 20% of rejected mail in the jail). This past year the jail has completed twelve criminal investigations involving narcotics being sent

Office: 9101 SE Sunnybrook Blvd., Clackamas, OR 97015

Mailing: 2223 Kaen Road, Oregon City, OR 97045

Phone: 503-785-5000 • Fax: 503-785-5190 • www.clackamas.us/sheriff

through our jail mail system to our Adults in Custody. Many of these items of mail are soaked in narcotics and extremely difficult to detect by the naked eye. The narcotics that were found in these instances were Opiate in nature, which without being caught could have led to possible overdoses and deaths in custody by the receiving adults in custody. This issue creates a risk of safety to both staff and the adult in custody population. To help stem the tide of contraband entering into the facility this equipment will help detect narcotics not visible by human eye.

The total purchase price will be reimbursed with five (5) annual payments of \$35,938.80 through a related Contract with Global Tel*Link under the Inmate Phone System Contract.

Procurement Process:

Procurement issued a *Notice of Intent to Purchase with Single Candidate* for the equipment from ChemImage Corporation on April 29, 2021. No comments were received.

Recommendation:

Staff respectfully recommends that the Board approve and execute the Contract with ChemImage Corporation for the purchase of the Mail Scanning Equipment for the Clackamas County Jail.

Sincerely,



Jenna Morrison
Chief Deputy

Placed on the BCC Agenda _____ by Procurement and Contract Services

**CLACKAMAS COUNTY
GOVERNMENTAL CONTRACTING ADDENDUM
Contract #4061**

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 Sheriff’s department and **ChemImage Corporation** (“Contractor”). This Addendum shall be attached to, and incorporated into, the Mail Scanner purchase agreement (“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 upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **September 1, 2026**.
- B. Consideration:** County agrees to pay vendor one hundred seventy nine thousand six hundred and ninety four dollars (**\$179,694.00**) per purchase agreement # 20210310-114826761. This includes the mail scanning system, extra peripherals, and the 5-years extended warranty, as set forth in Contractor’s quote, attached hereto as **Exhibit A** and incorporated by reference herein.
- C. County Contract Administrator.** The County Contract Administrator for this Contract is **Barb McCullough**.
- D. Invoices and Payments.** Invoices shall be submitted via email to lhamann@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.

Required - Workers Compensation: Contractor shall comply with the workers’ compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input 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 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.

Pay 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 Law; Venue. This Contract 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 County and Contractor that arises out of or relates to the performance of this Contract 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.

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. Contractor agrees to indemnify, hold harmless and defend the County, its officers, elected officials, 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 Contractor or Contractor'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.
- R. Survival.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections F, H, L, M, N, Q and R, and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

By their signatures below, the parties to this Addendum agree to the terms, conditions, and content expressed herein.

ChemImage Corporation
7325 Penn Avenue, Ste. 200
Pittsburgh, PA 15206

Clackamas County

Amanda McCombs  05/18/2021
09:24 AM EDT

Authorized Signature Date

Chair

Amanda McCombs, CFO

Name/Title (Printed)

Recording Secretary

Date

Approved As To Form:

Andrew Naylor Digitally signed by Andrew Naylor
Date: 2021.05.18 10:15:32 -0700 **5/18/2021**

Clackamas County Counsel Date

EXHIBIT A
CONTRACTOR'S PURCHASE AGREEMENT
#20210310-114826761



Clackamas County OR - Mail Screener

Clackamas County OR

2223 Kaen Rd
Oregon City, OR 97045
USA

Barb McCullough

Lieutenant
barbmcc@clackamas.us
503-722-6703

Reference: 20210310-114826761

Quote created: March 10, 2021
Quote expires: June 8, 2021
Quote created by: Robert Levy
Account Manager Western US
levyr@chemimage.com
+1 (775) 781-2525

Comments from Robert Levy

Dear Lieutenant McCullough,

Thank you for your interest in our technology. Below you will find the requested solution and the options we discussed.

ChemImage understands the threat of illicit drugs smuggled into facilities through postal mail. Our customers also benefit from added security and intelligence data the Mail Screener provides.

This solution greatly increases facility security by empowering your officers with technology that will help them identify drugs hidden in the mail. We are committed to continually develop our technology with our customers to address the latest threats.

We look forward to earning your business.

Products & Services

Item & Description	Quantity	Unit Price	Total
VeroVision Mail Screener - Gen 3 VeroVision™ Mail Screener Detection System 3rd Generation • SWIR Hyperspectral Unit (SHU) • Mail Screening Lighting Stand for Document Scanning (Reflectance and Transmittance Modes) • Workstation Operator Control Unit with 23" Touch Screen Display • Ethernet and Sensor Head cables • Operator Manual • One Year Limited Warranty • Installation and Training	1	\$124,900.00	\$124,900.00
VeroVision Drug Presumptive Identification	1	\$9,900.00	\$3,999.50 after \$5,900.50 discount

One button presumptive identification of illicit contraband contained in the mail. Provides presumptive identification results in 2 minutes. Drug library updates included.

VeroVision Soaks and Sprays Software	1	\$9,900.00	\$3,999.50
Software addition that provides detection of mail items that have been sprayed with, or soaked in, methamphetamine and certain kinds of synthetic cannabinoids.			after \$5,900.50 discount

(This List Price does not incl disc.)

ChemImage Mail Screener 12 month	4	\$12,900.00	\$46,000.00
Extended Comprehensive Service Agreement			after \$5,600.00 discount
Library expansion when available. Material & labor covered (includes camera and filters). One annual preventative agreement			46k over 4 years \$11,500/cost dif of \$2573.50 per year for Comp Svc Agmt vs Standard Svc Agmt

Subtotals

One-time subtotal	\$178,899.00
	after \$17,401.00 discount

Other Fees

Shipping and handling	\$795.00
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Total \$179,694.00

Purchase Terms

If you have any questions, or if you require further information, please do not hesitate to contact the originator of this quotation. A summary of the key specifications and performance characteristics of the product are available upon request.

Shipping: 120 days ARO

Make checks payable to: ChemImage Corporation
accountsreceivable@chemimage.com
Federal E.I.N #542081245

Purchase of ChemImage products, software and services are subject to specific terms and conditions, which are incorporated by reference herein.

Review our Terms and Conditions using this link here <https://info.chemimage.com/hubfs/TsandCs/CI-TsCs.pdf> Your acceptance of these terms and conditions is required for order confirmation.

I hereby accept and acknowledge ChemImage's standard Terms and Conditions, referenced in the link above.

Signature

Signature

Date

Printed name

Questions? Contact me



Robert Levy

Account Manager Western US

levyr@chemimage.com

+1 (775) 781-2525

ChemImage

7325 Penn Avenue, Suite 200

Pittsburgh, PA 15208

Terms and Conditions

These Terms and Conditions constitute a material part of the agreement between ChemImage Corporation (Seller) and Customer. ChemImage agrees to sell the Products to Customer provided that (i) the Products are available at the time of the order, (ii) ChemImage accepts the order, and (iii) Customer is in full compliance with the terms and conditions of this Agreement. Customer agrees to purchase the Products for use within the United States.

1. Prices. Prices are based on the products and quantity described in the quote. Any changes or deletions to the product, quantity, or specifications may alter the price. Seller reserves the right to alter the product and prices in the quote, subject to Customer's confirmation.
2. Payment. Payment Terms. Payment terms are net thirty (30) days from date of invoice ("Due Date"). ChemImage must receive payment at the "Remit To" address listed on the invoice on or before the Due Date to be considered as received on time. Customer shall pay ChemImage costs incurred in the collection of any past due account under this Agreement if so ordered by a court of competent jurisdiction. In the event Customer is delinquent in payment of any amounts to ChemImage, whether or not related to this Agreement, ChemImage may, at its option, terminate this Agreement. If terminated pursuant to this section, Customer shall pay to ChemImage only the amounts due and owing for services and/or good actually provided pursuant to this Agreement.
3. Seller offers eCommerce solutions giving customers flexible invoice and payment options.
 - i. Invoice Options. Customer may choose to receive invoices
 - i. Electronically via email
 - ii. by mail
 - iii. or by email and mail
 - ii. (b) Payment Options. Payment to ChemImage may be made either electronically (preferred method) or by check. In the event that an electronic payment is made, Customer must include a remittance or invoice number with each transaction.
4. Delivery. Freight terms are FOB Destination unless otherwise specified. Notwithstanding anything in the foregoing to the contrary, Seller also charges a shipping charge for any of the Products. Additional charges for emergency or overnight deliveries will be the responsibility of Customer and will be added to the invoice.
 - (a) Damage or Shortage in Shipment. Seller exercises care in packing shipments. To minimize the possibility of error, all orders should be inspected upon receipt. ANY DAMAGE, SHORTAGE OR OVERAGE DUE TO SHIPPING SHOULD BE REPORTED TO SELLER'S CUSTOMER SERVICE DEPARTMENT AT 412.241.7335 or 1-877-241-3550 WITHIN TWO (2) BUSINESS DAYS OF RECEIPT. Seller may reject requests for return authorization received later than two (2) business days from Customer's receipt of the Products. Customer's cooperation in providing this information

will enable Seller to expedite the necessary adjustments. Customer agrees to purchase any and all insurance necessary to indemnify it against any loss in shipping. Seller will pre-pay and add shipping charges to the initial invoice.

Delivery dates are not guaranteed, but are estimated on the basis of immediate receipt by Seller of all information and approvals to be furnished by Customer and the absence of delays which are excused under Section 8 (Force Majeure). Seller shall endeavor in good faith to meet estimated delivery dates.

5. Limited Warranties. Seller warrants to the Customer that for a period of 1 year from the date of installation, equipment manufactured by us shall be free from defects in materials and workmanship for a period of one (1) year from the date of installation of such equipment. Services performed by Seller in connection with such equipment, such as site training and installation services relating to the equipment, shall be free from defects for a period of one year from the date of shipment. Customer agrees that the Seller must perform an annual maintenance and preventative diagnostic on the product to maintain this warranty or any extended warranty purchased by the Customer, and Customer agrees to provide Seller all requested or relevant data related to the product covered by this warranty. Warranty repair or replacement within this one-year period may cover system assemblies and subassemblies, including the system sensor head unit (SHU), cables, switches, optical train, and power module. If defects in materials or workmanship are discovered within the applicable warranty period as set forth above, Seller shall, at its sole option a) in the case of equipment, either repair or replace the equipment or b) in the case of defective services, re- perform such services. Seller may, at its sole discretion, issue a temporary system (a "loaner system") to Customer while Customer's warrantied unit is undergoing repair. Seller shall repair units within a commercially reasonable time frame subject to Seller's internal processes and availability of applicable system components and service personnel. Seller shall have the option of replacing equipment with substitute products or new, used, or refurbished replacement parts, and Customer acknowledges that parts used to repair or replace the system may be new, used, refurbished, or non-original manufacturer parts that perform to the factory specifications of the purchased system. Updates to software and libraries are available at no charge to Customer as long as customer is under warranty or has purchased an extended service warranty. This warranty does NOT include replacement glass for lamps, glass cleaner, light bulbs, sample analysis and investigation, or recipe development support. Such services and supplies may be purchased by Buyer from Seller, at Seller's discretion.
6. Return Goods Policy. Seller can accept for credit only those Products that (a) do not perform pursuant to Seller's specifications for the Products, (b) may have been damaged during transportation while under the care of Seller, or (c) Customer may have received in error. Return of the Products must be authorized before any returns will be accepted. In cases of Products damaged during shipments, Customer must contact Seller according to the procedures in Section 4(a) of these Terms and Conditions, and must do so within the time period specified. Customer shall contact Seller Customer Service for instructions on the return procedure to be followed.

7. Warranty shall be void due to any of the following: a) If the product has been opened, modified, altered, or repaired, except by Seller or its authorized agents, b) if the product has not been installed or maintained or used in accordance with instructions provided by Seller, including Customer's operational errors or requirements related to product placement, temperature, and environment, c) if the product has been subject to misuse, abuse, intentional physical/mechanical/electronic damage, malicious mischief, reckless handling, animal or insect infestation, accident, thermal or electrical irregularity, theft, vandalism, fire, liquid, or other peril, including, but not limited to, damages caused by war, nuclear incident, terrorism, or unexplained or mysterious disappearance, d) if the product has been damaged due to storage, containment, and/or operation outside the environmental specification of the product, e) if the product has been subject to a connection of the product to other systems, equipment, or devices or use with other software (other than software specifically provided by Seller), f) if product identification labels have been removed or altered on any part of the product or its constituent parts and accessories, or g) if the product's software has been damaged by computer viruses or other malware.

EXCEPT AS SET FORTH HEREIN, NO OTHER WARRANTIES OR REMEDIES, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESSED, IMPLIED (INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) OR OTHERWISE, SHALL NOT APPLY. IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR ANY SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY NATURE WHATSOEVER, WHETHER AS A RESULT OF BREACH OF CONTRACT, TORT LIABILITY (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. REPAIR OR REPLACEMENT OF THE EQUIPMENT DURING THE APPLICABLE WARRANTY PERIOD IS YOUR SOLE AND EXCLUSIVE REMEDY UNDER THIS WARRANTY. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCLUDING THE INTELLECTUAL PROPERTY INDEMNIFICATION OBLIGATIONS OF SELLER, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR BREACH OF CONTRACT, TORT LIABILITY (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER ARISING BEFORE OR AFTER DELIVERY OF THE GOODS AND/OR PERFORMANCE OF THE SERVICES FURNISHED UNDER THE SALES CONTRACT, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PENAL LOSS OR DAMAGE OF ANY NATURE WHATSOEVER, INCLUDING WITHOUT LIMITATION, DAMAGE TO OR LOSS OF USE OF PLANT OR EQUIPMENT, EXPENSES INVOLVING INTEREST CHARGES OR COST OF CAPITAL, LOSS OF PROFITS OR REVENUES, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, OR CLAIMS OF CUSTOMER.

8. Termination. Seller may terminate the performance of the work under the agreement in whole at any time, or from time to time in part, by written notice to Customer. Such notice must be received by Customer at least 30 days before the date of termination.

9. Default – Cancellation. Customer may not cancel this order, or any portion thereof, except upon written notice to Seller and upon payment to Seller of the cancellation charges specified below. Customer acknowledges that such charges have been agreed upon, not as a penalty, but as a result of the difficulty of computing actual damages and the inconvenience and non-feasibility of Seller otherwise obtaining an adequate remedy.

Cancellation Notice Received Prior to Scheduled Delivery	Cancellation Charges (Percentage of Sales Price of Goods)
Less than 30 Days	50%
45 Days or More	25%

Customer may not cancel any order, or portion thereof, after shipment, Buyer may not reschedule or change any order, or portion thereof, without Seller’s prior written consent.

10. Bankruptcy/Insolvency - In the event of Customer’s bankruptcy or insolvency, or in the event any proceeding is brought against Customer, voluntarily or involuntarily, under the bankruptcy or insolvency laws, Seller may cancel any order then outstanding at any time during the period allowed for filing claims against the estate, and shall be paid the cancellation charges specified in Section 6 (Default—Cancellation).
11. Force Majeure. Neither party shall be liable for defaults or delays due to Acts of God or the public enemy, acts or demands of any Government or any Governmental agency, strikes, fires, floods, accidents, or other unforeseeable causes beyond its control and not due to its fault or negligence. Each party shall notify the other in writing of the cause of such delay within five (5) days after the beginning thereof.
12. Hold Harmless. Except as otherwise stated in this Agreement, each party to this Agreement agrees to be solely responsible for any negligent acts or negligent omissions by or through itself, its agents, employees, and contracted servants, and each party further agrees to defend itself and themselves, and pay any judgments and costs arising out of such negligent acts or negligent omissions, and nothing in this Agreement shall impute or transfer any such responsibility from one party to the other party
13. Assignment. Neither this order nor any rights or obligations herein may be assigned by Customer nor may Customer delegate the performance of any of its duties hereunder without Seller’s prior written consent. ChemImage may not assign any rights or obligations under this Agreement without Customer’s prior written consent
14. Intellectual Property.
- i. Seller warrants that products furnished under the Sales Contract, and any part thereof, shall be delivered free of any rightful claim of any third party for infringement of any United States patent. Customer acknowledges and agrees that all intellectual property rights in the Products and Software and in any Seller technology, intellectual property, and know-how used to make or useful for the

manufacture or use of the products will at all times remain vested in the Seller. Customer shall not use Seller's trademark, tradename, or other indication in relation to the Product unless in accordance with Seller's instructions or prior written approval and solely for the purposes expressly specified by Seller in writing. Customer shall not have nor obtain any right, title, or interest in or to any Seller's owned trademarks, tradenames, or other indications. Customer acknowledges all rights, title, and interest of Seller in respect of and to Seller's owned trademarks, tradenames, and other indications.

- ii. ChemImage shall defend and indemnify Customer, and its elected officials and employees, against any third party claim(s) that the software license, or its use by Customer, infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets. Customer shall notify Contractor promptly in writing of the claim and give Contractor sole control over its defense or settlement; provided, however, Contractor may not agree to any settlement that requires payment of Licensee or adversely impacts Licensee without Licensee's prior written approval. Licensee agrees to provide Contractor with reasonable assistance, cooperation, and information in defending the claim at Contractor's expense.

15. Reserved.

16. Invoices and Notices. All correspondence covering this quote must be addressed to ChemImage Corporation, 7325 Penn Ave., Suite 200, Pittsburgh, PA 15208. The parties agree that for any transactions subject to this quote, facsimile signatures shall be accepted as original signatures, orders may be transmitted electronically and any document created pursuant to this order may be maintained in an electronic document storage and retrieval system, a copy of which shall be considered an original. Neither party shall raise any objection to the authenticity of this quote or any document created hereunder, based on the use of a facsimile signature, electronic order or the use of a copy retrieved from an electronic storage system.

17. Severability. In case any one or more provisions contained in this quote shall be invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

18. Notice. Any notice given under this quote shall be in writing and will be effective: (i) when delivered if delivered in person; or, (ii) three (3) days after deposited in the United States mail to the address provided on the first page of this quote. Email communications are solely for the convenience of the parties and will not constitute valid or effective legal notice for purposes of this quote.

19. Taxes Prices do not include any municipal, provincial, state or federal sales, use, excise, value added or similar taxes. Consequently, in addition to prices specified, the amount of any present or future taxes, duties and/or tariffs that may be imposed shall be paid by Customer, or in lieu thereof, Customer will provide Seller with a tax exemption

certificate acceptable to the taxing authorities. International sales are subject to applicable transportation and import duties, licenses, and fees, or as agreed to by the purchase order.

20. Export Laws Customer agrees to comply with all applicable export laws, assurances, codes, and license requirements and controls of the United States and other applicable jurisdictions in connection with the use and resale of products including Customer's acceptance of responsibility for the payment of any relevant taxes or duties, etc.

21. ITAR Compliance. Customer is advised that this purchase order may involve goods or services subject to the International Traffic in Arms Regulations (ITAR) ITAR 22 CFR , Chapter 1, Sub-Chapter M, §120-§130, the Export Administration Regulations, and other applicable U.S. export laws and regulations, as may be amended from time to time. Sale of goods may be subject to licensing requirements by the U.S. Government, and may not be resold, diverted, transferred, or otherwise be disposed of, to any other country or to any person other than the authorized end-user or consignee(s), either in their original form or after being incorporated into other end-items, without first obtaining approval from the U.S. Department of State or use of an applicable exemption. If Customer is a U.S. company that engages in the business of either manufacturing or exporting defense articles or furnishing defense services, the Customer hereby certifies that it has registered with the U.S. Department of State, Directorate of Defense Trade Controls and understands its obligations to comply with the International Traffic in Arms Regulations (ITAR) and the Department of Commerce, Export Administration Regulations (EAR). Customer shall indemnify and hold Seller harmless from and against any liability claims, demands or expenses (including attorney's or other professional fees) arising from or relating to Customer's non-compliance with U.S. export laws.

22. Independent Contractor. ChemImage agrees by its signature below that it shall act in performance of this Contract as an independent contractor. No agency, employment, joint venture, or partnership has been or will be created between the Parties hereto pursuant to the terms and conditions of this Contract. ChemImage assumes all responsibility for any and all federal, state, municipal, or other tax liabilities, along with workers compensation, unemployment compensation, contributions to retirement plans, and/or insurance premiums which may accrue and/or become due as a result of compensation received for services and/or deliverables rendered and/or received under or pursuant to this Contract.

23. Drafting. This Agreement shall be deemed to have been drafted by both parties.

24. Waiver. The failure of either Party to require performance by the other party of any provision of this Agreement or any Amendment or Addendum shall not affect its right to require such performance at any time thereafter; nor shall the waiver by either Party of a breach of any provisions of this Agreement be taken or deemed to be a waiver of any other or future breach.

25. Applicable Law. This Agreement is governed by the laws of the State of Oregon, excluding the United Nations Convention on Contracts for the International Sale of Goods ('CISG') and excluding its conflict of laws rules.

26. Entire Agreement; Additional or Different Provisions Rejected; Modifications; Amendment. This quote constitutes the entire agreement between Customer and Supplier, unless superseded by a Distribution Agreement or other Amendment or Addendum signed by both parties. The parties may agree to amend provision(s) contained in these Terms and Conditions if such amendment (1) specifically references the provision(s) in these Terms and Conditions to be amended; (2) specifically provides how such provision(s) is amended, and (3) is executed by the President of Seller and designated representative of Customer. Otherwise, this Quote may be amended or renewed only by written agreement of both parties.

CUSTOMER

Signature

Date

Printed Name

Title



Clackamas County Sheriff's Office

ANGELA BRANDENBURG
Sheriff

June 1, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Request by the Clackamas County Sheriff's Office (CCSO) to Enter into an Intergovernmental Agreement with the State of Oregon through its Department of Transportation, Commerce and Compliance Division (CCD) to provide CCSO access to weight stations to assist with law enforcement activity.

Purpose/Outcome	This is a facility use agreement; which will provide CCSO access to CCD's weight stations 03-08 EB Brightwood, 03-07 WB Brightwood, and 03-04 Rock Creek
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Safety Impact	Furtheres the Board of County Commissioners' strategic priority of ensuring safe, healthy, and secure communities
Duration	The term of this agreement begins on the date all required signatures have been obtained and terminates on February 26, 2025.
Previous Board Action/Review	None
Counsel Review	1. <i>Date of Counsel review:</i> 05/10/2021 2. <i>Initials of County Counsel performing review:</i> AN
Procurement Review	1. <i>Was the item processed through Procurement?</i> yes <input type="checkbox"/> no <input type="checkbox"/> Not applicable 2. <i>If no, provide a brief explanation:</i> Not applicable
Contact Person	Lieutenant Richard Sheldon rsheldon@clackamas.us
Contract No.	34433

BACKGROUND:

This IGA will enhance the BCC's strategic priority of ensuring safe, healthy, and secure communities by enhancing CCSO's ability to carry out grants provided by ODOT, including the Oregon Motor Carrier Safety Action Plan. Lastly, this IGA will provide time and costs savings, as CCSO will not need to use portable scales that require ODOT weight certifications.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners approves and signs this Intergovernmental Agreement between the Clackamas County Sheriff's Office and the Oregon Department of Transportation, Commerce and Compliance Division.

Respectfully submitted,

Angela Brandenburg,
Sheriff

AGREEMENT FOR SERVICES
Intergovernmental
CCD Weigh Stations – Clackamas County Sheriff’s Office

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, Commerce and Compliance Division hereinafter referred to as "CCD" and the Clackamas County, acting by and through its Sheriff’s Office, hereinafter referred to as "Agency," both herein referred to individually as "Party" and collectively as "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, a state agency may enter into agreements with units of local government for the performance of any or all functions and activities that state agency, its officers, or agents have the authority to perform.
2. The purpose of the Agreement is to allow Agency temporary access, upon written request, to CCD’s 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh stations to assist with enforcement activity. The Parties share a mutual goal of improving highway safety and protecting infrastructure.

The Parties therefore agree as follows:

TERMS OF AGREEMENT

1. **Project.** Under such authority, Agency wishes to retain the use of CCD’s 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh stations to perform enforcement activity as described in Exhibit A, hereinafter referred to as "Project."
2. **Exhibits Attached and Incorporated.**
 - a. This Agreement includes the following exhibits, each of which is attached and incorporated into this Agreement by reference:
 - Exhibit TCD –Terms, Conditions and Definitions
 - Exhibit A – Statement of Work and Delivery Schedule
 - Exhibit B – Compensation & Payment Provisions **[RESERVED]**
 - Exhibit C – Insurance **[RESERVED]**
 - Exhibit D – Special Terms & Conditions **[RESERVED]**
 - Exhibit E – Americans with Disabilities Act (ADA) Compliance **[RESERVED]**
 - Exhibit F – Contact Information
 - Exhibit G – 2ZXY Key Form
 - Exhibit H – Weigh Station Open/Close Procedure Example

3. **Order of Precedence**

Unless a different order is required by law, this Agreement shall be interpreted in the following order of precedence:

- 1) This Agreement (including all amendments, if any) less all Exhibits, attachments and other documents and information incorporated into this Agreement,
- 2) Exhibit TCD,
- 3) Exhibit A, the Statement of Work,
- 4) All other Exhibits,
- 5) Any other attachments,
- 6) Any documents/information incorporated into this Agreement by reference.

This provision survives termination of the Agreement.

4. **Term of Agreement; Effective Date.** The term of this Agreement begins on the date all required signatures are obtained and terminates on February 26, 2025, on which date this Agreement automatically terminates unless extended by a fully executed amendment.

5. **Termination.**

- a. This Agreement may be terminated by mutual written consent of all Parties.
- b. CCD may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by CCD, under any of the following conditions:
 - i. If Agency fails to perform any of the other provisions of this Agreement, and after receipt of written notice from CCD fails to correct such failures within ten (10) days or such longer period as CCD may authorize.
 - ii. If CCD fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow CCD, in the exercise of its reasonable administrative discretion, to continue to fund its obligations for performance of this Agreement.
 - iii. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if CCD is prohibited from paying for such services from the planned funding source.

- c. Agency may terminate this Agreement effective upon delivery of written notice to CCD under any of the following conditions:
 - i. For convenience upon providing CCD thirty (30) days' written notice.
 - ii. If CCD fails to perform any of the other provisions of this Agreement, and after receipt of written notice from Agency fails to correct such failures within ten (10) days or such longer period as Agency may authorize.
 - iii. If Agency fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to fund its obligations for performance of this Agreement.
 - iv. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if Agency is prohibited from paying for such services from the planned funding source.
 - d. Any termination of this Agreement shall not extinguish or prejudice any rights or obligations accrued to the Parties prior to termination.
6. **Certification.** Each Party certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on its behalf, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind that Party.
7. **No Substitutions or Assignments.** Agency shall not assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without first obtaining the written consent of CCD. CCD's consent to any subcontract (or other delegation of duties) does not relieve Agency of any of its duties or obligations under this Agreement. This Agreement is binding upon and inures to the benefit of each of the Parties, and, except as otherwise provided, their permitted legal successors and assigns.
8. **No Third Party Beneficiaries.** Agency and CCD are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This provision survives termination of the Agreement.
9. **Waiver; Amendment.** No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or

change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of CCD to enforce any provision of this Agreement shall not constitute a waiver by CCD of that or any other provision. This provision survives termination of the Agreement.

10. **Notice.** Except as otherwise expressly provided in this Agreement, all notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Project Manager at the physical address or email address set forth in Exhibit F, or to such other addresses as either Party may indicate pursuant to this paragraph. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective when the sender receives confirmation of receipt from the recipient (not an auto-reply). Except as set forth above in this paragraph, the Parties may agree to provide operational notices such as delivery, acceptance or rejection of services or deliverables by email as may be mutually agreed in Exhibit A.
11. **Severability.** The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This provision survives termination of the Agreement.
12. **Counterparts.** This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
13. **Integration.** This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

Clackamas County, by and through its
Sheriff's Office

By _____

Date _____

STATE OF OREGON, by and through
its Department of Transportation

By _____

Amy Ramsdell Commerce and
Compliance Division Administrator

Agency/CCD
Agreement No. 34433

By _____

Date _____

Date _____

**LEGAL REVIEW APPROVAL (If required
in Agency's process)**

By _____
Agency Counsel

Date _____

CCD Contact:

Garry Pullen, Field Services Technical
Analyst

3939 Fairview Industrial Ave.

Salem, OR 97302

Phone: (503) 378-6070

Email: Garry.P.Pullen@odot.state.or.us

Agency Contact:

Richard Sheldon

2223 Kaen Rd.

Oregon City, OR

Phone: (503) 785-5092

Email: rsheldon@co.clackamas.or.us

EXHIBIT TCD – TERMS, CONDITIONS AND DEFINITIONS

THIRD PARTY CLAIMS: The following paragraphs 1 through 4 shall survive termination of the Agreement.

1. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against CCD or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
2. With respect to a Third Party Claim for which CCD is jointly liable with Agency (or would be if joined in the Third Party Claim), CCD shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of CCD on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of CCD on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. CCD's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if CCD had sole liability in the proceeding.
3. With respect to a Third Party Claim for which Agency is jointly liable with CCD (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by CCD in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of CCD on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of CCD on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

4. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

RECORDS

The Parties acknowledge and agree that either Party, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of either Party which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of the Project and final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by the requesting party. This provision survives termination of the Agreement.

WORKERS COMP

All employers, including the Agency and Agency's contractors, if any, that employ subject workers, as defined in ORS 656.027, who work under this Agreement in the State of Oregon shall comply with ORS [656.017](#) and shall provide the required Workers' Compensation Insurance coverage, unless such employers are exempt under ORS [656.126\(2\)](#). The coverage shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 for each accident. Agency shall ensure that each of its contractors complies with these requirements.

SUBCONTRACTOR REQUIREMENTS & INDEMNIFICATION

1. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents 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 (Claims), to the extent such Claims are caused, or alleged to be caused by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that CCD shall, in all instances, except to the extent Claims arise from the negligent or willful acts or omissions of CCD, be indemnified from and against all Claims caused or alleged to be caused by the contractor or subcontractor.
2. Any such indemnification shall also provide that neither Agency's contractor or subcontractor nor any attorney engaged by Agency's contractor or subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Agency's contractor or subcontractor is prohibited

from defending the State of Oregon, or that Agency's contractor or subcontractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor or subcontractor if the State of Oregon elects to assume its own defense.

3. Agency shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from CCD.

RIGHT OF ENTRY

1. CCD grants Agency the right to enter onto CCD right of way for the performance of duties as set forth in this Agreement.

GOVERNING LAW; VENUE; CONSENT TO JURISDICTION:

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws. Any claim, action, suit or proceeding (collectively, "Claim") between the CCD and Agency that arises from or relates to the Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon. This provision survives termination of the Agreement.

COMPLIANCE WITH LAW

Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

OWNERSHIP OF WORK PRODUCT; INTELLECTUAL PROPERTY [RESERVED]

Agency/CCD
Agreement No. 34433

REMEDIES [RESERVED]

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EXHIBIT A
STATEMENT OF WORK AND DELIVERABLE SCHEDULE
PROJECT: CCD Weigh Stations - Clackamas County Sheriff's Office

PROJECT DESCRIPTION and OVERVIEW of SERVICES

To allow Agency temporary access, upon written request, to CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh stations to assist with enforcement activity. The Parties share a mutual goal of improving highway safety and protecting infrastructure. There is no monetary consideration for this Agreement. The consideration for this Agreement are the parties' agreement to the terms and conditions set forth herein.

CCD Responsibilities

1. CCD shall provide a 2ZXY key to Agency to access CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh stations after receiving a completed 2ZXY Key Form, as shown on Exhibit G.
2. CCD's Project Manager for this Agreement is Carla Phelps, Field Motor Carrier Services Section Manager, or assigned designee upon individual's absence. CCD shall notify the other Party in writing of any contact information changes during the term of this Agreement.

Agency Responsibilities

1. Upon execution of this Agreement, Agency shall complete and submit Exhibit G, attached hereto and by this reference made a part hereof, to CCD'S Project Manager listed in this Agreement, for issuance of a 2ZXY key to an authorized user. For the purpose of this Agreement, an authorized user is the person named on the 2ZXY Key Form.
2. Agency shall schedule occupancy dates for CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh stations for authorized user 30 calendar days in advance through CCD contact as shown on Exhibit F, Section b.
3. Agency shall schedule training for authorized user to operate CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh station through CCD contact as shown on Exhibit F, Section b.15 calendar days in advance of initial scheduled occupancy date at said weigh stations.
4. To ensure security, Agency's authorized user shall follow the CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh stations open/close procedure posted in the weigh station. Exhibit H is provided as an example. Agency shall immediately notify CCD contact as shown on Exhibit F,

Section b. of any breach of security. For the purpose of this Agreement, a breach of security is the unauthorized entrance into CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh stations.

5. Agency shall bear the cost for performing maintenance and repairs to CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek equipment and weigh stations that necessary as a result of Agency's occupancy. For the purpose of this Agreement, maintenance for said weigh stations shall include, but is not limited to; Agency to provide their own cleaning supplies and to wipe down surfaces with a disinfectant, to provide their own PPE and hand sanitizer, and to replenish used paper products to the same condition as when Agency arrived to CCD's weigh station. For the purpose of this Agreement, repairs to said weigh stations shall include any damages caused by Agency, intentional or accidental. Examples include, but are not limited to; printer knocked off counter and breaks or key broken in door lock.
6. Agency shall carry adequate insurance, or self insurance, to cover personal injury and property damage during Agency's occupancy of CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh stations.
7. Agency shall contact CCD as shown on Exhibit F, Section b., immediately to report any issues or damages incurred during occupancy to the CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh station buildings or equipment. Agency shall email all applicable photos and documentation to CCD.
8. Agency will provide their own computer and mobile Wi-Fi to access the Web Enforcer program, IGA 31060 while using CCD's 03-08 EB Brightwood, 03-07 WB Brightwood and 03-04 Rock Creek weigh stations.
9. Agency shall be clear when issuing citations they are in no way acting on behalf of the Oregon Department of Transportation.

EXHIBIT F - CONTACT INFORMATION

1. The Parties Contact Information is as follows:

a. CCD's Project Manager:

Name:	Carla Phelps, Field Motor Carrier Services Section Manager
Address:	3930 Fairview Industrial Drive SE, Salem OR 97302-1166
Ph:	503-510-9370
E-mail:	Carla.d.phelps@odot.state.or.us

b. CCD's weigh station contact:

Name:	Karla Tackett
Address:	500 SE Frontage Rd. Cascade Locks, OR 97014
Ph:	541-374-8980
E-mail:	Karla.R.Tackett@odot.state.or.us

c. Agency's PM or Contact:

Name:	Sgt. Sean Collinson
Address:	Oregon City, OR 97045
Cell:	971-563-9529
E-mail:	seancol@clackamas.us

2. Either Party may change the Project Manager designation during the term of this Agreement by promptly sending written notice (e-mail acceptable) to the other Party, with a copy to ODOT Procurement Office.

EXHIBIT G – 2ZXY KEY FORM



Oregon
Kate Brown, Governor

Department of Transportation
Commerce and Compliance Division
3930 Fairview Industrial Drive SE
Salem, OR 97302-1166
www.oregon.gov/ODOT/MCT/

I WAS ISSUED 2ZXY KEY NO. _____ FROM THE OREGON DEPARTMENT OF TRANSPORTATION, COMMERCE AND COMPLIANCE DIVISION (CCD). BY TAKING POSSESSION, I UNDERSTAND THAT I AM RESPONSIBLE FOR THE SAFEKEEPING OF THE KEY. IF THE KEY IS LOST OR STOLEN, I WILL NOTIFY THE CCD PERSONNEL AT 3930 FAIRVIEW INDUSTRIAL DR SE, SALEM OR 97302-1166.

NAME (PRINTED)

AGENCY

ADDRESS

PHONE NUMBER

DATE

SIGNATURE

EXHIBIT H – CCD WEIGH STATION OPEN/CLOSE PROCEDURE EXAMPLE (Procedure will be posted in the building)

- **OPENING:**

- Light switches to the right of the entrance need to be **ON** only during **dark** hours.



- Breaker box to the left of the entrance: Inside are two breakers that are labeled **OPEN/CLOSE SIGNS**, Both need to be turned on (This allows use of light switches on the wall near the scale door, light switches are labeled as well).



- Ensure all blinds are open.
- Located to the left of the desk, a light switch will turn on power to **Red/Green light (only power)**. Actual operation of red/green light is toggled by foot pedal on floor. **Ensure green light is on and functioning prior to opening scale.**



- **WITH ALL THESE STEPS DONE, WEIGH STATIONS WILL BE READY TO OPEN.**



- **CLOSING:**

- Wipe down surfaces and door knobs with a disinfectant cleaner to prevent the spread of contagious diseases and replenish used paper products to the same condition as when Agency arrived.
- Ensure **all** lights are off...outside, red/green, office lights, weigh station open/closed signs.
- If absent for **more** than a day from CCD's weigh station, turn off the breakers for the weigh station open/closed signs to conserve power.
- Empty garbage and Incinolet toilet prior to leaving.
- Ensure **both** doors are locked and secure prior to leaving.



Department of Finance

Elizabeth Comfort
Finance Director

Procurement & Contracting Services

Public Services Building
2051 Kaen Road, Oregon City, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #2 to Contract #4111 with Star Cars, LLC for
Sheriff's Office Vehicle Installation Services

Purpose/Outcomes	Approve to provide install services for Sheriff's Office vehicles.
Dollar Amount and Fiscal Impact	The original contract amount was \$140,000. Amendment #1 renewed the contract for 4 years and an additional \$560,000. Amendment #2 revives the contract through October 2021 and adds an additional \$150,000 for a total not to exceed \$850,000.
Funding Source	Sheriff's Office Budget 216-1603-06831-485400
Duration	This amendment extends the contract through October 31, 2021 while the department goes out for an RFP.
Previous Board Action	9/22/2016 the BCC approved Amendment #1 for an additional \$560,000 and extended the contract through June 30, 2020. Prior discussions related to budget Issues Discussions 6/1/21, approval to move forward to Business Meeting 6/10/21.
Strategic Plan Alignment	Furthers the County's focus to keeping our residents safe, healthy and secure
Procurement Review	1. Was this item processed through Procurement? <input checked="" type="checkbox"/> yes <input type="checkbox"/> no 2. If no, provide a brief explanation:
Counsel Review	Reviewed Date: AN 5/20/21
Contract No.	#4111
Contact Person	Mike Palmer, CCSO 503.785.5099

Background:

Star Cars has been providing vehicle equipment installation services for the Sheriff's Office fleet since 2006. Previous contracts have been procured through Fleet Services (Finance, now DTD) with input from the Sheriff's office fleet manager. Moving forward, contracts for vehicle equipment installation for the Sheriff's Office fleet will be between the Sheriff's Office and the vendor with the assistance of procurement.

Procurement Process:

This Amendment is in accordance with LCRB C-047-0800(b) for an unanticipated amendment. Amendment #2 is a 107% increase to the original contract value. The original contract was issued from an RFP for the Finance, on behalf of Fleet. When the original contract was issued, all sheriff vehicle work was done through Fleet. Fleet has since become part of DTD. To maintain the integrity of the original contract, this Amendment needs to go through Finance on behalf of CCSO and Fleet.

Recommendation:

Staff respectfully recommends that the Board approve and execute Amendment #2 for the contract with Star Cars, LLC while the department goes out for a formal RFP solicitation.

Sincerely,

Elizabeth Comfort

Elizabeth Comfort
Finance Director

Placed on the BCC Agenda _____ by Procurement and Contract Services

**AMENDMENT #2
TO THE CONTRACT DOCUMENTS WITH STAR CARS, LLC FOR SHERIFF PATROL
VEHICLE INSTALLATION SERVICES
Contract #4111**

This Amendment #2 is entered into between **Star Cars, LLC** ("Contractor") and Clackamas County ("County") and shall become part of the Contract documents entered into between both parties on **June 23, 2015** ("Contract").

The Purpose of this Amendment #2 is to make the following changes to the Contract:

- Section 1. **COMPENSATION**, is hereby amended as follows:
The Contract termination date is hereby changed from June 30, 2020 to **October 31, 2021**.

County and Contractor acknowledge that Contractor performed services under the Contract after the original expiration date of June 30, 2020. By execution of this Amendment #2, the County hereby approves and ratifies services performed after June 30, 2020. All previously-performed services are and remain subject to the terms and conditions of the Contract. The County reserves all rights, remedies, claims, and causes of action it may have with respect to previously performed services.

County is authorizing an additional **\$150,000.00** as compensation for services Contractor performed, or will perform, during the time-period from July 1, 2020 through October 31, 2021. The total Contract Compensation shall not exceed \$850,000.00.

ORIGINAL CONTRACT	\$ 140,000.00
AMENDMENT #1	\$ 560,000.00 +Time and Language
AMENDMENT #2	\$ 150,000.00 + Time
TOTAL AMENDED CONTRACT	\$ 850,000.00

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 #2, effective upon the date of the last signature below.

Star Cars, LLC

Clackamas County

 05-20-2021
Authorized Signature Date

Chair

Douglas R. Martell
Printed Name

Recording Secretary

Date

Approved as to form:

Andrew Naylor Digitally signed by Andrew Naylor
Date: 2021.05.20 13:44:42 -07'00'

County Counsel

Date