



# CLATSOP COUNTY BOARD OF COMMISSIONERS

*"Neighbor to neighbor, serving Clatsop County with integrity, honesty and respect"*

Scott Lee, Dist. 1 – Chairman  
Sarah Nebeker, Dist. 2 – Vice-Chairperson  
Lisa Clement, Dist. 3  
Kathleen Sullivan, Dist. 4  
Lianne Thompson, Dist. 5  
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## Work Session/Regular Meeting

October 11, 2017

Judge Guy Boyington Building, 857 Commercial, Astoria

### **Work Session: 5:00pm**

*Work Sessions are an opportunity for Board members to discuss issues informally with staff and invited guests. The Board encourages members of the public to attend Work Sessions and listen to the discussion, but there is generally no opportunity for public comment. Members of the public wishing to address the Board are welcome to do so during the Board's regularly scheduled meetings held twice monthly.*

#### Topic:

- a. Short Term Rentals

### **Regular Meeting: 6:00pm**

*The Board of Commissioners, as the Governing Body of Clatsop County, all County Service Districts for which this body so acts, and as the Clatsop County Local Contract Review Board, is now meeting in Regular Session.*

1. FLAG SALUTE
2. ROLL CALL
3. AGENDA APPROVAL
4. PRESENTATIONS
  - a. The Great Shakeout Day Proclamation.....{Page 1}
  - b. Vesper Slide.....{Page 3}
5. **BUSINESS FROM THE PUBLIC** - *This is an opportunity for anyone to give a 3 minute presentation about any item on the agenda (except public hearings) OR any topic of county concern that is not on the agenda. People wishing to speak during Business From The Public must fill out and sign a Public Comment Sign-in Card.*
6. **CONSENT CALENDAR**
  - a. Board of Commissioners Work Session Minutes 9-13-17 .....{Page 7}
  - b. Board of Commissioners Regular Meeting Minutes 9-13-17 .....{Page 9}
  - c. Appointment of Board of Property Tax Appeals (BOPTA) Members.....{Page 15}
  - d. Accept high bids from September 19, 2017 auction .....{Page 21}
  - e. Approval of Sheriff's Return of Sale from September 19, 2017 auction .....{Page 33}
  - f. State Public Facility License No. 20886-LI .....{Page 45}
  - g. Oregon State Marine Board Grant for Westport Permitting Project.....{Page 53}
  - h. Amendment to Everbridge Contract for Mass Notification Services .....{Page 79}
7. **BUSINESS AGENDA**

- a. IGA with DHS for the financing of Community Development Disabilities.....{Page 91}
- b. Wetland Credit Purchase for Bugle Road Project.....{Page 225}
- c. Holiday Schedule for November and December meetings.....{Page 229}
- d. Appointment of Columbia River Fisheries Transition Program Advisory Committee{Page 231}

**8. COMMISSIONERS' REPORTS**

**9. COUNTY MANAGER'S REPORT**

**10. ADJOURNMENT**

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**Complete copies of the current Board of Commissioners meeting agenda packets can be viewed at:  
*Astoria Public Library - Seaside Public Library - Board of Commissioners Office***

**Agenda packets also available online at [www.co.clatsop.or.us](http://www.co.clatsop.or.us)**

**This meeting is accessible to persons with disabilities. Please call 325-1000 if you require special accommodations to participate in this meeting.**

**Board of Commissioners  
Clatsop County**

Agenda Item 4-a

**AGENDA ITEM SUMMARY**

**October 11, 2017**

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**Issue/Agenda Title:** The Great Shakeout Day Proclamation

**Category:** Presentation

**Prepared By:** Tiffany Brown, Emergency Manager

**Presented By:** Tiffany Brown, Emergency Manager

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**Issue before the Commission:** Approve the R/O and authorize the Chair to read the Great Shakeout Day Proclamation.

**Informational Summary:** The Great Shakeout event began in Southern California in November 2008 and was the largest earthquake drill in U.S. history up until that time, involving 5.3 million participants. The drill was designed to educate the public about how to protect themselves during a large earthquake, and how to get prepared. Since that time, that mission remains the focus of the Great Shakeout Earthquake Drills which are now held each October in every state across the country to include Oregon, though the event also takes place worldwide. Shakeout is also a major activity of America's PrepareAthon.

On October 19 at 10:19 a.m. millions of people will practice how to Drop, Cover and Hold On during Great Shakeout Drills. Last year in Oregon alone, 500,000 people registered, doubling the participation rate from the previous year. Participating in the Shakeout is a great way for individuals, families and organizations to be prepared to survive and recover quickly from big earthquake wherever you live, work or travel. Clatsop County residents can join the event by registering for the 2017 Great Oregon Shakeout.

**Fiscal Impact:** None.

**Options to Consider:**

1. Approve the Resolution & Order and read the Proclamation.
2. Approve the Resolution & Order with changes
3. Do not approve the Resolution & Order

**Staff Recommendation:** Option 1

**Recommended Motion:** *"I move to approve the Resolution & Order proclaiming October 19 to be Great Shakeout Day and authorize the Chair to sign then read the Proclamation."*

**Attachment List:** Great Shakeout Day R&O and Proclamation

THE BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

PROCLAMATION RECOGNIZING )  
OCTOBER 19, 2017 AS THE )  
GREAT SHAKEOUT DAY ) RESOLUTION AND ORDER  
IN CLATSOP COUNTY )

**WHEREAS:** The proximity of Clatsop County’s coastline to the offshore Cascadia Subduction Zone make it vulnerable to local earthquakes and tsunamis; and

**WHEREAS:** Clatsop County has no greater responsibility than ensuring the safety of its citizens and all those who visit our county; and

**WHEREAS:** Earthquake safety is a serious concern with our entire county as risk to seismic shaking and tsunami hazards; and

**WHEREAS:** The best way to survive a natural disaster is to develop a preparedness plan for one’s home, school, business and family; and

**WHEREAS:** Being self-sufficient for two weeks after a natural disaster as well as knowledge about what to do when disasters occur is vital. All citizens, businesses and governmental agencies are encouraged to participate in earthquake drills where they practice “Drop, Cover and Hold On” on Great Shakeout Day.

**NOW, THEREFORE, BE IT RESOLVED** that the Clatsop County Board of County Commissioners of Clatsop County proclaims October 19, 2017 to be

**The Great Shakeout Day**


in Clatsop County and encourage all citizens to join in this observance by increasing their earthquake resilience and working toward creating a more prepared society.

DATED this 11<sup>th</sup> day of October, 2017.

BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

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Scott Lee, Chairperson



# Clatsop County Commission

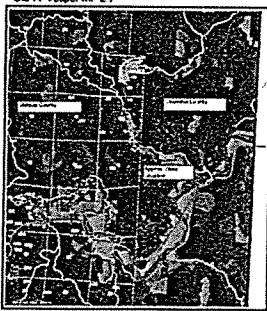
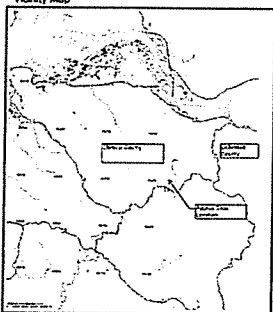

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## VESPER SLIDE

### Oct. 11, 2017

### Vesper Slide Highlights

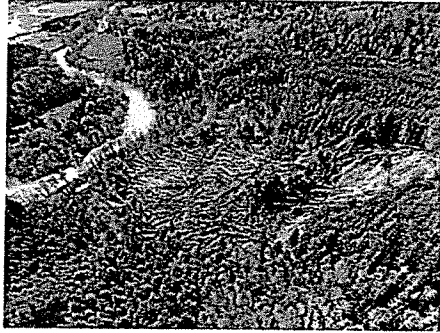
- Slide occurred on March 9, 2017 in the early morning
- Located in Birkenfeld portion of Clatsop County
- Slide destroyed a 0.15 Mile length of Old 77 Vesper Road a County Maintained Road



**Vicinity Map**  
Clatsop County Watermap  
This map shows the location of the slide in Clatsop County. The slide area is highlighted in red. The map also shows the location of the slide in relation to the county boundary and the location of the slide in relation to the county boundary.

**Old 77 Vesper MP 27**  
Clatsop County Watermap  
This map shows the location of the slide on Old 77 Vesper Road. The slide area is highlighted in red. The map also shows the location of the slide in relation to the road and the location of the slide in relation to the road.

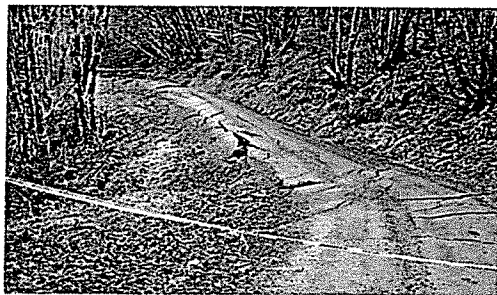
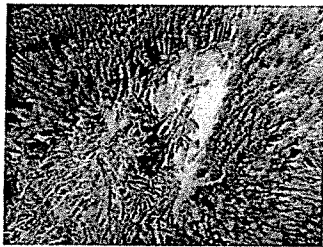
### Vesper Slide Photos



- 10.5 acres in area
- 250,000 cy of material
- 500-800 trees down




### Vesper Slide Photos



## Vesper Slide Assessments

- Initial Report on March 9, 2017 to Roads Office
- Jewell Foreman closed road alerted PW Director
- PW Director conducted onsite assessment on March 10, 2017
- PW Director prepared initial assessment dated March 13, 2017
- County's geotechnical engineer of record completed landslide assessment on March 21, 2017



**City of Clatsop County**  
Public Works Department  
1000 Commercial Street, Astoria, OR 97103  
Phone: 503.325.2200



**MEMORANDUM**

**TO:** March 21, 2017

**FROM:** Clatsop County Public Works Department

**SUBJECT:** Vesper Slide March 2017 Initial Assessment

A report was prepared and submitted to the City of Clatsop County on March 13, 2017. The report was prepared by the Clatsop County Geotechnical Engineer of Record, Mr. James R. Smith, P.E., and is attached to this memorandum.

Page 1 of 1      March 21, 2017      Initial Assessment

**HARTCHOWSKER**

**MEMORANDUM**

**DATE:** March 21, 2017

**TO:** Mr. James R. Smith, P.E.

**FROM:** James R. Smith, P.E., Geotechnical Engineer of Record

**SUBJECT:** Vesper Slide March 2017 Initial Assessment

**Introduction**

The purpose of this report is to provide an initial assessment of the Vesper Slide area in Clatsop County, Oregon. The report was prepared in response to a request from the City of Clatsop County, Oregon, for an initial assessment of the Vesper Slide area. The report was prepared by the Clatsop County Geotechnical Engineer of Record, Mr. James R. Smith, P.E., and is attached to this memorandum.

**Site Description**

The Vesper Slide area is located in Clatsop County, Oregon. The slide area is approximately 100 feet wide and 200 feet long. The slide area is located on the east side of the Vesper Slide area.

**Background Information**

The Vesper Slide area is located in Clatsop County, Oregon. The slide area is approximately 100 feet wide and 200 feet long. The slide area is located on the east side of the Vesper Slide area.

## Vesper Slide Outreach and Action

### Outreach:

- Impacted citizens
- Landowners of slide zone
- Fire District
- School District
- Oregon Forestry Department
- County Planning Department
- ODOT

### Action:

- Keep Road closed
- Work with slide zone landowners
- Wait for Summer weather to dry out slide
- Repair Damaged Roadway

# Vesper Slide Repairs



Mid August Repair work



# Vesper Slide Repairs





**Clatsop County Board of Commissioners**  
**Work Session**  
**September 13, 2017**

Chair Scott Lee called the work session to order at 5:00 p.m. in the Judge Guy Boyington Building, 857 Commercial Street, Astoria, Oregon. Also present were Commissioners Sarah Nebeker, Lianne Thompson and Kathleen Sullivan. Lisa Clement was excused.

Also present:

Cameron Moore, County Manager  
 Monica Steele, Budget & Finance Director

**Budget Process**

Moore wanted to open up a discussion about the current budget process and whether the board wants to make any changes. Steele reviewed the current annual budget process. Thompson said it would be useful to ask the Commissioners what their expenses would be for the year so the budget can reflect that. Thompson said she has been hearing from the community about increased needs and is looking on how to integrate the input from the community into the process. Steele reviewed the Board adopted budget policies. Thompson asked if the Board wanted to consider changing the policies how could they have a data infused discussion and how can the community be involved. Steele said in January the policies are brought before the Board to approve and that would be the time to make any changes. Thompson thinks the process needs to be more integrated.

Steele said part of the Long Term Financial Plan is to control the size of county government by matching spending to available resources, maintain adequate reserves and pay for ongoing expenses from permanent funds. Thompson wants the Board to understand the Long-Term Financial Plan audit report better so everyone is on the same page. Steele said most of the integrations from the report will reflect in the Board policies. Staff often craft their budgets with estimates of future revenues because the legislature doesn't approve spending levels until near the end of the county's budget process in June. Steele said departments are not allowed to budget for expenditures for a grant that they plan to apply for. The services the county must provide are: elections; health services; land-use planning; law enforcement and jail management; property deed recording and survey mapping; road construction and maintenance and tax assessment and collection.

Steele said increases in spending in one program require reductions in one or more other programs, unless new revenue is identified or savings are realized within a department's budget.

Thompson wants more discussion and to look at financial alternatives for revenue and providing services. Lee is pleased with the current process but it took him a couple years to get in the flow of it. Lee said the Board should focus their energy on the larger projects but allow staff to handle the day to day budget. Nebeker agreed. Sullivan said she is concerned about the public having input. Sullivan wondered why the budget committee wasn't invited to the work session and Steele said this work session is about what the Board wants to do. Sullivan said the Board needs to revisit the policies and goals. Sullivan said at the goal setting the figure for the new jail was

1 five million and now it is at eleven million. Sullivan is interested in more drug treatment and  
2 more justice reinvestment dollars. She said there is a grant that is not being asked for because the  
3 county is not prepared to deal with that and said that is a shame. Sullivan said she is interested in  
4 learning more about that. Steele said currently public safety and justice is the number one  
5 priority for the Board. Sullivan wanted a chance for the Commissioners to sit and talk together at  
6 the Board Goal Setting meeting and define the goals in order for the budget to follow them in a  
7 more meaningful way. Sullivan would like the budget committee members to be more involved  
8 and she has heard complaints about being a rubber stamp committee. Nebeker said it has been  
9 her experience that the Board receives reports regularly about the budget process and the budget  
10 committee can come to the meetings to hear the information. Thompson would like more  
11 participation in the decision making process. Sullivan said the budget meeting was extremely  
12 painful and does not want that repeated. Sullivan said it would be helpful to have the document  
13 more than a week ahead of time. Moore said the budget committee made changes at the meeting  
14 over the recommendation of county management which was a clear indication that it wasn't just  
15 a rubber stamp so they did have input. Moore said the county creates lots of opportunities for  
16 input. Sullivan asked for an example. Moore said the budget is published online and they do ask  
17 for public input. Thompson said she remembers in the goal setting that housing and economic  
18 development matter and what she heard was that the county already decided in January what the  
19 priorities are. Nebeker said they are discussing housing and are moving forward. Thompson said  
20 she is talking about public safety. Steele said they can only have one number one goal but that is  
21 not where all the focus goes. Thompson said housing impacts every other aspect of public  
22 service and is a top priority for the Association of Oregon Counties. Steele said the housing  
23 study is going to help but they can't force the county's number one priority on the cities. Moore  
24 said the county is looking for the collective goals of the Board and what the priorities are.  
25 Sullivan wants to build more time with the agenda so the Board can have discussions and talk  
26 more as a body in public. Nebeker said it works better for her to have a goal setting meeting  
27 separate from the regular meetings. Sullivan wants step by step goals and what the outcomes will  
28 be. Nebeker said what was discussed at the goal setting meetings is what staff went to work on.  
29 Steele asked if the Board would like the policies presented at the meeting in December. Moore  
30 said they could also have a work session in December to discuss the policies. Thompson would  
31 like interested parties to be more involved. Sullivan said she would like a survey sent out to the  
32 budget committee and ask them what their experience was and get their input. Steele said the  
33 proposed calendar is in the policies when those are distributed in January. Thompson has issue  
34 with the calendar being sent out without consulting with the Board and Moore said it is a  
35 proposed calendar which should give plenty of time for changes. Moore said the policies and  
36 priorities needs to reflect the majority of the Board. Lee said it might be beneficial to study the  
37 previous budget policies to help give a foundation and frame of reference to move forward.  
38 Thompson said that they only had three commissioners at the budget meeting which is a great  
39 concern.

40  
41 Approved by,

42  
43  
44  
45 \_\_\_\_\_  
Scott Lee, Chairperson

**Clatsop County Board of Commissioners  
Regular Meeting  
September 13, 2017**

Chair Scott Lee called the meeting to order at 6:00 pm., in the Judge Guy Boyington Building, 857 Commercial Street, Astoria, Oregon. Also present were Commissioners Sarah Nebeker, Lisa Clement, Lianne Thompson and Kathleen Sullivan.

Staff Present:

Cameron Moore	County Manager
Heather Reynolds	County Counsel
Will Caplinger	Planning Manager
Vance Swenson	County Surveyor
Michael Summers	Public Works Director
Sirpa Duoos	Property Management Specialist

**AGENDA APPROVAL**

*Nebeker made and Clement seconded a motion to approve the agenda. Motion carried unanimously.*

**PRESENTATION**

a. National Preparedness Month Proclamation

Tiffany Brown, Emergency Services Manager, introduced Vincent Aarts who is the new Emergency Management Coordinator. Brown said it is National Preparedness Month where the importance of preparedness is emphasized. Brown said every year they try to do something new that they can sustain moving forward. This year they have a bag filled with important awareness materials in overall preparedness. Brown said they are participating in several events throughout the county. Sullivan asked Brown if she was called upon to assist in emergency services with the fire situations going on around the state. Brown said she just served in the Hood River County's Emergency Operations Center last weekend. *Nebeker moved to approve the Resolution & Order proclaiming September 2017 to be National Preparedness Month and authorize the Chair to sign and then read the Proclamation and Sullivan seconded. Motion carried unanimously.*

Lee read the proclamation.

**BUSINESS FROM THE PUBLIC**

John Dunzer, 2964 Keepsake Drive, Seaside. Dunzer would like the Board to consider not approving the Seaside Urban Renewal Resolution and request more information. Dunzer said the plan is doomed for failure and that 90% of the area is in the tsunami inundation zone. Dunzer said it makes no sense and the area is a commercial zone for the most part which will rely upon more population.

**CONSENT CALENDAR**

*Thompson made and Clement seconded a motion to approve the consent calendar. Motion carried unanimously.*

- a. Board of Commissioners Regular Meeting 8-9-17 ..... {Page 13}

2  
3 **BUSINESS AGENDA**

4 a. Appointment of a Planning Commissioners

5 Will Caplinger, Planning Manager, addressed the Board. Caplinger said the Planning  
6 Commission had a member resign which created an opening. Caplinger said they received two  
7 applications and only one qualified. The staff recommendation is to appoint Jackie Presley to  
8 fulfill the term which expires on June 30, 2020. *Thompson moved to appoint Jacqueline Presley*  
9 *to the Clatsop County Planning Commission to fill a four year term that ends on June 30, 2020*  
10 *and Nebeker second. Motion carried unanimously.*

11  
12 b. 2017-18 Veterans Service Officer

13 Moore said as a result of Ballot Measure 96 being passed last November, there are additional  
14 funds to enhance veteran services. The new contract is proposing additional administrative  
15 support which should result in Luke Thomas, Veteran Services Officer, to spend more time with  
16 the veterans. Thomas shared an award he had received from Dean Perez and also a letter from a  
17 veteran he had been working with. Moore said he has received several letters about the positive  
18 work that Luke does. Lee said they need to work together with the neighboring counties and the  
19 North West Oregon Housing Authority to get the veterans housing vouchers. Sullivan asked if  
20 Thomas works with the Northwest Senior Disability Services and Thomas said yes. Thomas said  
21 he reaches out to the different organizations. Thomas holds his office at Clatsop Community  
22 College, the American Legion and the Seaside Public Library. *Thompson moved to approve the*  
23 *2017-18 Veterans' Service Agreement and authorize the County Manager to sign following the*  
24 *contract review process and Nebeker seconded. Motion carried unanimously.*

25  
26 c. Consider approving two partition plats in the North Coast Business Park

27 Vance Swenson, County Surveyor, and Michael Summers, Public Works Director, are asking the  
28 Board to consider approving two partition plats in the North Coast Business Park of a shape and  
29 location that act as the general framework for future refined partition parcels. The land is  
30 undeveloped with the exception of the Sheriff's Office. The fiscal impact will be the partition  
31 review fee. Sullivan asked if anyone is personally interested in this area and Summers said there  
32 are no current tenants. This is a move to better partition the county for future tenants to come on  
33 board. This will help the process with any future land sale. *Nebeker moved to approve the*  
34 *creation of two partition plats in the North Coast Business Park and authorize the Chair to sign*  
35 *the final plat declarations and any documents related to the partition plats and Clement*  
36 *seconded. Motion carried unanimously.*

37  
38 d. Consider authorizing a petition to the City of Warrenton to vacate old unused streets

39 Swenson said these streets are no longer used and have no actual roadways on them. The county  
40 needs to petition to the City of Warrenton as a landowner to vacate these old streets. This will  
41 clean up the remaining parcels in the North Coast Business Park and allow for their future  
42 development, which will ultimately include the creation of new street rights of way and physical  
43 roads at desired locations. The fiscal impact would be the vacation fee and staffs time to prepare  
44 the vacation petition. *Thompson moved to authorize the Clatsop County Public Works Director*  
45 *to petition the City of Warrenton to vacate those old street rights of way within the North Coast*

1 *Business Park as described in the attached legal description and Nebeker seconded. Motion*  
2 *carried unanimously.*

3  
4 e. Set a hearing date on transfer of property to the City of Seaside  
5 Sirpa Duoos, Personal Property Specialist, addressed the Board requesting to set a hearing date  
6 to consider transfer of property to the City of Seaside. The county came into possession of this  
7 parcel in October of 2016 due to a tax foreclosure which contains 2.78 acres of sloped open  
8 space between two partially developed subdivisions. The zoning is low density residential with  
9 landslide topography. Duoos is asking for a public hearing and put a notice in the newspaper for  
10 two successive weeks on the county's intention to transfer title. Thompson asked if the property  
11 could be tsunami route or an assembly area but Moore said no. Duoos said it is not developed.  
12 *Thompson moved to set the public hearing date for September 27, 2017 and direct staff to*  
13 *publish notice accordingly in the newspaper and Nebeker seconded. Motion carried*  
14 *unanimously.*

15  
16 f. Contract for Logan Road and Stavebolt Bridge Project  
17 Summers is asking the Board to award a contract to HP Civil Inc. in the amount of \$224,946.96  
18 for the Logan Road and Stavebolt Bridge Project. The contractor will install a new steel sheet  
19 pile backwall and repair the Bent by sleeving the existing timber piles with steel sleeves. Seven  
20 contractors provide reputable bids for this project and HP Civil Inc. was the low bidder.  
21 Summers feels very confident they will do a good job. *Thompson moved to award the contract*  
22 *for the Logan Road and Stavebolt Bridge Project to HP Civil Inc. and authorize the County*  
23 *Manager to sign the contract and any amendment and Nebeker seconded. Motion carried*  
24 *unanimously.*

25  
26 g. Approval of Urban Renewal Plan in Southeast Seaside  
27 Moore said a significant change from the original Urban Renewal Plan was a large piece of  
28 property outside the city limits that has since been removed. Moore said he is comfortable  
29 moving forward with the exclusion of that property. Thompson asked Mark Winstanley, Seaside  
30 City Manager, if there were still unhappy neighbors. Winstanley said there is some confusion on  
31 Urban Road Boundary Expansion and the formation of an Urban Renewal District. Winstanley  
32 believes a number of the questions have been answered. Sullivan asked if the state can change  
33 what you can be built in certain areas. Winstanley said at this point the state is not taking any  
34 action that would restrict development as far as the Urban Renewal District is concerned. The  
35 state is not suggesting development not take place. *Nebeker moved to approve the Resolution*  
36 *and Order adopting the Southeast Seaside Urban Renewal Plan in accordance with ORS*  
37 *457,105 and authorize the Chair to sign and Clement second. Motion carried unanimously.*

38  
39 h. County Housing Study Memorandum of Understanding  
40 Moore said all five of the cities have approved the MOU to conduct a county housing study.  
41 Nebeker said she appreciates the leadership the county has taken in this project and thinks that  
42 working with the other cities is how to get things done. Lee said this collaboration came out of  
43 the countywide meeting and thanked staff. Sullivan said Tillamook County had local businesses  
44 contribute to the study. Sullivan asked if this item could be tabled to find additional funding  
45 sources. Moore said he understands the big push that caused the study to happen in Tillamook  
46 was a local employer came forward and said they would contribute \$50,000 and that's what

1 started the ball rolling. Moore said the cost of the study is probably a down payment for solving  
2 the problem so there will be have to be a lot more money than that spent in the future. Moore  
3 said at the countywide meeting in May there was quite a bit of energy coming out of there for  
4 moving forward on this and now it is September so if it is delayed they may lose momentum.  
5 Sullivan asked how the study will work for the county in moving forward. Moore said the study  
6 will help with understanding where the gaps are in the market and there should be some specific  
7 recommendations of how to address those gaps that were identified in the study. Thompson said  
8 the housing has shifted from housing workers to being transient occupancy. Moore said the  
9 intent is to put together a steering committee with representative from the entities that are  
10 funding the study and begin building a coalition to understand the housing market. *Nebeker*  
11 *moved to approve the Memorandum of Understanding for the Clatsop County Housing Study*  
12 *and authorize the Chair to sign and Clement seconded. Motion carried 3-2 with Sullivan and*  
13 *Thompson abstaining. Sullivan would like to get money from other public entities.*  
14

### 15 COMMISSIONERS' REPORTS

16 Thompson attended the AOC housing sub-committee meeting and talked about how to address  
17 the housing issue. The AOC Membership Committee met on how to mentor commissioners.  
18 Thompson said business partners can join the AOC and represent themselves at the Annual  
19 Conference in November. Thompson attended the forestry tour and the Clatsop Soil & Water  
20 District meeting where the Oregon Department of Agriculture also attended. Thompson will be  
21 attending the ColPac meeting who will be discussing economic development and next week is  
22 the Oregon Emergency Manager's Association Conference. The Red Cross is having training for  
23 shelter staff through the college.  
24

25 Sullivan attended the forestry tour. Congresswoman Bonamici is coming to hold a town hall  
26 meeting. Sullivan attended the Governor's Environmental Justice Task Force in Newport and  
27 will be attending County College. Sullivan said the Oregon Parks and Recreation Department is  
28 asking for feedback on a study evaluating a 17 mile section on the Nehalem River for possible  
29 inclusion in the state waterway program. Sullivan would like to have more discussion on how to  
30 comment on this as a Board. Sullivan does not want to discourage the housing study.  
31

32 Nebeker said in 2016 Oregon was ranked last in mental health which takes into account adults  
33 and youths. Nebeker would like to have ongoing phone meetings with the state representatives to  
34 have input. Nebeker asked if the county provides services for employees to speak to someone  
35 and Moore said the county provides employee assistance programs. The Arts Council has  
36 completed the study and learned that 13M is brought into the county from non-profits. On  
37 October 5<sup>th</sup> there will be a representative from Americans for the Arts speaking about the study.  
38

39 Clement no report.  
40

41 Lee would like one of the Commissioners to take on the Oregon Consortium/Oregon Workforce  
42 Alliance Board who oversees the work force development in the county. Lee attended the  
43 Northwest Housing Authority meeting.  
44

### 45 COUNTY MANAGER'S REPORT

1 Moore is looking for a couple of members to serve on the Board of Property Tax Appeals. Moore  
2 said they are close to broadcasting the meetings and training will be taking place soon. Moore  
3 will be announcing the new County Clerk by the end of week. There will be an expert who is  
4 responsible for other respite centers in the state visiting the North Coast Crisis Respite Center  
5 and will evaluate what is needed. A work session is scheduled at the next meeting about the jail.  
6

7 **ADJOURNMENT 7:37pm**  
8

9 Approved by,  
10

11  
12  
13 \_\_\_\_\_  
Scott Lee, Chairperson





**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**Oct. 11, 2017**

**Issue/Agenda Title:** Appointment of Board of Property Tax Appeals (BOPTA) Members

**Category:** Consent Calendar

**Prepared By:** Valerie Crafard, County Clerk

**Presented By:** Valerie Crafard, County Clerk

**Issue before the Commission:** Appoint county governing body member and non-office holding members to the Board of Property Tax Appeals.

**Informational Summary:** Pursuant to ORS 309.067, county governing bodies appoint two pools of individuals by October 15<sup>th</sup> of each year from which the county clerk selects members of the County Board of Property Tax Appeals (BOPTA). One pool of members consists either of members of the county governing body or of the governing body’s designees. The second pool must be comprised of non-office holding residents of the county who are not employees of the county or of any taxing district within the county. Commissioner Thompson has expressed continued interest in serving on BOPTA and as the governing body member will serve as the chairperson.

<b>Name</b>	<b>Pool</b>	<b>Prior BOPTA Service</b>
Lianne Thompson	Governing body	Yes
Cheryl Lockett	Non-Office holding	Yes
Dr. Frank Mansfield	Non-Office holding	Yes

**Fiscal Impact:** BOPTA members receive a stipend of \$75 per day.

**Options to Consider:**

1. Appoint Commissioner Thompson as the governing body member. Appoint Cheryl Lockett and Dr. Frank Mansfield to the non-office holding pool of the Board of Property Tax Appeals for the 2017 - 2018 year.

**Staff Recommendation:** Option 1.

**Recommended Motion:** *“I move to appoint Lianne Thompson as the governing body member and appoint Cheryl Lockett and Dr. Frank Mansfield to the non-office holding pool of the Board of Property Tax Appeals for the 2017 - 2018 year.”*

**Attachment List:** Applications for the non-office holding pool.

BOARD OF PROPERTY TAX APPEALS (BOPTA)  
APPLICATION  
CLATSOP COUNTY

RECEIVED  
SEP 16 2015  
CLATSOP COUNTY CLERK

Date: 9/16/15

Name Cheryl Lockett

Mailing Address 619 2nd St.

City Astoria, OR 97103

Street Address: Same

Email: cheryllockett@a  
me.com

Home Telephone: \_\_\_\_\_ Other Telephone: 503-338-2123

Current Occupation: Retired  work  cell phone

Years Resident of County: 15 Do you live within the city limits:  Yes  No

In which Commission District do you reside:  1  2  3  4  5

Are you currently employed by, or receive compensation from a Tax District? If yes, please provide details.

no

Prior Criminal Convictions (omit minor traffic violations):  Yes  No

If Yes, Explain: \_\_\_\_\_  
(Attach additional pages if needed)

Background (Relevant education, training, experience, etc.):

My background <sup>includes</sup> many years working for Legislative Administration during the 1990's, and most recently have been in sales of health insurance for the past 14 years. No experience in real estate, appraisal or finance.

but certainly willing to participate in public hearing or any other work to reasonable degree

Describe your interest in serving on BOPTA:

I am recently retired and am looking for ways to serve my community. I heard of this opportunity and would love to volunteer. I love learning and look forward to gaining knowledge of the Oregon property tax system in order to serve on BOPTA.

  
Signature

**Return Form To:** County Manager's Office  
800 Exchange, Ste 410  
Astoria, OR 97103  
Fax: 325-8325



BOARD OF PROPERTY TAX APPEALS (BOPTA)  
APPLICATION  
CLATSOP COUNTY

Date: 1 Sep 2016

Dr. Frank Mansfield

Name

35173 Willette Ln

Mailing Address

Astoria, OR 97103

City

Street Address: 35173 Willette Ln

Email: frank\_mansfield@msn.com

Home Telephone: (540) 273-8741 Other Telephone: \_\_\_\_\_

work  cell phone

Current Occupation: Retired

Years Resident of County: 2 yrs  
No

Do you live within the city limits:  Yes  No

In which Commission District do you reside:  1  2  3  4  5

Are you currently employed by, or receive compensation from a Tax District? If yes, please provide details.

No

Prior Criminal Convictions (omit minor traffic violations):  Yes  No

If Yes, Explain: \_\_\_\_\_  
(Attach additional pages if needed)

Background (Relevant education, training, experience, etc.):

Ph.D. in Engineering

M.S. Aeronautical Astronautical Engineering

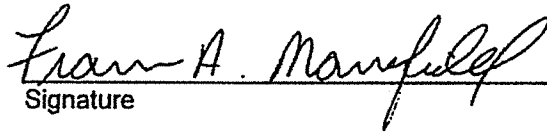
B.S. Aeronautical Astronautical Engineering

Chairman Board of Zonal Appeals for Colonial Beach, VA

31 yrs DoD Navy, retired as a GS-15

Describe your interest in serving on BOPTA:

I believe that the property owner needs a process to bring forth their concerns and desires outside the administration of the county so they can see there is opportunity for change due to circumstances unbeknownst to the county during assessment. I can quickly analyze and understand the information presented and work with other members of the board towards a consensus on the issue brought before the board. I have a general interest in the development and maintaining of the community in which I live. I desire to give back to the community by using my talents presented above and my work experience.

  
Signature

**Return Form To:** County Manager's Office  
800 Exchange, Ste 410  
Astoria, OR 97103  
Fax: 325-8325



**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**October 11, 2017**

**Issue/Agenda Title:** Accept high bids from September 19, 2017 auction and authorize Chair to sign deeds.

**Category:** Consent Calendar

**Prepared By:** Sirpa Duoos

**Presented By:** Sirpa Duoos, Property Management Specialist

**Issue before the Commission:** Accept high bids from Sheriff's Sale held on September 19, 2017 and authorize the Chair to sign the deeds.

**Informational Summary:** Pursuant to Resolution and Order authorizing the Sheriff's Sale, staff offered four parcels of tax foreclosed properties for sale at a public auction held on September 19, 2017 at 10:00 a.m. Of the four parcels offered for sale, three parcels received bids meeting or exceeding the minimum bids set forth in the Resolution and Order. A total of \$37,000 was collected on the day of the auction.

Parcel #	Assessor's Acct. #	Min. Bid	High Bid	Successful Bidder
17-04	51010DA00500	2,500	6,000	Mathew Johnson
17-05	51010DA01000	3,000	11,000	Hendrik Horlings
17-30	80909CC05000, 5001, 5100	20,000	20,000	Richard M. and Sharon Seppa
<b>TOTALS:</b>		<b>25,500</b>	<b>37,000</b>	

Any unsold parcels will be offered for sale by sealed bid process at a later date.

**Fiscal Impact:** The cost of the sale will be deducted from the proceeds of the sale in accordance with state statutes. The balance of the tax foreclosed land sale will be distributed to the taxing districts as described in ORS 275.275. These three parcels will be returned to the tax roll.

**Options to Consider:**

1. Accept the high bids for Parcels 17-04, 17-05, and 17-30.
2. Reject the high bids; however County's Property management Policy #4 requires surplus properties to be offered for sale at public auction in a fair and equitable manner.
3. Take no action

**Staff Recommendation:** Option #1

**Recommended Motion:** *"I move to adopt the Resolution and Order accepting the high bids and authorize the Chair to sign the deeds."*

**Attachment List:**

- A. Resolution and Order
- B. Deeds



-IN THE BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

IN THE MATTER OF SALE OF )  
 CERTAIN COUNTY LAND ACQUIRED ) RESOLUTION AND ORDER  
 BY CLATSOP COUNTY BY TAX )  
 FORECLOSURE PURSUANT TO )  
 ORS 275.110 )

WHEREAS, pursuant to ORS 275.110 and Resolution and Order dated August 23, 2017, Clatsop County sold at public auction on September 19, 2017 to the highest bidder, certain real property acquired by Clatsop County through tax foreclosure; and

WHEREAS, of the four parcels offered for sale, three sold for cash;

NOW THEREFORE, IT IS HEREBY RESOLVED, that pursuant to ORS 275.040, Clatsop County authorizes sale and shall convey all the interest the County may have in the parcels sold at auction to the highest bidders as described below:

<u>Parcel #</u>	<u>Assessor's Acct. #</u>	<u>Min. Bid</u>	<u>High Bid</u>	<u>Successful Bidder</u>
17-04	51010DA00500	2,500	6,000	Mathew Johnson
17-05	51010DA01000	3,000	11,000	Hendrik Horlings
17-30	80909CC05000-5100	20,000	20,000	Richard & Carol Seppa
		TOTAL \$37,000		

DATED this \_\_\_\_\_ day of October 2017

BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

\_\_\_\_\_  
Scott Lee, Chair

AFTER RECORDING RETURN TO GRANTOR:  
Clatsop County Property Management  
820 Exchange, Suite 230  
Astoria, OR 97103

GRANTEE:  
Mathew Johnson  
1160 Queen Street  
Seaside, OR 97138

## QUITCLAIM DEED

**BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17 CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.**

CLATSOP COUNTY, a political subdivision of the State of Oregon, Grantor, releases and quitclaims to **Mathew Johnson**, Grantee, all of its right, title and interest, including mineral rights, if any, in that parcel of real property situated in Clatsop County State of Oregon, described as follows:

LEGAL: See Exhibit "A" Attached hereto and incorporated herein by reference.  
ASSESSOR'S ACCT. NO. 51010DA00500  
ACCT. ID No. 4649 and 33731  
SITUS ADDRESS: 84410 Nordmark Drive, Seaside, Oregon

**THIS PROPERTY IS SOLD "AS IS." CLATSOP COUNTY DOES NOT WARRANT TITLE TO BE FREE OF DEFECTS OR ENCUMBRANCES OR THAT FORECLOSURE PROCEEDINGS OR ANY OTHER PROCEEDING AUTHORIZING THE ACQUISITION, SALE OR TRANSFER OF THIS PROPERTY TO BE FREE OF DEFECTS. CLATSOP COUNTY ONLY SELLS AND CONVEYS SUCH TITLE, IF ANY, AS IT HAS ACQUIRED.**

The true and actual consideration paid for this transfer stated in terms of dollars is **SIX THOUSAND (\$6,000) DOLLARS.**

In construing this deed, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this deed shall apply equally to corporation and to individuals.

IN WITNESS WHEREOF, the grantor has executed this instrument this \_\_\_\_ day of October, 2017.

\_\_\_\_\_  
Scott Lee, Chair

STATE OF OREGON        )  
                                  ) ss.  
County of Clatsop        )

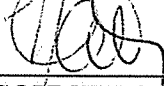
This Quitclaim Deed was acknowledged before me on this \_\_\_\_ day of October 2017 by, \_\_\_\_\_ as Chairperson of the Board of Commissioners for Clatsop County, a political subdivision of the State of Oregon.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS:

Mathew Johnson  
1160 Queen Street  
Seaside, OR 97138

APPROVED AS TO FORM:

  
\_\_\_\_\_  
COUNTY COUNSEL

## EXHIBIT "A"

LEGAL DESCRIPTION: Beginning at the East quarter corner of Section 10, Township 5 North, Range 10 West, Willamette Meridian, Clatsop County, Oregon; Thence West a distance of 1320.0 feet to an iron pipe;

Thence South 3° 06' 15" East a distance of 634.4 feet more or less to and iron pipe which is on the Northeasterly right of way line of US Hwy No. 26 and also the Southwest corner of Bud Darling property as described in Volume 270, Page 738, Deed Records, Clatsop County, Oregon;

Thence along the Northeasterly right of way line of said highway Southeasterly a distance of 45.0 feet to an iron pipe;

Thence North 7° 00" East a distance of 195.00 feet to an iron pipe:

Thence North 50° 00' West a distance of 90.0 feet to an iron pipe which is on the West line of Bud Darling property as described in Volume 261, Page 717, Deed Records, Clatsop County, Oregon;

Thence along the West Line of Darling property South 3° 06' 15" East a distance of 227.0 feet to the point of beginning.

TOGETHER THEREWITH a nonexclusive easement of way for egress and ingress, said easement to be a covenant running with the land, described as follows:

Beginning at the East quarter corner of Section 10, Township 5 North, Range 10 West, Willamette Meridian;

Thence West 1320.0 feet to an iron pipe;

Thence South 3° 05' 15" East a distance of 379.4 feet to a point which is the true point of beginning;

Thence South 50° East a distance of 380.0 feet;

Thence South 13° East a distance of 63.0 feet;

Thence South 36° 30' West a distance of 138.0 feet to an iron pipe, which is on the northeasterly right of way line of US Hwy No. 261

Thence along the said right of way line northeasterly a distance of 40.0 feet to an iron pipe;

Thence North 32° East a distance of 130.0 feet to an iron pipe;

Thence North 32° West a distance of 63.7 feet to a point;

Thence North 50° West a distance of 320.0 feet, more or less, to an iron pipe, which is on the west line of said Darling property;

Thence along the West line of said Darling property North 3° 06' 15" West a distance of 25.0 feet, more or less to the point of beginning.

(Including a single wide manufactured structure, Account ID. 33731)

AFTER RECORDING RETURN TO GRANTOR:  
Clatsop County Property Management  
820 Exchange, Suite 230  
Astoria, OR 97103

GRANTEE:  
Hendrik Horlings  
PO Box 1142  
Seaside, OR 97138

## QUITCLAIM DEED

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17 CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

CLATSOP COUNTY, a political subdivision of the State of Oregon, Grantor, releases and quitclaims to **Hendrik Horlings**, Grantee, all of its right, title and interest, including mineral rights, if any, in that parcel of real property situated in Clatsop County State of Oregon, described as follows:

LEGAL: See Exhibit "A" Attached hereto and incorporated herein by reference.  
ASSESSOR'S ACCT. NO. 51010DA01000  
ACCT. ID No. 4654 and 33701  
SITUS ADDRESS: 33745 Hwy 26, Seaside, Oregon

**THIS PROPERTY IS SOLD "AS IS." CLATSOP COUNTY DOES NOT WARRANT TITLE TO BE FREE OF DEFECTS OR ENCUMBRANCES OR THAT FORECLOSURE PROCEEDINGS OR ANY OTHER PROCEEDING AUTHORIZING THE ACQUISITION, SALE OR TRANSFER OF THIS PROPERTY TO BE FREE OF DEFECTS. CLATSOP COUNTY ONLY SELLS AND CONVEYS SUCH TITLE, IF ANY, AS IT HAS ACQUIRED.**

The true and actual consideration paid for this transfer stated in terms of dollars is **ELEVEN THOUSAND (\$11,000) DOLLARS.**

In construing this deed, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this deed shall apply equally to corporation and to individuals.

IN WITNESS WHEREOF, the grantor has executed this instrument this \_\_\_\_ day of October, 2017.

\_\_\_\_\_  
Scott Lee, Chair

STATE OF OREGON            )  
  ) ss.  
County of Clatsop            )

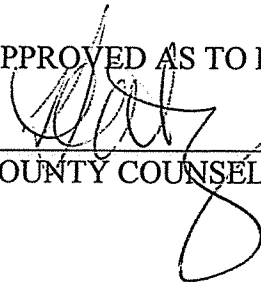
This Quitclaim Deed was acknowledged before me on this \_\_\_\_ day of October 2017 by, \_\_\_\_\_ as Chairperson of the Board of Commissioners for Clatsop County, a political subdivision of the State of Oregon.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS:

Hendrik Horlings  
PO Box 1142  
Seaside, OR 97138

APPROVED AS TO FORM:

  
\_\_\_\_\_  
COUNTY COUNSEL

## EXHIBIT "A"

LEGAL DESCRIPTION: Beginning at the Southeast corner of Section 10, Township 5 North, Range 10 West, Willamette Meridian, Clatsop County, State of Oregon;  
Thence along the South line of said Section 10, Township 5 North, Range 10 West, North 88° 30' 05" West a distance of 731.0 feet to a point;  
Thence North 3° 06' 13" West a distance of 1410.0 feet, more or less, to an iron pipe, which is on the North right of way line of US Hwy No 26 and the true point of beginning. Said true point of beginning is also on the West line of H. Neitzel property, as described in Volume 182, Page 671 Deed Records, Clatsop County;  
Thence along the West line of said H. Neitzel property North 3° 06' 13" West a distance of 222.00 feet to an iron pipe;  
Thence North 51°30' West a distance of 65.6 feet to an iron pipe;  
Thence South 3° 06' 13" East a distance of 200.00 feet to an iron pipe, which is on the Northerly right of way line of US Hwy No 26;  
Thence along the Northerly right of way line of said highway Southeasterly a distance of 83.0 feet to the point of beginning.  
(Including a double wide manufactured structure, Assessor's Account ID 33701)

AFTER RECORDING RETURN TO GRANTOR:  
Clatsop County Property Management  
820 Exchange, Suite 230  
Astoria, OR 97103

GRANTEE:  
Richard M. Seppa and Sharon Seppa  
2904 Irving Ave.  
Astoria, OR 97103

### QUITCLAIM DEED

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17 CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

CLATSOP COUNTY, a political subdivision of the State of Oregon, Grantor, releases and quitclaims to **Richard M. Seppa and Sharon Seppa, as husband and wife**, Grantees, all of its right, title and interest, including mineral rights, if any, in that parcel of real property situated in Clatsop County State of Oregon, described as follows:

LEGAL: East half of Lot 9, Lots 10, 11, 12, Block 40, Shively's Astoria, County of Clatsop, Oregon and the vacated west half of 29th street, City of Astoria Ordinance No. 98-09, as described and recorded in Book 878, Page 112, Deed Records of Clatsop County, Oregon, reserving and retaining unto the City of Astoria an easement consisting of the Easterly 20 feet of the Westerly 29th Street right-of-way for access and utility purposes.

ASSESSOR'S MAP NO. 80909CC05000, 5001 & 5100 ACCT. ID 23869, 23870, 23871  
SITUS ADDRESS: Vacant land off of 29<sup>th</sup> and Irving Ave. in Astoria

THIS PROPERTY IS SOLD "AS IS." CLATSOP COUNTY DOES NOT WARRANT TITLE TO BE FREE OF DEFECTS OR ENCUMBRANCES OR THAT FORECLOSURE PROCEEDINGS OR ANY OTHER PROCEEDING AUTHORIZING THE ACQUISITION, SALE OR TRANSFER OF THIS PROPERTY TO BE FREE OF DEFECTS. CLATSOP COUNTY ONLY SELLS AND CONVEYS SUCH TITLE, IF ANY, AS IT HAS ACQUIRED.

The true and actual consideration paid for this transfer stated in terms of dollars is **TWENTY THOUSAND (20,000) DOLLARS.**



In construing this deed, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this deed shall apply equally to corporation and to individuals.

IN WITNESS WHEREOF, the grantor has executed this instrument this \_\_\_\_ day of October 2017.

\_\_\_\_\_  
Scott Lee, Chair

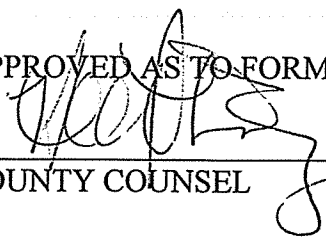
STATE OF OREGON            )  
  ) ss.  
County of Clatsop            )

This Quitclaim Deed was acknowledged before me on this \_\_\_\_ day of October 2017 by, \_\_\_\_\_ as Chairperson of the Board of Commissioners for Clatsop County, a political subdivision of the State of Oregon.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS:

Richard M. and Sharon Seppa  
2904 Irving Ave.  
Astoria, OR 97103

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
COUNTY COUNSEL



**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**October 11, 2017**

**Issue/Agenda Title:** Approval of Sheriff's Return of Sale from September 19, 2017 auction.

**Category:** Consent Calendar

**Prepared By:** Sirpa Duoos

**Presented By:** Sirpa Duoos, Property Management Specialist

**Issue before the Commission:** Adopting the Resolution & Order approving the Sheriff's Return of Sale from September 19, 2017 land auction.

**Informational Summary:** Pursuant to ORS 275.160, the Sheriff makes due a "return of sale" from the auction proceedings to the Board of County Commissioners. This process is a legal formality through which the Board accepts the proceeds and authorizes payment of costs incurred. Once the Board accepts the Return of Sale, the Assessor/Tax Collector can distribute the proceeds in accordance with Oregon Revised Statutes.

The following is a breakdown of the monies received and costs incurred for your Board review:

Total monies from Auction:	\$37,000.00
Costs Expended:	<u>-\$ 1,932.47</u>
Net Balance:	\$35,067.53

**Fiscal Impact:** The cost of the auction is as follows:

Legal Notice in the Daily Astorian	\$1,145.88
Postage	\$9.32
Legal Fees/County Counsel	\$36.00
Recording Fee/Affidavit of Publication	\$47.00
Staff Time	\$418.27
Title transfer fees for 2 MH	\$110.00
Recording of Deeds	<u>\$166.00</u>
<b>TOTAL COST EXPENDED</b>	<b>\$1,932.47</b>

The balance of the sale proceeds from the tax-foreclosed properties will be distributed to the taxing districts in accordance of ORS 275.275. Additionally, the parcels sold will be returned to the tax roll.

**Options to Consider:**

1. Adopt the Resolution and Order approving the Sheriff's Return of Sale.
2. Oregon Revised Statute 275.160 does not allow for other alternatives.

**Staff Recommendation:** Option #1

**Recommended Motion:** *"I move to adopt the Resolution and Order approving the Sheriff's Return of Sale."*

**Attachment List:**

- A. Resolution and Order
- B. Affidavit of Publication
- C. Certificates of Sale

1                                    IN THE BOARD OF COUNTY COMMISSIONERS  
2                                    FOR CLATSOP COUNTY, OREGON  
3

4    IN THE MATTER OF CERTAIN REAL                                    )  
5    PROPERTY ACQUIRED BY CLATSOP COUNTY                        )                    RESOLUTION AND  
6    BY TAX FORECLOSURE PURSUANT TO                                )                    ORDER  
7    ORS 275.110; AND DISTRIBUTION OF MONIES                     )  
8    PURSUANT TO ORS 275.275    )  
9

10            WHEREAS, on September 19, 2017 and pursuant to ORS 275.110, Clatsop  
11    County offered at public auction to the highest bidder, certain real property acquired by  
12    Clatsop County by tax foreclosure; and  
13

14            WHEREAS, pursuant to ORS 275.160, the Clatsop County Sheriff executed a  
15    Return of Sale, marked Exhibit "1", attached hereto and incorporated herein by reference,  
16    which sets forth the details of said land sale and outlines the monies collected and costs  
17    expended; and  
18

19            WHEREAS, it is appropriate at this time to authorize distribution of the monies  
20    collected and the costs expended in connection with the September 19, 2017 land sale;  
21

22            NOW THEREFORE, IT IS HEREBY RESOLVED pursuant to the itemization  
23    contained in Exhibit "1", that monies were collected in the sum of \$37,000, and after  
24    reimbursements of the costs expended in the sum of \$1,932.47 and the balance of the  
25    proceeds received for the said sale in the sum of \$35,067.53 shall be distributed by the  
26    Clatsop County Tax Collector pursuant to Oregon Law.  
27

28  
29            DATED this \_\_\_\_\_ day of October 2017  
30  
31  
32  
33  
34

35                                    BOARD OF COUNTY COMMISSIONERS  
36                                    FOR CLATSOP COUNTY, OREGON  
37

38  
39                                    \_\_\_\_\_  
40                                    Scott Lee, Chair  
41  
42  
43  
44  
45  
46  
47

1 EXHIBIT "1"

2  
3 IN THE BOARD OF COUNTY COMMISSIONERS  
4 FOR CLATSOP COUNTY, OREGON  
5  
6

7 IN THE MATTER OF SALE OF CERTAIN REAL )  
8 PROPERTY ACQUIRED BY CLATSOP COUNTY )  
9 BY TAX FORECLOSURE PURSUANT TO ) SHERIFF'S  
10 ORDER OF THE BOARD OF COMMISSIONERS ) RETURN OF  
11 AND ORS 275.160 ) SALE  
12

13  
14 STATE OF OREGON )  
15 ) ss.  
16 County of Clatsop, Oregon )  
17  
18

19 I, THOMAS J. BERGIN Clatsop County Sheriff, do hereby certify that pursuant  
20 to Resolution and Order of the Board of County Commissioners dated August 23, 2017, a  
21 Notice of Sale of the real properties hereinafter described was published in The Daily  
22 Astorian, a newspaper of general circulation, printed and published in Clatsop County,  
23 Oregon, once each week for four consecutive weeks prior to said sale, commencing with  
24 the issue of August 25, 2017, which notice stated the time and place of sale, and the  
25 description of the properties or interest therein to be sold, the minimum bid as fixed by  
26 the Board of County Commissioners, the date of the Order directing such sale and the  
27 terms upon which said properties would be sold.

28 Said notice particularly described certain real properties and stated that the same  
29 would be offered for sale in the Judge Guy Boyington Building, 857 Commercial Street,  
30 Astoria, Oregon, at 10:00 a.m., Tuesday, September 19, 2017.

31 At the time and place fixed for sale, Clatsop County Property Specialist and  
32 Special Deputy Sirpa Duoos exposed the certain real properties described in Exhibit "A",  
33 attached hereto and incorporated herein by reference.

34 Said sale terms were cash or certified check by 5 p.m. on the day of public  
35 auction. Said properties were offered AS IS, and the County did not warrant the title of  
36 real properties offered for sale to be free of defects or encumbrances but sold and  
37 conveyed such title as the County acquired by foreclosure or otherwise. Conveyance was  
38 subject to recorded easements to the United States or any government agency thereof.

39 The aforesaid sale was conducted on September 19, 2017, at the hour of 10:00  
40 a.m. in the Judge Guy Boyington Building, 857 Commercial Street, Astoria. There were  
41 three successful bidders. The successful bidders paid the amounts listed on the  
42 Certificates of Sale, marked Exhibit "B", attached hereto and incorporated herein by  
43 reference. The costs to be reimbursed to the County from the proceeds of the sale are as  
44 follows:  
45  
46  
47

COST EXPENDED FOR PARCELS in Exhibit "A"

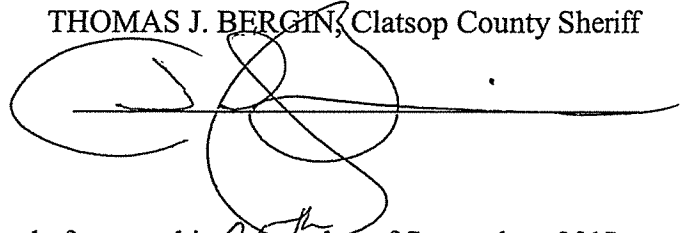
The Daily Astorian Legal Notice	1,145.88
Postage	9.32
Legal Fees/County Counsel	36.00
Recording Fee/Affidavit of Publication	47.00
Staff Time	418.27
Title Transfer Fees	110.00
Recording of Deeds	<u>166.00</u>
TOTAL COST EXPENDED	\$1,932.47

NET BALANCE OF SALE

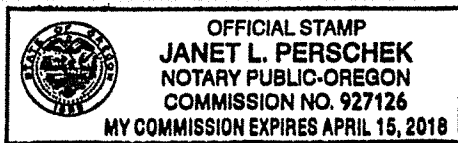
Monies from Auction	37,000.00
LESS: Cost Expended	<u>- 1,932.47</u>
TOTAL	\$35,067.53

The above said costs accrued were turned over to the Clatsop County Treasurer prior to issuance of Sheriff's distribution pursuant to ORS 275.275 and will be paid out of tax foreclosed land sales. Once the property is sold, at such time the costs will be reimbursed to the general fund and the balance distributed to the taxing districts pursuant to ORS 275.275.

THOMAS J. BERGIN, Clatsop County Sheriff



SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of September, 2017.



Janet L. Perschek  
 Notary Public for Oregon  
 My commission Expires April 15, 2018

State Of Oregon

County Of Clatsop } ss.

Copy Of Advertisement

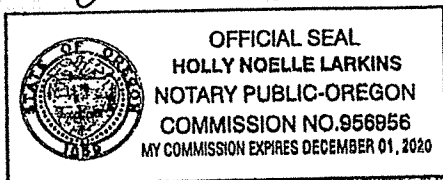
Affidavit of PUBLICATION

I, Danielle Fisher, being duly sworn, depose and say that I am the principal clerk of the manager of the DAILY ASTORIAN, a newspaper of general circulation, as defined by section ORS 193.010 and 193.020 Oregon Compiled Laws, Annotated, printed and published daily at Astoria in the aforesaid county and state; the Legal Notice: AB6439 Notice of County Land Sale a printed copy of which is hereto attached, was published in the entire issue of said newspaper for two successive and consecutive time(s) in the following issues: August 25th, September 1st, 8th, and 15th, 2017.

Danielle Fisher

Signed and attested before me on the 15th day of September, 2017 by:

Holly Noelle Larkins



Notary Public for the State of Oregon, Residing at Astoria, Oregon, Clatsop County.

AB6439  
NOTICE OF COUNTY LAND SALE

Pursuant to ORS 275.110 and Resolution and Order of the Clatsop County Board of Commissioners dated August 23, 2017, at 10:00 a.m. on Tuesday, September 19, 2017, I shall proceed to sell the properties indicated below at a public auction, in the Judge Guy Boyington Building, 857 Commercial St., Astoria, Oregon, to the highest and best bidder in Cash. The sale of property is AS IS and includes all of the right, title and interest, if any there be, in and to the following described real properties situated in Clatsop County, Oregon, provided, however, that Clatsop County does not warrant or guarantee the extent to which it has any title or interest in the properties or to the extent to which the properties are free from any encumbrances or claims. The Properties to be sold are:

Sale #	Map & Tax Lot	General Area	Acres	RMV \$	Cash Min. Bid
17-04	51010DA00500	South of Seaside	0.25	51,946	2,500 CASH
17-05	51010DA01000	South of Seaside	0.25	55,354	3,000 CASH
17-30	80909CC05000, 5001 & 5100	29 <sup>th</sup> & Irving in Astoria	0.70	31,471	20,000 CASH
17-31	81021BC01200, 81021CB00400, 500, 600, 1500 & 81021CC00401	Warrenton, east of Juniper and north of 9 <sup>th</sup> street.	7.36	143,710	250,000 CASH

**SALE TERMS:** Cash or Certified Check by 5:00 p.m. on day of sale, except for parcel 17-31, which requires a non-refundable deposit of \$25,000 down by 5 P.M. on the day of sale and balance due in 30 days (October 19, 2017).

Clatsop County shall not warrant or defend the titles of the properties offered for sale to be free of defects or encumbrances and will not warrant that its foreclosure proceedings or any other proceeding authorizing sale of these properties to be free of defects and will only sell and convey such titles, if any, as the County has acquired. Interested bidders are encouraged to obtain a title report prior to bidding. Conveyance is subject to any recorded easements to the United States or any agency thereof. The Clatsop County Board of Commissioners reserves the right to reject any and all bids. A bid packet is available in the office of the Clatsop County Property Management, 820 Exchange Street, Suite 230, Astoria, Oregon, weekdays between 8:30 a.m. and 5:00 p.m. For further information, contact Sirpa Duoos, Property Specialist at (503) 338-3674.

Clatsop County Sheriff  
Published: August 25, September 1, 8, 15, 2017



CERTIFICATE OF CASH SALE OF SURPLUS REAL PROPERTY

This is to CERTIFY, that I, Sirpa Duoos, Property Specialist of Clatsop County, State of Oregon, pursuant to delegation from the Clatsop County Sheriff, pursuant to the provisions of ORS 275.110, ex. seq. and in accordance with an order of the Board of County Commissioners of said County, dated August 23, 2017, placed at public sale the following described real property, situated in the County of Clatsop and State of Oregon, to wit: known as map and tax lot number 51010DA00500 Assessment and Taxation Records of Clatsop County, and more fully described in an Exhibit "A": attached hereto and incorporated herein by reference;

That Mathew Johnson (BUYER) at said sale offered to pay the sum of \$ 6,000.00 (BID PRICE) for said property, which sum was the highest and best bid received that exceeded the minimum price set therefore, and the receipt whereof is hereby acknowledged and paid by:

Cash, certified check or cashiers check on or before 5:00 p.m., September 19, 2017:

It is understood and agreed that this sale is subject to the terms and conditions of the sale as published, and is subject to the confirmation of the Board of County Commissioners of Clatsop County. This sale shall be binding by Clatsop County only in the event of approval by said Board of County Commissioners.

It is understood and agreed that if a notice of claim of a municipal corporation lien assessed against said property has been filed, this sale shall be subject to the right of the municipal corporation to repurchase said property within a period of twenty days after notice to the municipal corporation of this offer to purchase pursuant to ORS 275.170.

DATED at Astoria, Oregon, this 19<sup>th</sup> day of September 2017.

Mathew Johnson  
Buyer's Signature

Sirpa Duoos  
Property Specialist  
Clatsop County, Oregon

Sirpa Duoos

Mathew Johnson  
Name(s) to Appear on Deed

1160 Queen St.  
Address

Seaside, OR 97138

503.739.6046  
Telephone #

## EXHIBIT "A"

LEGAL DESCRIPTION: Beginning at the East quarter corner of Section 10, Township 5 North, Range 10 West, Willamette Meridian, Clatsop County, Oregon; Thence West a distance of 1320.0 feet to an iron pipe; Thence South 3° 06' 15" East a distance of 634.4 feet more or less to an iron pipe which is on the Northeasterly right of way line of US Hwy No. 26 and also the Southwest corner of Bud Darling property as described in Volume 270, Page 738, Deed Records, Clatsop County, Oregon; Thence along the Northeasterly right of way line of said highway Southeasterly a distance of 45.0 feet to an iron pipe; Thence North 7° 00" East a distance of 195.00 feet to an iron pipe; Thence North 50° 00' West a distance of 90.0 feet to an iron pipe which is on the West line of Bud Darling property as described in Volume 261, Page 717, Deed Records, Clatsop County, Oregon; Thence along the West Line of Darling property South 3° 06' 15" East a distance of 227.0 feet to the point of beginning.

TOGETHER THEREWITH a nonexclusive easement of way for egress and ingress, said easement to be a covenant running with the land, described as follows:

Beginning at the East quarter corner of Section 10, Township 5 North, Range 10 West, Willamette Meridian;

Thence West 1320.0 feet to an iron pipe;

Thence South 3° 05' 15" East a distance of 379.4 feet to a point which is the true point of beginning;

Thence South 50° East a distance of 380.0 feet;

Thence South 13° East a distance of 63.0 feet;

Thence South 36° 30' West a distance of 138.0 feet to an iron pipe, which is on the northeasterly right of way line of US Hwy No. 261

Thence along the said right of way line northeasterly a distance of 40.0 feet to an iron pipe;

Thence North 32° East a distance of 130.0 feet to an iron pipe;

Thence North 32° West a distance of 63.7 feet to a point;

Thence North 50° West a distance of 320.0 feet, more or less, to an iron pipe, which is on the west line of said Darling property;

Thence along the West line of said Darling property North 3° 06' 15" West a distance of 25.0 feet, more or less to the point of beginning.

(Including a single wide manufactured structure, Account ID. 33731)

## CERTIFICATE OF CASH SALE OF SURPLUS REAL PROPERTY

This is to CERTIFY, that I, Sirpa Duoos, Property Specialist of Clatsop County, State of Oregon, pursuant to delegation from the Clatsop County Sheriff, pursuant to the provisions of ORS 275.110, ex. seq. and in accordance with an order of the Board of County Commissioners of said County, dated August 23, 2017, placed at public sale the following described real property, situated in the County of Clatsop and State of Oregon, to wit: known as map and tax lot number 51010DA01000 Assessment and Taxation Records of Clatsop County, and more fully described in an Exhibit "A": attached hereto and incorporated herein by reference;

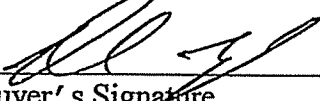
That Hendrik Horlings (BUYER) at said sale offered to pay the sum of \$ 11,000.00 (BID PRICE) for said property, which sum was the highest and best bid received that exceeded the minimum price set therefore, and the receipt whereof is hereby acknowledged and paid by:

Cash, certified check or cashiers check on or before 5:00 p.m., September 19, 2017:

It is understood and agreed that this sale is subject to the terms and conditions of the sale as published, and is subject to the confirmation of the Board of County Commissioners of Clatsop County. This sale shall be binding by Clatsop County only in the event of approval by said Board of County Commissioners.

It is understood and agreed that if a notice of claim of a municipal corporation lien assessed against said property has been filed, this sale shall be subject to the right of the municipal corporation to repurchase said property within a period of twenty days after notice to the municipal corporation of this offer to purchase pursuant to ORS 275.170.

DATED at Astoria, Oregon, this 19<sup>th</sup> day of September 2017.

  
Buyer's Signature

Hendrik Horlings  
Name(s) to Appear on Deed

Po Box 1142  
Address

Seaside, OR 97138

503-440-8835  
Telephone #

Sirpa Duoos  
Property Specialist  
Clatsop County, Oregon




EXHIBIT "A"

17-05 ASSESSOR'S ACCOUNT #51010DA01000

LEGAL DESCRIPTION: Beginning at the Southeast corner of Section 10, Township 5 North, Range 10 West, Willamette Meridian, Clatsop County, State of Oregon;

Thence along the South line of said Section 10, Township 5 North, Range 10 West, North 88° 30' 05" West a distance of 731.0 feet to a point;

Thence North 3° 06' 13" West a distance of 1410.0 feet, more or less, to an iron pipe, which is on the North right of way line of US Hwy No 26 and the true point of beginning. Said true point of beginning is also on the West line of H. Neitzel property, as described in Volume 182, Page 671 Deed Records, Clatsop County;

Thence along the West line of said H. Neitzel property North 3° 06' 13" West a distance of 222.00 feet to an iron pipe;

Thence North 51° 30' West a distance of 65.6 feet to an iron pipe;

Thence South 3° 06' 13" East a distance of 200.00 feet to an iron pipe, which is on the Northerly right of way line of US Hwy No 26;

Thence along the Northerly right of way line of said highway Southeasterly a distance of 83.0 feet to the point of beginning. (Including a double wide manufactured structure)

CERTIFICATE OF CASH SALE OF SURPLUS REAL PROPERTY

This is to CERTIFY, that I, Sirpa Duoos, Property Specialist of Clatsop County, State of Oregon, pursuant to delegation from the Clatsop County Sheriff, pursuant to the provisions of ORS 275.110, ex. seq. and in accordance with an order of the Board of County Commissioners of said County, dated August 23, 2017, placed at public sale the following described real property, situated in the County of Clatsop and State of Oregon, to wit: known as map and tax lot number 80909CC05000, 5001, 5100 Assessment and Taxation Records of Clatsop County, and more fully described in an Exhibit "A": attached hereto and incorporated herein by reference;

That Richard M. Seppa and Sharon Seppa <sup>as husband and wife</sup> (BUYER) at said sale offered to pay the sum of \$ 20,000 (BID PRICE) for said property, which sum was the highest and best bid received that exceeded the minimum price set therefore, and the receipt whereof is hereby acknowledged and paid by:

Cash, certified check or cashiers check on or before 5:00 p.m., September 19, 2017:

It is understood and agreed that this sale is subject to the terms and conditions of the sale as published, and is subject to the confirmation of the Board of County Commissioners of Clatsop County. This sale shall be binding by Clatsop County only in the event of approval by said Board of County Commissioners.

It is understood and agreed that if a notice of claim of a municipal corporation lien assessed against said property has been filed, this sale shall be subject to the right of the municipal corporation to repurchase said property within a period of twenty days after notice to the municipal corporation of this offer to purchase pursuant to ORS 275.170.

DATED at Astoria, Oregon, this 19<sup>th</sup> day of September 2017.

[Signature]  
Buyer's Signature

Sirpa Duoos  
Property Specialist  
Clatsop County, Oregon

[Signature]

Richard M. and Sharon Seppa, as H & W  
Name(s) to Appear on Deed

2904 Irving Ave.  
Address

Astoria, OR 97103

503-325-2914, 503-971-806-2451  
Telephone #

w:\...certsale.frm

EXHIBIT "A"

17-30 ASSESSOR'S ACCOUNT #80908CC05000, 5001, 5100

LEGAL DESCRIPTION: East half of Lot 9, Lots 10, 11, 12, Block 40, Shively's Astoria, County of Clatsop, Oregon and the vacated west half of 29th street, City of Astoria Ordinance No. 98-09, as described and recorded in Book 878, Page 112, Deed Records of Clatsop County, Oregon, reserving and retaining unto the City of Astoria an easement consisting of the Easterly 20 feet of the Westerly 29th Street right-of-way for access and utility purposes.

**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**October 11, 2017**

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**Issue/Agenda Title:** State Public Facility License No. 20886-LI

**Category:** Consent Calendar

**Prepared By:** Andrea Neys

**Presented By:** Steve Meshke

---

**Issue before the Commission:** Approval and signature of the State Public Facility License No. 20-886-LI for the Yacht Club net pen site.

**Informational Summary:** The Clatsop County Fisheries Department maintained an Oregon Department of State Lands Waterway Lease for the net pen sites located in Youngs Bay. This public facility license is required for the maintenance, repair, and operation of this net pen site which we call the Yacht Club net pen site. This is a conversion of our current water lease that expired this year. The term of this new State Public Facility License No. 20886-LI is from February 1, 2017 through January 31, 2032.

**Fiscal Impact:** There is a once every 15 year cost of \$750 (as of 2017) for the public facility license. This amount was budgeted for and has been paid out this time period.

**Options to Consider:**

1. Board of Commissioners approves and authorizes the County Manager to sign the new State Public Facility License No. 20886-LI

**Staff Recommendation:** Option #1

**Recommended Motion:** *"I move to approve and authorize the County Manager to sign the State Public Facility License No. 20886-LI for the Yacht Club net pen site located in Youngs Bay."*

**Attachment List:**

- A. Oregon Department of State Lands Public Facility License No. 20886-LI

C6442

**STATE OF OREGON  
DEPARTMENT OF STATE LANDS**

**Public Recreation Facility License  
20886-LI**

The STATE OF OREGON, by and through its Department of State Lands (STATE), GRANTOR, does hereby grant to Clatsop County Fisheries, LICENSEE, a License for the construction, maintenance, repair, and/or replacement of a Fish net pe for public use on the following described property, to wit:

All state-owned submerged lands in Young's Bay, in Section 17, Township 8 North, Range 9 West, Willamette Meridian, Clatsop County, Oregon, more particularly described as follows:

Commencing at a point on the intersection of the West line of Tax Lot 5000 (Clatsop County Assessor's Map Number 8 9 17CC) and the line of Mean High Tide on the right bank of Young's Bay;

thence continuing riverward along a line perpendicular to the thread of the stream to the line of Mean Low Tide and the TRUE POINT OF BEGINNING;

thence continuing riverward along said perpendicular line a distance of 200 feet;

thence upstream and 200 feet parallel to said line of Mean Low Tide a distance of 300 feet;

thence shoreward along a line perpendicular to the thread of the stream a distance of 200 feet to the line of Mean Low Tide;

thence downstream along said line of Mean Low Water a distance of 300 feet, more or less, to the TRUE POINT OF BEGINNING. Legal description used for locating leased structure, not for determining size.

*This description is used to establish the approximate location and extent of the area subject to this Department of State Lands authorized use and was not prepared by a licensed surveyor. All locations, bearings, and distances were developed in the Oregon Coordinate Reference System Standard: Oregon Statewide Lambert Conformal Conic, NAD 1983, International Feet, GRS 1980 Spheroid.*

1. LICENSE TERM AND RENEWAL

The LICENSEE, subject to compliance with the terms and provisions of this License, shall have and hold the Licensed Premises for the purposes stated above for fifteen (15) years beginning February 1, 2017 and expiring on January 31, 2032.

The LICENSEE Shall have an option to renew this License for an additional period of 15 years after the original and each renewal license term provided that Licensee has submitted a completed license renewal application form to State not less than one hundred and eighty (180)



days prior to the License Expiration Date. Upon receipt of such application, this License shall be renewed by State unless:

- a) State determines, in its sole discretion, that Licensee has not complied with the terms of this License, the applicable statutes and Oregon Administrative Rules; or
- b) Licensee is no longer the preference right holder as provided in ORS 274.040(1) and defined in OAR 141-082-0255; or
- c) State determines that the renewal of this License for all or any portion of the License area would be contrary to local, state, or federal law, or would be inconsistent with the policies set forth in OAR 141-082-0260.

## 2. CONSTRUCTION

Construction in navigable waters shall conform to standards and specifications set by U.S. Army Corps of Engineers or U.S. Coast Guard for the project. The bed and banks of the waterway shall be restored to a condition acceptable to the STATE as soon as construction or maintenance is completed. Any blasting construction shall be performed according to the laws of the state. Underwater blasting permits are required under ORS 509.140.

## 3. PREVENTION OF WASTE, DAMAGE AND INJURY

LICENSEE shall exercise reasonable diligence in its operation on and from said Licensed Premises; shall carry on all operations hereunder in a good and workmanlike manner having due regard for public safety and the prevention of waste and for the restoration and conservation of said Licensed Premises for future use, and shall take all reasonable steps to avoid damage to soil, timber, fish and fish habitat, wildlife and wildlife habitat and water quality of both ground water and surface water; shall make all reasonable efforts to minimize interference with existing navigational and recreational activities and scenic values; shall substantially restore the Licensed Premises to its original condition and shall do all things reasonably necessary to minimize erosion.

## 4. HAZARDOUS WASTE

LICENSEE shall refrain from storing on, or discharging from or onto, the Licensed Premises any hazardous wastes or toxic substances as defined in 42 USC§ 9601-9657, except as otherwise permitted by law.

## 5. COMPLIANCE WITH LAW

LICENSEE shall comply with all applicable federal, state, and local statutes, ordinances, rules and regulations in its use of the Licensed Premises. This License does not give LICENSEE permission to conduct any use on the Licensed Premises which is not in conformance with applicable land use requirements, and it is the LICENSEE's responsibility to determine and comply with those and all other requirements.

LICENSEE shall use the Licensed Premises only in a manner, or for such purposes, that assure fair and nondiscriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender or national origin.

6. DELIVERY OF PREMISES

Delivery of the Licensed Premises will occur upon the date of execution of this License. STATE will not provide a survey or pay any costs of a survey to determine boundaries. It is the LICENSEE's responsibility to make an accurate determination of the boundaries. The legal description provided by STATE is drawn from an assessor's map and/or other data deemed to be reliable. If LICENSEE elects not to have a survey performed and a discrepancy or boundary overlap later becomes evident, STATE, at its discretion, may provide a corrected description of the Licensed Premises.

7. ALTERATIONS AND IMPROVEMENTS

LICENSEE shall obtain the written consent from the STATE prior to making any alterations or additions to the Licensed Premises or improvements upon the Licensed Premises. Any removal/fill activity in the waters of the state shall require a permit from the Director in accordance with ORS 196-800 et seq.

8. ACCESS TO PROPERTY AND RECORDS

The STATE shall have access to the Licensed Premises at all reasonable times for the purpose of ensuring compliance with the terms and conditions of this License. The STATE shall have the right to examine pertinent records of LICENSEE for the purpose of ensuring compliance with the License.

Public access to the navigable waters must be maintained.

9. REPAIRS AND MAINTENANCE

LICENSEE agrees to make all repairs to the Licensed Premises which are necessary for the purposes set forth in this License. LICENSEE further agrees to maintain the Licensed Premises in reasonable safe condition during the period of this License. If LICENSEE fails to make the repairs required under this provision or fails to maintain the Licensed Premises in reasonably safe condition, STATE may revoke this License, provided LICENSEE fails to make the necessary repairs or perform the required maintenance within a reasonable time not to exceed thirty (30) days after written notification by STATE.

10. ASSIGNMENT OR SUBLETTING

LICENSEE shall not assign, mortgage, or sublet nor enter into any third party agreement respecting the License without first obtaining the prior written consent of STATE pursuant to the requirements of the applicable Oregon Administrative Rules. Requests must be in writing and must be received by STATE at least thirty (30) calendar days prior to the effective date of sublet or assignment. STATE reserves the right to condition its consent as it deems reasonably prudent, including the right to require changes to the terms of this License.

11. DEFAULT, NOTICE AND CURE BY LICENSEE

A default by the LICENSEE shall occur if any of the following shall occur and if said default shall continue and not be remedied within sixty (60) days after the STATE shall have given notice specifying the breach:

- a. LICENSEE charging the public for use of the Licensed Premises (a nominal charge for maintenance costs of the Licensed Premises may be allowed with written approval of the STATE).
- b. Failure of LICENSEE to comply with any term or condition imposed by the STATE in the License.
- c. Failure of LICENSEE to use the Licensed Premises for the purposes authorized under the terms of the License.
- d. LICENSEE maintaining a nuisance on the Licensed Premises.
- e. Failure by LICENSEE to remove any lien or encumbrances placed upon the Licensed Premises.

12. TERMINATION UPON LICENSEE'S DEFAULT

In the event of a default by LICENSEE, the License may be terminated at the option of STATE by thirty (30) days advance notice in writing to LICENSEE. In the event the License is terminated by either party, all remedies afforded under this License shall survive such termination. LICENSEE shall have sixty (60) days after date of termination to remove all fixtures and property from the Licensed Premises and to restore the Premises to its original (natural) condition. Failure to remove such items and restore the Premises within the sixty (60) day period will result in assignment of the file to the Department of Justice.

13. TERMINATION UPON MUTUAL CONSENT

This License may also be terminated by mutual written consent of LICENSEE and STATE.

14. INDEMNIFICATION

LICENSEE shall perform the services under this License as an independent entity. LICENSEE and STATE each shall be responsible, to the extent required by the Oregon Tort Claims Act (ORS 30.260-30.300), only for the acts, omissions or negligence of its own officers, employees or agents.

15. RESERVATIONS

The interest of LICENSEE under this License shall at all times be subject to STATE's right to grant rights-of-way in and over said Licensed Premises or a portion of the Licensed Premises for other purposes, including but not limited to, railroads, telegraph and telephone lines, pipelines, irrigation or other water canals and ditches, and to STATE's right to lease all or part of the Licensed Premises for the exploration, discovery, development and production of oil, gas, or

minerals of any nature whatsoever, provided the right-of-way or lease does not unreasonably interfere with the purpose of this License.

16. NON WAIVER

Waiver by either party of strict performance of any term of this License on any occasion shall not be construed as a waiver nor prejudice either party's right to require strict performance of the same provision in the future or any other provision.

17. PARTNERSHIP

STATE is not a partner nor a joint venturer with LICENSEE in connection with this License and shall have no obligation with respect to LICENSEE's debts or other liabilities.

18. MERGER

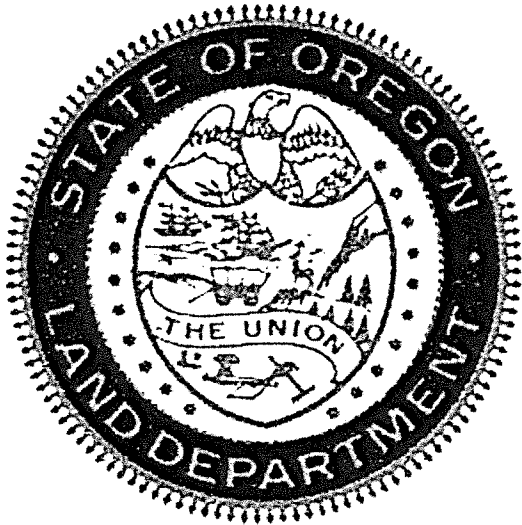
This License constitutes the entire agreement between the parties, and no oral statement, representation or agreement not herein expressed shall be binding upon any party.

19. MODIFICATION

This agreement may not be changed, altered or amended without mutual written consent of the parties.

This License is granted in order that LICENSEE can provide public recreational utilization of the Licensed Premises at no charge to the public, however, a nominal fee may be charged to cover maintenance costs of the Licensed Premises. If the facility is not used in compliance with this condition, the License will automatically terminate and the land shall revert to STATE.

WITNESS the seal of the Department of State Lands affixed this \_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.



STATE OF OREGON, acting by and through its Department of State Lands

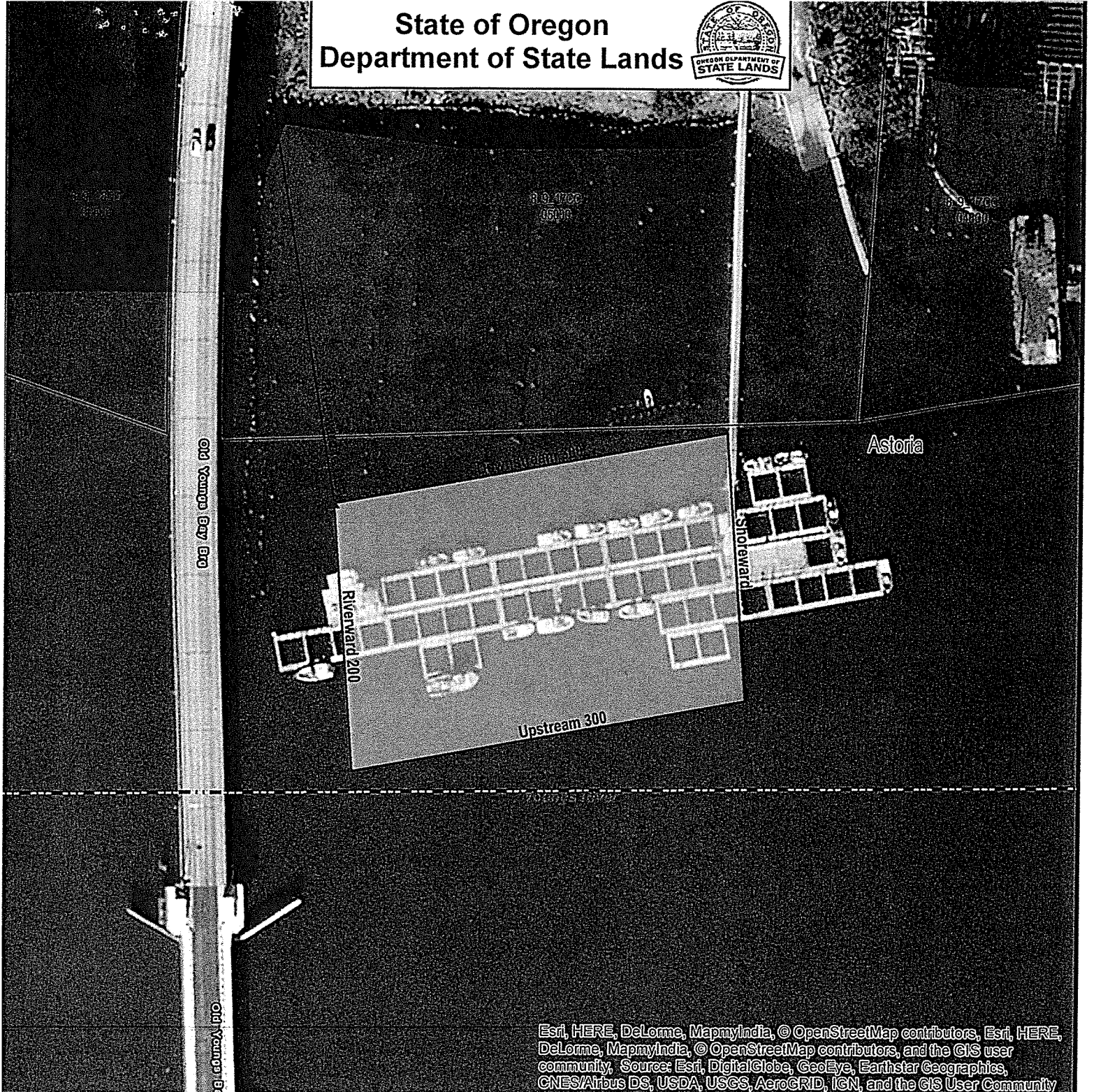
Clatsop County Fisheries

\_\_\_\_\_  
DSL Authorized Signature/Printed Name

\_\_\_\_\_  
Authorized Signature/Printed Name

\_\_\_\_\_  
Title

State of Oregon  
Department of State Lands



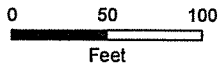
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**EXHIBIT A**

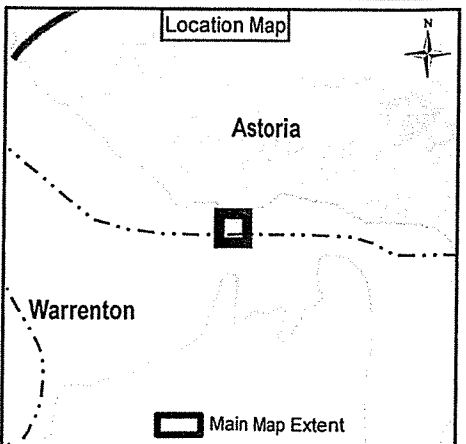
20886-LI  
T08S, R09W Section 17  
1.38 acres  
Clatsop County

- ▲ Points of Beginning
- Description lines
- Use Area

This map depicts the approximate location and extent of a Department of State Lands Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



Map Projection:  
Oregon Statewide Lambert  
Datum NAD83  
International Feet  
State of Oregon  
Department of State Lands  
775 Summer St NE, Suite 100  
Salem, OR 97301  
503-986-5200  
regon.gov/DSL  
-52- 1/23/2017



**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**October 11, 2017**

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**Issue/Agenda Title:** Oregon State Marine Board Grant for Westport Permitting Project

**Category:** Consent Calendar

**Prepared By:** Steve Meshke, Natural Resources Manager

**Presented By:** Steve Meshke

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**Issue before the Commission:** Request approval of the Oregon State Marine Board Grant Boating Facility Intergovernmental Agreement 1597 for the Westport Boat Ramp Permitting Project.

**Informational Summary:** We have received a grant from the Oregon State Marine Board for the hiring of a consultant to assist with the preparation and submission of the permits needed for the Westport Boat Ramp development at Westport County Park. The current boat ramp at the park was installed in the early 1970's and is at the end of its useful life. With the donation of the 27-acre property to the County Parks from Georgia Pacific in 2014, the County may now proceed with the development of the property. In working with the Oregon State Marine Board the County will use these funds to hire a consultant to help prepare and submit the needed documents and permits to begin the boat ramp replacement project. The new design moves the boat ramp from its current location just upstream, and places it at a different angle to help assist boaters in loading the boats during periods of swift current movement. The project will also install a new paved parking lot and restrooms.

**Fiscal Impact:** This grant requires a 25% match. The total estimated cost of the permitting project is \$54,550. The Oregon State Marine Board grant award is for a total of \$40,800, which \$13,613 of this is from the Federal Boating Infrastructure Grant Fund. The local match of \$13,750 for this project is budgeted under the FY 2017-18 County's Special Project account. The Recreation Land Planning Advisory Committee supports this project and the new development.

**Options to Consider:**

1. Approve the Boating Facility Grant Intergovernmental Agreement with Oregon State Marine Board
2. Do not approve the Grant Agreement and fund the entire project from County funds

**Staff Recommendation:** Option #1

**Recommended Motion:** *“I move that the Board approve and direct the Chair to sign the Boating Facility Grant Intergovernmental Agreement Oregon State marine Board Westport Boat Ramp Improvement Project.”*

**Attachment List:**

- A. Boating Facility Grant Intergovernmental Agreement #1597



**BOATING FACILITY GRANT  
INTERGOVERNMENTAL AGREEMENT**  
Agreement No. 1597

This Agreement is between the State of Oregon acting by and through its Marine Board (“OSMB”) and Clatsop County (“Recipient”), each a “Party” and, together, the “Parties”.

**SECTION 1: AUTHORITY**

This Agreement is authorized by ORS 190.110. OSMB is authorized to provide grants for boating facility projects under ORS 830.150 and OSMB has sufficient facility grant funds available within its current biennial budget and has authorized expenditure on the Recipient’s Project as defined below, and the Recipient agrees to comply with Boating Facility Grant Program rules in OAR 250-014 and other OSMB adopted policies and procedures.

**SECTION 2: PURPOSE**

The purpose of this Agreement is to set forth the obligations of both Parties in the development of recreational boating facilities at *Westport Boating Facility for preparation and submission of the joint permit application to the potential replacement of the boat ramp, boarding docks, and piling, expansion of the parking area and addition of a short term-tie up dock and sanitation*, hereinafter called the “Project,” as described in the Recipient’s Facility Grant Application 1597 and Staff Report to OSMB. With this reference, the Facility Grant Application and Staff Report are made part of this Agreement. If a conflict exists between the Facility Grant Application, Staff Report and this Agreement, the Agreement will govern.

**SECTION 3: EFFECTIVE DATE AND DURATION**

- 3.1 **Term.** This Agreement is effective on the date of the last signature and terminates on the date 20 years after the date of Project completion or the date of final payment issuance, whichever is later, unless terminated earlier in accordance with Section 18.
- 3.2 **Project Completion.** The Project shall be completed, and final billing for the Project shall be submitted to OSMB, on or before June 30, 2019. Unless approved in writing, OSMB shall not be obligated to disburse any payments after this date.
- 3.3 **Closeout.** (See 2 CFR § 200.343) OSMB will closeout this award under this Agreement when it determines that all applicable administrative actions and all required work of this Agreement have been completed by the Recipient.

**SECTION 4: AUTHORIZED REPRESENTATIVES**

- 4.1 OSMB’s Authorized Representative is:

Janine Belleque, Boating Facilities Program Manager  
PO Box 14145, Salem, OR 97309

435 Commercial Street NE Suite #400, Salem OR 97301  
(503) 378-2628 Office [Janine.Belleque@oregon.gov](mailto:Janine.Belleque@oregon.gov)

4.2 Recipient's Authorized Representative is:

Steve Meshke, Natural Resources Manager

2001 Marine Dr Suite 253, Astoria, OR 97103

503-325-6452 Office [spmeshke@co.clatsop.or.us](mailto:spmeshke@co.clatsop.or.us)

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.

## SECTION 5: RESPONSIBILITIES OF EACH PARTY

### 5.1 Responsibilities of Recipient:

**5.1.1 Project Timeline.** The Recipient is responsible for maintaining the project timeline for all dates and activities outlined as the Recipient's responsibility as identified in Attachment "A".

**5.1.2 Matching Cash Funds.** The Recipient shall contribute the total sum of *\$13,750.00 in cash and \$0.00 in pre-agreement expenditures* as described in the Staff Report.

**5.1.3 Matching Non-cash Resources.** The Recipient shall contribute the total sum of *\$3,845.00 administrative match and \$0.00 force account labor, materials and/or equipment*. These are non-reimbursable items.

**5.1.4 Indirect Rate.** The Recipient is charging the indirect rate shown on Attachment B. Total Indirect Costs to be charged are *\$0.00*.

**5.1.5 Construction.** The Recipient shall award, and monitor the contractor's performance under the construction contract or construction consultant contract in such a manner as to insure compliance with Project plans and specifications. The Recipient must notify OSMB immediately of any proposed change in Project design, cost modifications, proposed change orders or modification of scope. The Recipient shall be responsible for all costs associated with unauthorized changes or modifications unless otherwise specifically agreed to in writing by OSMB.

#### 5.1.6 Commercial and Other Uses.

- a. For purposes of this Section 5, Commercial Use means any activity on or affecting the Project that was not described in the Facility Grant Application or Staff Report, or not approved pursuant to OSMB Policy 93-06 or 93-02, where the Recipient:
  1. has financial profit as a goal,
  2. charges any fees or receives any benefit to provide services, supplies or goods, or
  3. allows third parties to charge any fees or receive any

benefit to provide services, supplies or goods.

- b. Commercial Use is prohibited.
- c. Recipient must have the capability to make an ordinance, rule, or other regulation to the effect that the Projects are for the benefit of recreational boaters, including, but not limited to, how Recipient must be able to prohibit boaters from exceeding stay limits on short term tie up docks or using the facilities in unintended ways. If, in the sole discretion of OSMB, the use by non-recreational boaters such as swimmers, fishermen, divers, crabbers impact recreational boating uses or diminishes the useful life of the Project, then the Recipient must establish and enforce its ordinance, rule, or other regulation.
- d. If Project funded a pumpout or dump station in a marina or short-term tie-up dock, the Recipient must include language in its moorage agreement requiring use of the pumpout and/or dump station if a boat has a holding tank or marine toilet.
- e. Recipient must restrict use of the Project to only boats that comply with ORS 830.770 and 830.775.

**5.1.7 Publications & Advertising.** The Recipient shall include the following statement if publishing any report, news release or publication regarding this project: *“Partial funding was through the Oregon State Marine Board Facility Grant Program, and in cooperation with U.S. Fish and Wildlife Service (Clean Vessel Act and/or Boating Infrastructure Grant Programs).”*

**5.1.8 Project Sign.** The Recipient shall post in a conspicuous location at the site a sign identifying OSMB’s, Federal Agency’s and specific federal grant program’s participation in the Project.

**5.1.9 Public Access to Project.** During the term of this Agreement the Recipient shall allow open and unencumbered public access to the Project to all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence.

**5.1.10 User Fees.** No fees can be charged to recreational boaters for the use of pumpout, dump station or floating restroom. Recipient shall notify and request written approval from OSMB of any user fees charged to recreational boaters for the use of the improvements described herein throughout the term of this Agreement. Fees charged shall be reasonable and are subject to review and approval by OSMB. If user fees are charged for the use of the completed Project, the Recipient shall maintain sufficient records and accounting procedures that demonstrate all of the gross income from the fees is used to defray direct operational costs (for example, maintenance and repair costs) for the Project. User fees may affect Maintenance Assistance Program, as described in OAR 250-014-0004 eligibility on publicly owned and operated Projects.

**5.1.11 Maintenance.** The Recipient shall at all times be responsible for the maintenance and operation of the Project and related facilities during the term of the Agreement. This does

not restrict the Recipient's ability to subcontract for the performance of maintenance and operation services. Such subcontractors would be subject to Section 5.1.14, Indemnification by Subcontractors.

**5.1.12 Payments.** Recipient agrees to:

- a. Make payment promptly as due to all contractors, subcontractors, vendors or any other persons supplying labor or materials for the Project;
- b. All employers, including Recipient that employ subject workers as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for exemption under ORS 656.126(2). Recipient shall require and ensure that each of its subcontractors complies with these requirements (unless inapplicable as a matter of federal law); and
- c. Not permit any lien or claim to be filed or prosecuted against OSMB, due to any construction or maintenance activities at the Project.

**5.1.13 Alternative Dispute Resolution.** The Parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the 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.

**5.1.14 Indemnification by Subcontractors.** The Recipient shall take all reasonable steps to cause its contractor(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 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 Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("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 the contractor from and against any and all Claims.

**5.1.15 Boating Facility Operation.** The Parties have entered into other grant agreement(s) for boating facilities 121,, which provide for the Recipient to operate boating facilities, including but not limited to, [restrooms, boat trailer parking, docks, boat ramps]. The Recipient shall continue to operate those boating facilities for the duration of this Agreement, even if the terms of the other grant agreements have expired .

**5.2 Responsibility of OSMB:**

**5.2.1** OSMB shall pay Recipient as described in Sections 6 and 7.

## SECTION 6: CONDITIONS TO DISBURSEMENT

**6.1 Conditions Precedent to Any Reimbursement.** OSMB shall not be obligated to disburse any of the grant funds to reimburse the Recipient for Project costs hereunder unless OSMB has received from the Recipient:

- a. Prior to Project solicitation or construction, the final architectural and engineering plans, specifications, and cost estimate(s), statement of work, request for proposal or other documentation for the Project, documents must be in form and substance satisfactory to OSMB;
- b. Prior to Project construction a copy of all required, federal, state and local permits or approvals for the Project; and
- c. A copy of the contractor's, vendor's, supplier's or consultant pricing, unless the Recipient is completing the Project; and
- d. Reimbursement Requests must be submitted on the approved OSMB Boating Facility Grant Reimbursement form along with all supporting documentation. Reimbursements shall be prorated between the Parties based on the percentage of their respective cash contributions as set forth in Section 5 and Section 7.

**6.2 Conditions Precedent to Partial Progress Payment(s).** OSMB shall not be obligated to make partial progress reimbursement payment(s) hereunder until supporting documentation of the percentage of Project completion has been received, reviewed and approved by OSMB. In no event shall OSMB disburse more than ninety percent (90%) of the amount indicated in Section 7.2. as progress payments.

**6.3 Conditions Precedent to Final Payment.** OSMB shall not be obligated to make final payment hereunder until the following have been completed or supplied:

- a. Supporting documentation in form and content determined by OSMB, has been received reviewed and approved by OSMB; and
- b. Recipient provides a minimum of three photographs detailing the completed work. One photo must be of the installed sign crediting OSMB with funding the Project; and
- c. Inspection and approval of the Project by OSMB.

## SECTION 7: COMPENSATION AND PAYMENT TERMS

**7.1 Federal Fund Approval.** OSMB has received a grant from the United States Department of the Interior, Fish and Wildlife Services, (USFWS) as described pursuant to 2 CFR 200.331 on Attachment B. In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and 2 CFR 200.330, OSMB's determination is that the Recipient is the sub-recipient of federal funds.

**7.2 Grant Funds.** Upon approval by its governing body, OSMB shall provide grant funds in the amount of *\$27,637.00 state funds and \$13,613.00 federal Boating Infrastructure Grant (BIG)*

funds to the Recipient to fund the Project. OSMB shall not provide to the Recipient, and the Recipient shall not use any funds described in this section for administrative or for accounting costs whether or not related to this Agreement.

- 7.3 Payments.** After the Recipient awards the contract for the Project, and activities commence, OSMB shall, upon receipt of the Recipient's request for reimbursement and appropriate documentation all in form and substance satisfactory to OSMB, disburse funds to the Recipient in accordance with Section 6 "CONDITIONS TO DISBURSEMENT".
- 7.4 Overpayment.** In the event that the aggregate amount of OSMB's interim progress payments to the Recipient exceeds the allowable reimbursable costs of the Recipient for the Project, the Recipient agrees to refund to OSMB the amount paid in excess of such allowable expenses within thirty (30) days of final billing by the Recipient or the Project Completion Date, whichever is earlier.
- 7.5 Disallowed Costs.** The Recipient agrees that payment(s) made by OSMB under this Agreement shall be subject to offset or reduction for any amounts previously paid hereunder that are found by OSMB not to constitute allowable costs under this Agreement based on the results of an audit examination. If such disallowed amount exceeds the payment(s), the Recipient shall pay OSMB the amount of such excess within 30 days after written notice of disallowed costs is provided by OSMB.
- 7.6 Cost Savings.** Any cost savings realized on the Project shall be prorated between the Parties based on the percentage of their respective cash contributions as set forth in Section 7.1. and Section 5: "RESPONSIBILITIES OF EACH PARTY"

## **SECTION 8: REPRESENTATIONS AND WARRANTIES**

Recipient represents and warrants to OSMB that:

- 8.1** Recipient is a County duly organized and validly existing. Recipient has the power and authority to enter into and perform this Agreement;
- 8.2** The making and performance by Recipient of this Agreement (a) have been duly authorized by Recipient, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is party or by which Recipient may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement, other than those that have already been obtained;
- 8.3** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient enforceable in accordance with its terms;

- 8.4 Recipient has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Recipient will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 8.5 Recipient shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by Recipient.

## **SECTION 9: GOVERNING LAW, 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 law. Any claim, action, suit or proceeding (collectively "Claim") between OSMB or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this 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 it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon 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, to or from any Claim or from the jurisdiction of any court. RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

## **SECTION 10: OWNERSHIP OF WORK PRODUCT**

10.1 As used in this Section 10 and elsewhere in this Agreement, the following terms have the meanings set forth below:

10.1.1 **Project Ownership.** OSMB acknowledges and agrees that the Project is the exclusive property of the Recipient. OSMB is neither responsible nor liable in any manner for the construction, operation or maintenance of the Project.

## **SECTION 11: NO DUPLICATE PAYMENT**

The Recipient shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon, including, but not limited to the Oregon Department of Fish and Wildlife, or the United States of America or any other party.

## **SECTION 12: CONTRIBUTION**

12.1 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 (a “Third Party Claim”) against a Party (the “Notified Party”) with respect to which the other Party (the “Other Party”) may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. 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 the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party’s contribution obligation under this Section 10 with respect to the Third Party Claim.

**12.2** With respect to a Third Party Claim for which OSMB is jointly liable with Recipient (or would be if joined in the Third Party Claim ), OSMB 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 Recipient in such proportion as is appropriate to reflect the relative fault of OSMB on the one hand and of Recipient on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of OSMB on the one hand and of Recipient 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. OSMB’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

**12.3** With respect to a Third Party Claim for which Recipient is jointly liable with OSMB (or would be if joined in the Third Party Claim), Recipient 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 OSMB in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of OSMB on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of OSMB 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. Recipient’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

## **SECTION 13: RECIPIENT DEFAULT**

Recipient will be in default under this Agreement upon the occurrence of any of the following events:

**13.1** Recipient fails to perform, observe or discharge any of its covenants, agreements or



obligations under this Agreement;

- 13.2** Any representation, warranty or statement made by Recipient in this Agreement or in any documents or reports relied upon by OSMB to measure the delivery of services, the expenditure of funds or the performance by Recipient is untrue in any material respect when made;
- 13.3** Recipient (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or
- 13.4** A proceeding or case is commenced, without the application or consent of Recipient, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Recipient, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Recipient or of all or any substantial part of its assets, or (c) similar relief in respect to Recipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Recipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

## **SECTION 14: OSMB DEFAULT**

OSMB will be in default under this Agreement if OSMB fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

## **SECTION 15: REMEDIES**

- 15.1** In the event Recipient is in default under Section 13, OSMB may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including but not limited to: (a) termination of this Agreement under Section 18, (b) reducing or withholding payment for work or Work Product that Recipient has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Recipient to perform, at Recipient's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 16 (which is in addition to the remedies provided in Section 7.4), of this Agreement or setoff, or both. These

remedies are cumulative to the extent the remedies are not inconsistent, and OSMB may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

- 15.2** In the event OSMB is in default under Section 14 and whether or not Recipient elects to exercise its right to terminate this Agreement under Section 18, or in the event OSMB terminates this Agreement under Sections 18.1, 18.2, or 18.3, Recipient's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by OSMB, for work completed and accepted by OSMB within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims OSMB has against Recipient, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by OSMB, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that OSMB has against Recipient. In no event will OSMB be liable to Recipient for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Recipient exceed the amount due to Recipient under this Section 15.2, Recipient shall promptly pay any excess to OSMB.

## **SECTION 16: RECOVERY OF OVERPAYMENTS**

In addition to the remedies provided in Section 7.4, if payments to Recipient under this Agreement, or any other agreement between OSMB and Recipient, exceed the amount to which Recipient is entitled, OSMB may, after notifying Recipient in writing, withhold from payments due Recipient under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

## **SECTION 17: LIMITATION OF LIABILITY**

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

## **SECTION 18: TERMINATION**

- 18.1 Termination for Convenience.** The Recipient may terminate this Agreement at any time upon thirty (30) days prior written notice to OSMB; provided, however, that the Recipient shall, within thirty (30) days of such termination, reimburse OSMB for all funds contributed by OSMB to the Project; provided further that until the Recipient has fully reimbursed OSMB for such funds, the Recipient shall comply with the terms hereof. Delinquent payments shall bear interest at the rate of \_\_\_percent (\_\_\_%) per annum, or, if such rate shall exceed the maximum rate allowed by law, then as such maximum rate, and shall be payable on demand.

**18.2 Termination Because of Non-Appropriation or Project Ineligibility.** OSMB, as provided in Section 29 "FORCE MAJEURE," may modify or terminate this Agreement and at any time upon 30 days prior written notice to the Recipient, may modify or terminate this Agreement if:

- a. OSMB fails to receive funding or allotments, appropriations, limitations, or other expenditure authority at levels sufficient to pay for the allowable costs of the Project to be funded hereunder or should any state law, regulation or guideline be modified, changed or interpreted in such a way that the Project, or any portion of the Project, is no longer eligible for facility grant funds as described in ORS 830.150.
- b. In the event insufficient funds are appropriated for the payments under this Agreement and the Recipient has no other lawfully available funds, then the Recipient may terminate this Agreement at the end of its current fiscal year, with no further liability to OSMB. The Recipient shall deliver written notice to OSMB of such termination no later than 30 days from the determination by the Recipient of the event of non-appropriation. OSMB shall pay for all authorized Project costs expended up to the date of written notice of termination.

**18.3 Termination for Default.** OSMB, at any time upon 30 days prior written notice of default to the Recipient, may modify or terminate this Agreement if:

- a. The design, permitting, or construction of the Project is not pursued with due diligence; or
- b. The Recipient's fee simple title to or other interest in the construction sites or Project is not sufficient, legal and valid; or
- c. The construction of the Project is not permissible under federal, state, or local law; or
- d. The Recipient, does not abide by the nondiscrimination and affirmative action provisions of this Agreement; or
- e. The Recipient, without the prior written approval of OSMB, uses the funds provided by OSMB hereunder to build any project other than the Project described in the final architectural and engineering drawings approved by OSMB; or
- f. The construction is not completed in a good and workmanlike manner or fails to comply with any required permits; or
- g. During the term of this Agreement, the Recipient fails to perform any obligation or requirement of this Agreement, including, but not limited to, exceeding the length of stay at a short term tie-up dock, allowing non-recreational boating use such as crabbing, fishing, swimming, diving or other activities to impact a recreational boaters ability to use the Project, or coveys the Project or the Project property or any part thereof or converts the use of the Project or the Project property to a use that precludes free and unencumbered recreational public boating access.

- h. The Recipient defaults under any other agreement between the Parties.

#### **18.4 Rights and Remedies.**

- a. The Recipient shall, within 30 days of its receipt of a notice of default, reimburse OSMB for all funds contributed by OSMB to the Project. Further, OSMB shall have any and all rights and remedies available at law or in equity.
- b. In the event that Recipient has materially failed to comply with this Agreement and such non-compliance has resulted in the Federal Funding Agency terminating OSMB's grant or cause or requires OSMB to return funds to the Federal Funding Agency, Recipient will return to OSMB an amount equal to the funds which OSMB is not reimbursed for or is required to return to Federal Funding Agency.

### **SECTION 19: NONAPPROPRIATION**

OSMB's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon OSMB receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OSMB, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of OSMB.

### **SECTION 20: AMENDMENTS**

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

### **SECTION 21: NOTICE**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 20. 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 upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

### **SECTION 22: SURVIVAL**

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 9,10,16,17 and 22 hereof and those rights and obligations that by their express terms survive termination of this

Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

## **SECTION 23: SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

## **SECTION 24: COUNTERPARTS**

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

## **SECTION 25: COMPLIANCE WITH LAW**

- 25.1 Compliance with Law Generally.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Recipient and the Agreement.
- 25.2 Oregon False Claims Act.** Recipient acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Recipient pertaining to this Agreement, including the procurement process relating to this Agreement that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Agreement, Recipient certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement. In addition to other penalties that may be applicable, Recipient further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Recipient. Recipient understands and agrees that any remedy that may be available under the Oregon False Claims Act is in addition to any other remedy available to the State or OSMB under this Contract or any other provision of law.
- 25.3 Tax Compliance.** As set forth on Exhibit B, Recipient has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state. Recipient shall, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes: (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, to Recipient's property, operations, receipts, or income, or to Recipient's performance of or compensation for any work performed by Recipient; (iii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, or to goods, services, or property, whether tangible or

intangible, provided by Recipient; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this subsection 25 constitutes a material breach of this Agreement. Further, any failure to comply with Recipient's certifications set forth in Exhibit B also shall constitute a material breach of this Agreement. Any failure to comply shall entitle OSMB to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

- 25.3.1 Termination of this Agreement, in whole or in part, this is in addition to any remedies available under Section 18;
- 25.3.2 Offsetting against any amount owed to Recipient, and withholding of amounts otherwise due and owing to Recipient, in an amount equal to State's setoff right, without penalty; and
- 25.3.3 Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. OSMB may recover any and all damages suffered as the result of Recipient's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services and applications.

In addition, this Agreement will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing the Recipient's compensation under this Agreement or (ii) exercising a right of setoff against Recipient's compensation under this Agreement for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

These remedies are cumulative to the extent the remedies are not inconsistent, and OSMB may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

## **SECTION 26: INDEPENDENT CONTRACTORS**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

## **SECTION 27: PERSONS NOT TO BENEFIT**

No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Oregon Legislative Assembly, elected official of the State of Oregon, or official, agent, or employee of the State of Oregon, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the State of Oregon shall be admitted to any share or part of this Agreement or derive any financial

benefit that may arise therefrom.

## **SECTION 28: INTENDED BENEFICIARIES**

OSMB and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

## **SECTION 29: FORCE MAJEURE**

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. OSMB may terminate this Agreement upon written notice to Recipient after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

## **SECTION 30: ASSIGNMENT AND SUCCESSORS IN INTEREST**

Recipient may not assign or transfer its interest in this Agreement without the prior written consent of OSMB and any attempt by Recipient to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. OSMB's consent to Recipient's assignment or transfer of its interest in this Agreement will not relieve Recipient of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns. Any sub grant entered into under this Agreement shall contain terms and conditions substantially similar to this Agreement, including Federal provisions contained in Exhibit A and the sub grant shall:

- a. Be awarded in accordance with §200.317 to §200.326 Procurement Standards
- b. If the contract is not to a unit of local government as defined in ORS 190.003, the contract shall require the contractor to 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 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 Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("claims"). It is the specific intentions 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 the contractor from and against any and all Claims.

### **SECTION 31: SUBCONTRACTS**

Recipient shall not, without OSMB's prior written consent, enter into any subcontracts for any of the work required of Recipient under this Agreement. OSMB's consent to any subcontract will not relieve Recipient of any of its duties or obligations under this Agreement.

### **SECTION 32: TIME IS OF THE ESSENCE**

Time is of the essence in Recipient's performance of its obligations under this Agreement.

### **SECTION 33: MERGER, WAIVER**

This Agreement and all exhibits and attachments, if any, 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. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

### **SECTION 34: RECORDS MAINTENANCE AND ACCESS**

Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that OSMB and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following 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. Subject to foregoing minimum records retention requirement, Recipient shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

### **SECTION 35: HEADINGS**

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.



**SECTION 36: ADDITIONAL REQUIREMENTS**

**SECTION 37: Recipient shall comply with the additional requirements set forth in Exhibit C, attached hereto and incorporated herein by this reference. AGREEMENT DOCUMENTS**

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (Federal Compliance Terms), Exhibit B (Tax Compliance), Attachment A (Project Timeline), Attachment B (Information Required by 2CFR200), Exhibit C (Additional Requirements).

**SECTION 38: SIGNATURES**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

**STATE OF OREGON acting by and through its Marine Board**

\_\_\_\_\_  
Scott Brewen, Director

\_\_\_\_\_  
Date

**Clatsop County**

\_\_\_\_\_  
Name \_\_\_\_\_, Title \_\_\_\_\_

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency in accordance with ORS 291.047**

Approval Authorized by Letter

Steven Marlowe, Assistant Attorney General

August 2, 2017

Date

## EXHIBIT A

### FACILITY GRANT NO. – BOATING FACILITY IMPROVEMENTS FEDERAL COMPLIANCE TERMS

#### I. Grant Recipient Compliance Requirements:

- A. Recipient is responsible to ensure compliance with the federal implementing regulations for (Clean Vessel Act 50 CFR Part 85 or Boating Infrastructure Grant Program 50 CFR Part 86).
- B. Recipient to comply with Assurances – Construction Programs (Standard Form 424D)
- C. Pursuant to 2 CFR Part 170, OSMB will enter grant information into the Federal Funding Accountability and Transparency Act (FFATA).

#### II. Federal Terms and Conditions:

Recipient is responsible to comply with the following Federal Terms and Conditions, as applicable:

- A. Uniform Administrative Requirements, 2 CFR Part 200, Subparts A through D or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B.
- B. including but not limited to the following:

- 1. Property Standards. 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

- 2. Contract Provisions. The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit. These are, to the extent applicable, obligations of Recipient, and Recipient shall also include these contract provisions in its contracts with non-Federal entities.

- 3. Audits. Recipient shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law. If Recipient expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Recipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to OSMB within 30 days of completion.

B. Cost Principles 2 CFR Part 200, Subpart E

C. Central Service Cost Allocation Plans Appendix V to Part 200

D. Indirect Cost Proposals Appendix VII to Part 200

E. Audit Requirements 2 CFR Part 200, Subpart F

F. Federal Non-discrimination Statutes. Recipient is responsible to comply with all federal statutes relating to non-discrimination, including but not limited to: Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972 (20 USC §§ 1681-1683; 1685-1686) which prohibits discrimination on the basis of gender; Section 504 of the Rehabilitation Act of 1973 (29 USC § 794) which prohibits discrimination on the basis of handicaps; Age Discrimination Act of 1975 (42 USC §§ 6101-6107) which prohibits discrimination on the basis of age; Drug Abuse Office and Treatment Act of 1972 (PL 92-255) which prohibits discrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616) regarding non-discrimination on basis of alcohol abuse or alcoholism; Sections 523 and 527 of the Public Health Services Act of 1912 as amended (42 USC §§ 290 dd-3 and 290 ee-3) regarding confidentiality of alcohol and drug abuse patient records; Title VIII of the Civil Rights Act of 1968 (42 USC §§ 3601 et seq.) regarding nondiscrimination in the sale, rental or financing of housing; any other nondiscrimination provisions of the specific statutes under which this agreement is being made; and the requirements of any other nondiscrimination statute(s) which apply to the federal financial assistance award received by OSMB.

G. Eligible Workers. Recipient shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). Recipient shall comply with regulations regarding certification and retention of the completed forms.

H. To the extent applicable to this award, Recipient is responsible to comply with

1. National Environmental Policy Act; E.O. 11514 (which requires the recipient to comply with environmental standards which may be prescribed pursuant to institution of environmental quality control measures under the National Environmental Policy Act of 1969 (42 USC Chapter 55, [Pub. L. 91-190]) and Executive Order 11514.
2. E.O. 11990: Protection of Wetlands (which requires the recipient to comply with environmental standards for the protection of wetlands)
3. E.O. 11988: Floodplain Management; E.O. 11988 (which requires the recipient to comply with environmental standards for the evaluation of flood hazards in floodplains)

4. Coastal Zone Management Act (which requires recipient to ensure that the work performed will not violate State management programs developed under the Coastal Zone Management Act of 1972) (16 USC Chapter 33, Sections 1451 et seq.).
5. Wild and Scenic Rivers Act (which requires the recipient to protect components or potential components of the national wild and scenic rivers system). (16 USC Chapter 28, Sections 1271 et seq.)
6. Historic Preservation Act, E.O. 11593 (which requires recipient to assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 USC 470), E.O. 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 USC Sec. 469a-1 et seq.).
7. Endangered Species Act (which requires the recipient to comply with environmental standards for the protection of endangered species) 16 USC Chapter 35, Sections 1531ff [Pub. L. 93-205]).
8. Marine Mammal Protection Act (which requires permits and reports for research projects that will involve the taking or importation of protected marine mammals or marine mammal products) (16 U.S.C. Chapter 31, Subchapter I, Sections 1361ff).

#### I. Other Requirements (USFWS specific)

1. Universal Identifier and Central Contractor Registration 2 CFR Part 25
2. Reporting Sub-awards and Executive Compensation 2 CFR Part 170
3. Award Term for Trafficking in Persons (applicable to private entity sub-recipients) 2 CFR Part 175
4. Government-wide Debarment and Suspension (Non-procurement) 2 CFR Part 1400
5. Requirements for Drug-Free Workplace (Financial Assistance) 2 CFR Part 1401
6. 43 CFR 18 New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in 43 CFR Part 18, Appendix A, Certification Regarding Lobbying.
7. 41 U.S.C. 4712 Enhancement of Recipient and Sub-recipient Employee Whistleblower Protection:
  - a. This award, related sub-awards, and related contracts over the simplified acquisition threshold and all employees working on this award, related sub-awards and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712b. Recipients, their sub-recipients, and their contractors award

contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

c. The recipient shall insert this clause, including this paragraph (c), in all sub awards and in contracts over the simplified acquisition threshold related to this award.

8. Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit 41 USC § 6306.

9. Federal Leadership on Reducing Text Messaging while Driving: Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in Section 3(a) of the Order Executive Order 13513.

**ATTACHMENT "A"**  
**PROJECT TIMELINE**

Responsibility	Date	Description
Recipient and OSMB	December 2017-January 2018	Coordinate on the development of the statement of work for the project.
Recipient	January-February 2018	Solicit for bids-prepare documents, bid opening, evaluate responses, award contract and manage the process.
Recipient	March 2018	Provide OSMB with a copy of bid document, bid results and awarded contract.
Recipient	January 2019	Submit joint permit application.
OSMB	Ongoing	Provide assistance to Recipient throughout process.
Recipient	June 2019	Receive final invoices, issue payment and request final reimbursement from OSMB.
OSMB	June 2019	Issue final reimbursement, close the grant and term of the grant begins.

**ATTACHMENT "B"**  
INFORMATION REQUIRED BY 2 CFR §200.331(A) (1)\*

Federal Award Identification:

- (i) Subrecipient name (which must match registered name in DUNS): Clatsop County
- (ii) Subrecipient's DUNS number: 118455844
- (iii) Federal Award Identification Number (FAIN): F17AP00488
- (iv) Federal Award Date: September 8, 2017
- (v) Sub-award Period of Performance Start and End Date: From September 7, 2016 to June 30, 2019
- (vi) Total Amount of Federal Funds Obligated by this Agreement: \$13,613.00
- (vii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this Agreement\*\*: \$13,613.00
- (viii) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$13,613.00
- (ix) Federal award project description: Westport Park Permitting
- (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:
  - (a) Name of Federal awarding agency: U.S. Fish & Wildlife Service
  - (b) Name of pass-through entity: Oregon State Marine Board
  - (c) Contact information for awarding official of the pass-through entity: Janine Belleque, 503-378-2628, janine.belleque@oregon.gov
- (xi) CFDA Number and Name: 15.622 Boating Infrastructure Grant Program  
Amount: \$13,613.00
- (xii) Is Award R&D? No
- (xiii) Indirect cost rate for the Federal award: 0 %

*\*For the purposes of this Exhibit, the term "Subrecipient" refers to Recipient and the term "pass-through entity" refers to OSMB.*

*\*\*The Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity is the Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity during the current State/Federal [specify which applies] fiscal year.*

**EXHIBIT B**

**RECIPIANT TAX CERTIFICATION**

The individual signing on behalf of Recipient hereby certifies and swears under penalty of perjury to the best of the individual's knowledge that:

1. The number shown on this form is Recipient's correct taxpayer identification;

Federal Tax Number 93-6002287

Oregon Tax Number \_\_\_\_\_

2. Recipient is not subject to backup withholding because:

(i) Recipient is exempt from backup withholding,

(ii) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends, or

(iii) The IRS has notified Recipient that Recipient is no longer subject to backup withholding.

3. S/he is authorized to act on behalf of Recipient; s/he has authority and knowledge regarding Contractor's payment of taxes,

4. For a period of no fewer than six calendar years preceding the Effective Date of this Contract, Recipient faithfully has complied with:

(i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;

(ii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, to Recipient's property, operations, receipts, or income, or to Recipient's performance of or compensation for any work performed by Recipient;

(iii) 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

(iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Recipient Signature  Date 9/25/17



**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**October 11, 2017**

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**Issue/Agenda Title:** Amendment to Everbridge Contract for Mass Notification Services

**Category:** Consent Calendar

**Prepared By:** Tiffany Brown, Emergency Manager

**Presented By:** Tiffany Brown

---

**Issue before the Commission:** To sign and execute an amendment for additional services to the County mass notification contract with Everbridge.

**Informational Summary:** In 2013, Clatsop County signed a contract with Everbridge to provide mass notification services the citizens and first responders in our community. It has proven a reliable and robust system used primarily for emergency alerts to citizens to this point.

In 2017, CCEMD led an effort to bring on additional users into the system by encouraging both 911 centers and local first responder agencies to consider utilizing the system both for citizen alerts (911) as well as for internal agency needs. Increased use led to increased engagement, and new users requested adding a mobile version of the system to the current system. The mobile application provides additional utility by allowing simple access to the system using only a cell phone.

The amount of this amendment represents a prorated amount for part of the contract year, and users will convene to assess the value of the addition prior to contract renewal in the spring.

**Fiscal Impact:** Increases annual fee of \$11,804 by \$716.72 (prorated amount)

**Options to Consider:**

1. Approve and sign the amendment
2. Do not approve and sign the amendment

**Staff Recommendation:** Option #1

**Recommended Motion:** *"I move that we approve the contract amendment to add a mobile application to the current mass notification services and authorize the chair to sign."*

**Attachment List:**

- A. Original contract with Everbridge (April 2013)
- B. Current amendment



155 North Lake Avenue, Suite 900  
Pasadena, CA 91101 USA

tel: +1-818-230-9700  
fax: +1-818-230-9505

www.everbridge.com

## Quotation

### Prepared for:

Tiffany Brown  
Clatsop County OR  
800 Exchange St Ste 310  
Astoria OR 97103-4641  
United States  
Ph: (503) 338-3774  
Fax: 503-325-4897  
Email: tbrown@co.clatsop.or.us

**Quote #:** Q-04797-1  
**Date:** 6/5/2017  
**Expires On:** 7/31/2017  
**Confidential**

**Salesperson:** Jamie DiCesare  
**Phone:**  
**Email:** jamie.dicesare@everbridge.com

### Contract Summary Information:

Contract Period:	7 Months
Contract Start Date:	8/1/2017
Contract End Date:	3/6/2018

### Contact Summary:

Household Count:	0
Employee Count:	60,670

Qty	Description	Price
1	Everbridge ContactBridge	USD 716.72

### Pricing Summary:

Year One Fees:	USD 716.72
One-time Implementation and Setup Fees:	USD 0.00
Professional Services:	USD 0.00
<b>Total Year One Fees Due:</b>	<b>USD 716.72</b>

1. Additional rates apply for all international calls.
2. Quote subject to the terms and conditions of the service agreement, including any amendments, executed between Everbridge, Inc. and the customer listed above.
3. Subject to sales taxes where applicable.
4. Except for currency designation, the supplemental notes below, if any, supplied in this Quote are for informational purposes and not intended to be legally binding or override negotiated language of the Everbridge Inc. Service Agreement.

RECORDED

MAY 12 2015

Doc# 2015 08 0033

C5193

WEA/IPAWS Addendum  
to  
Everbridge, Inc. Service Agreement

This WEA/IPAWS Addendum to the Everbridge Service Agreement ("Addendum") is entered into this 18<sup>TH</sup> day of MAY 2014 by and between Everbridge, Inc., a Delaware corporation ("Everbridge"), and CLATSOP COUNTY ("Customer"). Everbridge and Customer entered into an Everbridge Service Agreement effective 20 ("Agreement"). All capitalized terms used herein without definition shall have their respective meanings set forth in the Agreement.

WHEREAS, Customer desires to access the Integrated Public Alert Warning System ("IPAWS") Open Platform for Emergency Networks through the Everbridge mass notification services;

WHEREAS, the Parties desire to reflect the additional terms and conditions on which Customer will have such access;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, and other good and valuable consideration, the Parties agree to amend the Agreement as follows:

- 1. IPAWS Authorization:** Customer represents and warrants to Everbridge that any employee, agents, or representatives of Customer who access IPAWS-OPEN using Customer's credentials provided by FEMA (each, an "IPAWS User"), are authorized by FEMA to use IPAWS-OPEN, have completed all required training, and Customer has executed an IPAWS Memorandum of Agreement ("MOA") with FEMA. Customer shall contact Everbridge immediately upon any change in Customer or any IPAWS User's right to access IPAWS-OPEN. Customer shall only access IPAWS-OPEN using its designated credentials and FEMA issued digital certificate ("Digital Certificate"). Customer acknowledges and agrees that Everbridge shall not have access to its credentials and that Customer assumes full responsibility for maintaining the confidentiality of any credentials issued to it. Customer shall be solely responsible for any and all claims, damages, expenses (including attorneys' fees and costs) that arise from any unauthorized use or access to IPAWS-OPEN.
- 2. Credentials:** Customer shall load and maintain within its Everbridge account Organization, its Digital Certificate, COG ID, and Common Name. Customer authorizes and requests Everbridge to use the foregoing stored information to connect Customer to IPAWS-OPEN.
- 3. Messaging:** Customer acknowledges and agrees that: (i) upon submission of messages to IPAWS-OPEN, Everbridge shall have no further liability for the distribution of such message, and that the distribution through IPAWS-OPEN, including, but not limited to, delivery through the Emergency Alert System or the Commercial Mobile Alert System, is in no way guaranteed or controlled by Everbridge; (ii) Everbridge shall not be liable as a result of any failure to receive messages distributed through IPAWS-OPEN; (iii) IPAWS may include additional features not supported through the Everbridge system, and Everbridge shall not be required to provide such additional features to Customer; and (iv) Customer shall be solely responsible and liable for the content of any and all messages sent through IPAWS-OPEN utilizing its access codes.
- 4. Term:** Customer acknowledges and agrees that access to IPAWS-OPEN shall be available once Customer has provided Everbridge with the Digital Certificate and any other reasonably requested information to verify access to the system. Upon termination of the Agreement access to IPAWS-OPEN shall immediately terminate. In addition, Everbridge may immediately terminate, without liability, access to IPAWS-OPEN, if Customer breaches this Addendum, the MOA, or FEMA changes the IPAWS-OPEN system so that it materially change the business terms and/or feasibility for Everbridge to provide such access.
- 5. Remaining Terms.** All other terms and conditions of the Agreement remain in full force and effect as amended by this Amendment.
- 6. Authority.** Customer represents and warrants that it has all necessary legal authority to enter into this Addendum for itself and on behalf of any of its affiliates that are parties to the Agreement or that have been using the Services under the Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

EVERBRIDGE, INC.  
By [Signature]  
Title ALC

CUSTOMER: CLATSOP COUNTY  
By [Signature]  
Title COUNTY MANAGER

APR - 1 2013



Doc# 2013040001

Everbridge, Inc.  
Core Platform Service Agreement

This Core Platform Service Agreement ("Agreement") is entered into by and between Everbridge Inc. ("Everbridge"), and CLATSOP COUNTY ("Customer"), effective on the date of Customer's signature below ("Effective Date"). Everbridge and Customer are each hereinafter sometimes referred to as a "Party" and collectively, the "Parties".

1. **SERVICE.** Everbridge shall provide Customer access to its proprietary interactive communication and mass notification services (the "Service") subject to the terms and conditions set forth in this Agreement, the Additional Business Terms applicable to such Services in Exhibit A, and the description of Services and pricing attached hereto as Exhibit B (the "Quote"). If applicable, Everbridge shall provide training and professional services in accordance with the Pricing (as defined below) set forth in the Quote. Everbridge shall provide Customer with login and password information for each User (as defined below) and will configure the Service to contact the maximum number of persons or communication devices (each a "Contact") purchased by Customer as set forth in the Quote. Everbridge may from time to time offer Customer new features, enhancements or services which, if accepted by Customer in writing, and subject to Customer's payment of any applicable additional fees, shall become part of the Services and subject to the provisions of this Agreement.

2. **PAYMENT TERMS.** Customer shall pay the fees set forth in the Quote ("Pricing"). If Customer exceeds the usage levels specified in the Quote, then Everbridge may invoice Customer for any overages at then current rates. Pricing shall automatically increase by five percent (5%) on the first day of each Term Year (as defined below). Everbridge shall invoice Customer in advance for each Term Year. All payments shall be made within thirty (30) days from receipt of invoice, after which interest shall accrue at a rate of one and one-half percent (1.5%) per month or the highest rate allowed by applicable law, whichever is lower. Such interest shall be in addition to any other rights and remedies that Everbridge may have hereunder. Pricing does not include any local, state, federal or foreign taxes, levies or duties of any nature, all of which Customer is responsible for paying, except for those relating to Everbridge's income.

### 3. CUSTOMER RESPONSIBILITIES.

3.1 **Users.** Customer shall in its discretion authorize certain of its employees and contractors to access the Service ("User(s)"). Each User must be bound in writing to confidentiality obligations that are no less restrictive than those set forth herein, and that are sufficient to permit Customer to fully perform its obligations under this Agreement. Customer shall cause Users to undergo initial setup and training in accordance with the Quote. Customer shall be responsible for (i) ensuring that Users maintain the confidentiality of all User login and password information; (ii) ensuring that Users use the Service in accordance with all applicable laws and regulations, including those relating to use of personal information; (iii) any breach of the terms of this Agreement by any User; and (iv) all communications by Users using the Service. Customer shall immediately notify Everbridge if it becomes aware of any User action or omission that would constitute a breach or violation of any term of this Agreement.

3.2 **Customer Data.** All electronic data Customer provides to Everbridge in connection with the use of the

Service ("Customer Data") shall be true, accurate, current and complete, and shall be in a form and format specified by Everbridge. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data. By purchasing the Service, Customer authorizes Everbridge to collect, store and process Customer Data subject to the terms of this Agreement. Customer shall maintain a copy of all Customer Data it provides to Everbridge. If Customer or any User provides any Customer Data that is untrue, inaccurate, outdated or incomplete, Customer acknowledges and agrees that any communications sent utilizing the Service may not reach the intended Contact. Customer shall prevent unauthorized access to, or use of, the Service, and shall notify Everbridge promptly of any such unauthorized use. Everbridge shall have no liability for any losses, damages, claims, suits or other actions arising out of or in connection with the unauthorized or improper use of the Service on Customer's hardware or networks. Customer acknowledges that Everbridge is not responsible for monitoring Customer or Users' use of the Service to examine the content passing through it, and Everbridge shall have no liability for such content.

4. **TERM.** This Agreement will commence on the Effective Date and will continue in force for one (1) year. Customer may renew the Agreement for successive one-year terms (each a "Term Year" and collectively, the "Term") by providing notice in writing not less than sixty (60) days prior to the expiration of the then current Term Year. If at the end of the applicable Term Year, Customer intends to renew the Agreement, but has not provided a timely executed written renewal prior to the end of such term, then Everbridge, in its sole discretion, shall continue the Service(s) hereunder for thirty (30) days (the "Grace Period") in order to secure an executed renewal by Customer, provided that Customer shall pay to Everbridge the annual fee then in effect divided by twelve (12) (the "Monthly Holdover Fee"). The Grace Period is provided to Customer as a courtesy so that Services will not be terminated prior to the execution of a renewal. Due to insurance and liability reasons Everbridge can only provide one Grace Period and will charge the Monthly Holdover Fee. The Monthly Holdover Fees are instituted in order to protect Customer from termination or suspension of the Services, but to insure that timely renewals are entered into. Monthly Holdover Fees shall not be returned or refunded to the Customer as a credit towards any renewal term.

### 5. TERMINATION; SUSPENSION.

5.1 **Termination by Either Party.** Either Party may terminate this Agreement upon the other Party's material breach of this Agreement, provided that (i) the non-breaching Party sends written notice to the breaching Party describing the breach in reasonable detail; (ii) the breaching Party does not cure the breach within thirty (30) days following its receipt of such notice (the "Notice Period"); and (iii) following the expiration of the Notice Period, the non-breaching Party sends a second written notice to the breaching Party indicating its election to terminate this Agreement.

5.2 **Termination, Suspension by Everbridge.** In the event Customer fails to pay any fees or charges within thirty (30) days of their due date, Everbridge may terminate this Agreement or suspend the Service, at Everbridge's sole

discretion. Termination for non-payment shall not relieve Customer of its outstanding obligations (including payment) under this Agreement. If Everbridge suspends the Service, Customer's account shall not be reactivated until Customer is in compliance with this Agreement and has paid all past due amounts plus a reconnection fee of \$1,000.

## 6. PROPRIETARY RIGHTS.

6.1 **Grant of License.** Everbridge hereby grants to Customer, during the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable right to use the Service subject to the terms and conditions of this Agreement. Upon suspension of the Service or termination of this Agreement for any reason, the foregoing license shall terminate automatically and Customer shall promptly discontinue all further use of the Service.

6.2 **Restrictions.** Customer shall use the Service solely for its internal business purposes and shall not make the Service available to, or use the Service for the benefit of, any third party except as expressly contemplated by this Agreement. Customer shall not: (i) copy, modify, reverse engineer, de-compile, disassemble or otherwise attempt to discover or replicate the computer source code and object code provided or used by Everbridge in connection with delivery of the Service (the "Software") or create derivative works based on the Software, the Service or any portion thereof; (ii) merge any of the foregoing with any third party software or services; (iii) use any Everbridge Confidential Information to create a product that competes with the Software; (iv) remove, obscure or alter any proprietary notices or labels on the Software or any portion of the Service; (v) create Internet "links" to or from the Service, or "frame" or "mirror" any content forming part of the Service, other than on Customer's own intranets for its own internal business purposes; (vi) use, post, transmit or introduce any device, software or routine which interferes or attempts to interfere with the operation of the Service; or (vi) use the Service in violation of any applicable law or regulation.

6.3 **Reservation of Rights.** Other than as expressly set forth in this Agreement, Everbridge grants to Customer no license or other rights in or to the Service, the Software or any other proprietary technology, material or information made available to Customer through the Service or otherwise in connection with this Agreement (collectively, the "Everbridge Technology"), and all such rights are hereby expressly reserved. Everbridge owns all rights, title and interest in and to the Service, the Software and any Everbridge Technology, and all patent, copyright, trade secret and other intellectual property rights ("IP Rights") therein, as well as (i) all feedback and other information (except for the Customer Data) provided to Everbridge by Users, Customer and Contacts, (ii) all transactional, performance and derivative data and metadata generated in connection with the Services, and (iii) any De-Identified Data (as defined below).

6.4 **Customer Data.** As between the Parties, Customer retains sole right, title and interest in the Customer Data. Without limiting the foregoing, Everbridge shall be permitted to de-identify Customer Data and aggregate it, including with other customers' data (the "De-Identified Data"), for use in its legitimate marketing and research activities.

## 7. CONFIDENTIAL INFORMATION.

7.1 **Definition; Protection.** As used herein,

"Confidential Information" means all information of a Party ("Disclosing Party") disclosed to the other Party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes without limitation, any personally identifiable Customer Data, all Everbridge Technology, and either Party's business and marketing plans, technology and technical information, product designs, reports and business processes. Confidential Information (except for Customer Data) shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose other than performance or enforcement of this Agreement without the Disclosing Party's prior written consent, unless (but only to the extent) otherwise required by a governmental authority. Each Party agrees to protect the Confidential Information of the other Party with the same level of care that it uses to protect its own confidential information, but in no event less than a reasonable level of care. Without limiting the foregoing, this Agreement and all terms hereof shall be Confidential Information of Everbridge, and the Customer Data shall be Confidential Information of Customer.

## 8. WARRANTIES; DISCLAIMER.

8.1 **Everbridge Warranty.** Everbridge shall use commercially reasonable efforts to provide the Services herein contemplated. To the extent the Quote provides for any professional services, Everbridge shall perform them in a professional manner consistent with industry standards. THE FOREGOING REPRESENT THE ONLY WARRANTIES MADE BY EVERBRIDGE HEREUNDER AND EVERBRIDGE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8.2 **Disclaimer.** THE SERVICE IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. NEITHER EVERBRIDGE NOR ITS LICENSORS WARRANT THAT THE SERVICE WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL EVERBRIDGE HAVE ANY LIABILITY TO CUSTOMER, USERS, CONTACTS OR ANY THIRD PARTY FOR PERSONAL INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE ARISING FROM FAILURE OF THE SERVICE TO DELIVER AN ELECTRONIC COMMUNICATION, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, EVEN IF EVERBRIDGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

8.3 **Customer Representations and Warranties.** Customer represents and warrants that during use of the Service, Customer shall have (i) a privacy policy that clearly and conspicuously notifies Users of the way in which Customer Data shall be used, and (ii) primary safety and emergency response procedures including, without limitation, notifying 911 or equivalent fire, police, emergency medical and public health

officials (collectively, "First Responders"). Customer acknowledges and agrees that Everbridge is not a First Responder, and that the Service does not serve as a substitute for Customer's own emergency response plan, which in the event of an actual or potential threat to person or property, shall include contacting a First Responder. Customer represents and warrants that all communications utilizing the Service shall be sent by authorized Users, and that the collection, storage and processing of Customer Data, and the use of the Service, as provided in this Agreement, will at all times comply with (x) Customer's own policies regarding privacy and protection of personal information; and (y) all applicable laws and regulations, including those related to processing, storage, use, disclosure, security, protection and handling of Customer Data.

## 9. INDEMNIFICATION.

9.1 **By Customer.** Customer shall defend, indemnify and hold Everbridge harmless against any loss or damage (including reasonable attorneys' fees) incurred in connection with any claims, suits or proceedings ("Claims") arising out of Customer's breach of the tax provisions in Section 2 and any breach by Customer of Sections 3, 6 or 7.

9.2 **By Everbridge.** Everbridge shall defend, indemnify and hold Customer harmless from and against any Claim against Customer, but only to the extent it is based on a Claim that the Service directly infringes an issued patent or other IP Right in a country in which the Service is actually provided to Customer. If the Service is held to infringe and the use enjoined, Everbridge shall have the option, at its own expense, to: (i) to procure for Customer the right to continue using the Service; (ii) replace same with a non-infringing service; (iii) modify such Service so that it becomes non-infringing; or (iv) refund any fees paid to Everbridge and terminate this Agreement without further liability. Everbridge shall have no liability for any Claim arising out of (w) Customer Data or other Customer supplied content, (x) use of the Service or Software in combination with other products, equipment, software or data not supplied by Everbridge, (y) any use, reproduction, or distribution of any release of the Service or Software other than the most current release made available to Customer, or (z) any modification of the Service or Software by any person other than Everbridge.

10. **LIMITATION OF LIABILITY.** Except with respect to breaches of Sections 6 and 7, neither Party shall have any liability to the other Party for any loss of use, interruption of business, lost profits, costs of substitute services, or for any other indirect, special, incidental, punitive, or consequential damages, however caused, under any theory of liability, and whether or not the Party has been advised of the possibility of such damage. Notwithstanding anything in this Agreement to the contrary, in no event shall Everbridge's aggregate liability, regardless of theory of liability, exceed amounts actually paid by Customer to Everbridge hereunder during the 12 month period prior to the event giving rise to such liability.

## 11. MISCELLANEOUS.

11.1 **Non-Solicitation.** As additional protection for Everbridge's proprietary information, for so long as this Agreement remains in effect, and for one year thereafter, Customer agrees that it shall not, directly or indirectly, solicit, hire or attempt to solicit any employees of Everbridge; provided, that a general solicitation to the public for employment is not prohibited under this section. In the event that Customer hires any such employee (whether as an

employee or consultant or otherwise engages the services of such employee) in violation of this section, Customer shall pay to Everbridge an amount equal to 100% of the total first-year compensation which Customer pays such individual as a fee, salary, or other compensation.

11.2 **Force Majeure; Limitations.** Everbridge shall not be responsible for performance under this Agreement to the extent precluded by circumstances beyond Everbridge's reasonable control, including without limitation acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, labor problems, computer, telecommunications, Internet service provider or hosting facility failures, or delays involving hardware, software or power systems, and network intrusions or denial of service attacks. The Service delivers information for supported Contact paths to public and private networks and carriers, but cannot guarantee delivery of the information to the recipients. Final delivery of information to recipients is dependent on and is the responsibility of the designated public and private networks or carriers.

11.3 **Waiver; Severability.** The failure of either Party hereto to enforce at any time any of the provisions or terms of this Agreement shall in no way be considered to be a waiver of such provisions.

11.4 **Assignment.** Neither this Agreement nor any rights granted hereunder may be sold, leased, assigned (including an assignment by operation of law), or otherwise transferred, in whole or in part, by Customer, and any such attempted assignment shall be void and of no effect without the advance written consent of Everbridge.

11.5 **Governing Law; Attorney's Fees.** This Agreement shall be governed and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of laws rules.

11.6 **Notices.** All notices, consents and approvals under this Agreement must be delivered in writing (i) by courier or (ii) by certified or registered mail, (postage prepaid and return receipt requested) to the other Party at the address set forth below, and will be effective upon receipt or three business days after being deposited in the mail as required above, whichever occurs sooner. Either Party may change its address by giving notice as provided herein. Annual invoices shall be sent to the Customer's contact and address following Customer's signature below.

11.7 **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

11.8 **Entire Agreement.** This Agreement, including its Exhibits, constitutes the entire agreement between the Parties and supersedes all other agreements and understandings between the Parties, oral or written, with respect to the subject matter hereof. This Agreement shall not be modified or amended except by a writing signed by both Parties. ANY NEW TERMS OR CHANGES INTRODUCED IN A PURCHASE ORDER OR OTHER DOCUMENT ARE VOID AND OF NO FORCE OR EFFECT. EVERBRIDGE'S ACKNOWLEDGEMENT OF RECEIPT OF SUCH DOCUMENT OR ACCEPTANCE OF PAYMENT SHALL NOT CONSTITUTE AGREEMENT TO ANY TERMS OTHER THAN THOSE SET FORTH IN THIS AGREEMENT.

11.9 **Marketing.** Customer consents to Everbridge referencing Customer's name and logo as an Everbridge

customer in Everbridge publications, its website and in other marketing materials.

11.10 Survival. Sections 2, 3.2, 5.2, 6, 7, 9, 10, 11 and applicable provisions of Exhibit A shall survive the expiration or earlier termination of this Agreement.

11.11 Counterparts. This Agreement may be executed in one or more counterparts, all of which together shall constitute one original document. A facsimile transmission or

copy of the original shall be as effective and enforceable as the original.

11.12 Export Compliant. Neither Party shall export, directly or indirectly, any technical data acquired from the other pursuant to this Agreement or any product utilizing any such data to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date set forth below.

EVERBRIDGE, INC.

By: [Signature]  
Print Name: Marie-Lucie Leglise  
Title: V.P. of Finance  
Date: 3/11/13

Address:

505 N. Brand Blvd., Suite 700  
Glendale, CA 91203

CUSTOMER: CLATSOP COUNTY

By: [Signature]  
Print Name: SCOTT SWEERS  
Title: COUNTY MANAGER  
Date: 3/11/13

Customer's address for legal notices:

800 EXCHANGE STREET  
SUITE 400  
ASTORIA, OR 97103  
Attn: TIFFANY BROWN

Customer's address for billing:

800 EXCHANGE STREET  
SUITE 400  
ASTORIA, OR 97103  
Attn: TIFFANY BROWN

Email for billing: tbrown@co.clatsop.or.us

Telephone number: 503-338-3774

EXHIBIT A

Additional Business Terms

The following additional business terms are incorporated by reference into the Agreement as applicable based on the particular products and services described in the Customer's Quote.

"Community Notifications" means Electronic Communications sent to multiple Contacts by a governmental entity that are not sent to advise Contacts of an immediate or expected emergency or life-threatening conditions or circumstances.

"Data Feed" means data licensed by third parties to Everbridge and supplied to Customer through the Service (e.g., real time weather system information and warnings).

"Documentation" means the Everbridge manuals, resource and training materials and instructions made available to Customer for use in accessing and using the Service.

"Electronic Communications" means electronic communications (including inputting or updating Customer Data in the System) and the sending of messages or notifications to and from Contacts via the System.

"Priority Notifications" means Electronic Communications sent by Customer through the Service to multiple Contacts via one or multiple communication paths to advise Contacts of an immediate or expected emergency or life-threatening condition or circumstance, but excluding any Contact responses thereto.

"Everbridge Units" means the unit of usage expended in connection with Premium Features.

"Messaging Minute" means the unit of usage expended in sending Community Notifications and/or Non-Priority Notifications.

"Premium Features" means the products and services listed on the Premium Feature List attached to the Quote.

"Non-Priority Notifications" means Electronic Communications sent by Customer through the Service to multiple Contacts via one or multiple communications paths which are not characterized as Priority Notifications or Community Notifications, and any Contact responses to such communications or to any Priority Notifications.

1. **Messaging Minutes.** Customers must purchase Messaging Minutes to send Community Notifications and Non-Priority Notifications. No Messaging Minutes shall be required to send United States domestic Priority Notifications, push notifications or email messages. Unused Messaging Minutes expire one year from date of purchase or upon termination of this Agreement, whichever occurs first, and are not refundable
2. **Usage.** Messaging Minutes shall be calculated as follows:
  - For text messages, one Message Minute for each 146 characters or portion thereof.
  - For voice messages, one Message Minute per minute or portion of a minute of the voice message.
  - Additional charges may apply for international Priority Notifications, Community Notifications and Non-Priority Notifications.
3. **Auditing.** Everbridge may, from time to time, monitor or audit message content to verify the characterization of messages as Priority Notifications. If Customer has not characterized a message appropriately, then Everbridge may recharacterize the message in its sole reasonable judgment, and apply Messaging Minutes for such message in accordance with the foregoing Usage allocations. Customer's intentional mischaracterization of Priority Notifications, or mischaracterization of more than three Priority Notifications in a twelve-month period, shall constitute a material default under this Agreement. With respect to Community Notifications, no overage charges shall be incurred unless and until the Community Notifications are fifteen percent (15%) above the amount purchased, at which point charges due for all overages (including the initial 15%) shall be assessed and invoiced at Everbridge's then current rates.
4. **Premium Features; Everbridge Units.** On or before the Effective Date, Customer shall advise Everbridge how many Everbridge Units are to be allocated to each of the Premium Features Customer has ordered, and no change shall be made in such allocation during the first three months of the first Term Year. Thereafter, Customer may change the allocation of Everbridge Units among Premium Features no more than once every three months during a Term Year, or whenever Customer purchases additional Everbridge Units. Unused Everbridge Units expire one year from date of purchase or upon termination of this Agreement, whichever occurs first, and are not refundable.
5. **Purchase of Data Feeds; Other Data.** Notwithstanding anything to the contrary in this Agreement, to the extent that Customer has purchased Data Feeds as set forth in the Quote, such feeds are provided solely on an "AS IS" and "AS AVAILABLE" basis and the sole and exclusive remedy for any failure, defect, or inability to access such Data Feed shall be to terminate the Data Feed with no further payments due. No refunds shall be granted with respect to such Data Feed. In addition, to the extent Customer has purchased a feature that allows Customer to monitor, and utilize information and data from other sources not supplied by Everbridge directly (e.g., Twitter) (collectively "Other Data"), Everbridge disclaims any and all liability of any kind or nature resulting from any inaccuracies or failures with respect to any such Other Data.



EXHIBIT B

Quote



EVERBRIDGE INC. 10000 W. CENTRAL EXPRESSWAY SUITE 1000 DENVER, CO 80201  
TEL: 303.733.1000 FAX: 303.733.1001 WWW.EVERBRIDGE.COM

**QUOTATION**

Quote Number: 00007225

Confidential

2 of 2

Exhibit B

**Pricing Summary:**

Year One Fees*:	\$13,570.00
One-time Implementation and Set Up Fees:	\$1,050.00
<b>Total Year One Fees:</b>	<b>\$14,620.00</b>
Optional Year(s) Ongoing Annual Recurring Fees:	\$13,570.00

1. Additional rates apply for all international calls.
2. Quote subject to terms & conditions of the Everbridge Services Agreement.
3. Except for currency designation, the supplemental notes below, if any, supplied in this Quote are for informational purposes and not intended to be legally binding or override negotiated language of the Everbridge Inc. Service Agreement.

(\*Year One Fees are the total of the first year annual subscription fees and any one-time fees, i.e., Professional Services.)

**Supplemental Notes:**

Quote is for an ANNUAL UNLIMITED USE system which includes:

Unlimited use – all contact or call types: Phone (Home, Cell, Work, Other), SMS (SMPP and SMTP), email (multiple accounts per person), TTY/TDD, Member Application (location based notifications) as well as other paths as they become available

Unlimited administrators

Unlimited ongoing training

All system updates

Mass Notification tools

Custom Citizen/Business Opt-in Page design and hosting (provides portal for collecting additional contact paths of citizens and businesses)

Everbridge is a GSA approved vendor. Everbridge's GSA number is: GS-35F-0692P

There is a 5% pre-pay discount if three years or 10% if five years are paid up front.

**Authorized by Everbridge:**

*[Signature]*                      3/11/13  
 Signature                                      Date

Marie-Laure Layise                      V.P. of Finance  
 Print Name                                      Title

**To accept this quote, sign, date and return:**

*[Signature]*                      3/7/13  
 Authorized Signature                      Date

Y. OTI SOMBEL                      COUNTY MGR.  
 Print Name                                      Title



5000 Everbridge Blvd, Suite 1000 | 10000 Everbridge Blvd | www.everbridge.com  
 Everett, WA 98201 | Everett, WA 98201

**QUOTATION**  
 Quote Number: 00007225  
 Confidential  
 1 of 2  
 Exhibit B

Prepared for: Tiffany Brown  
 Clatsop County OR  
 , OR  
 (503) 338-3774  
 503-325-4897  
 tbrown@co.clatsop.or.us

Quotation Date: March 4, 2013  
 Quote Expiration Date: March 31, 2013  
 Rep: Patrick Stuver  
 (818) 230-9724  
 palrick.stuver@everbridgemail.com

**Contract Summary Information**

Contract Period: 1 Year  
 Contract Optional Years: 4 Years  
 MN Contacts up to: 1,100  
 MN Households up to: 23,000

**ANNUAL SUBSCRIPTION** - See attached Product Inclusion Sheet/s for product details.

<u>Service</u>	<u>Fee Type</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Total Price</u>
Everbridge Mass Notification (MN)	Recurring	1	\$13,570.00	\$13,570.00

**PREMIUM FEATURES / USAGE**

<u>Service</u>	<u>Fee Type</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Total Price</u>
Unlimited Domestic Non-Emergency Messaging Minutes	Recurring	1	\$0.00	\$0.00



**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**October 11, 2017**

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**Issue/Agenda Title:** IGA with DHS for the financing of Community Developmental Disabilities Services

**Category:** Business Agenda

**Prepared By:** Jill Quackenbush

**Presented By:** Greg Engebretson/Jill Quackenbush

---

**Issue before the Commission:** Approval of an amendment to the 2015-2017 Intergovernmental Agreement #148059 with the Oregon Department of Human Services for the financing of community developmental disabilities services restating and extending the agreement until June 2019.

**Informational Summary:** The Oregon Department of Human Services provides funding to counties to provide developmental disabilities services. The Oregon Department of Human Services requires the counties to sign an intergovernmental agreement detailing the services to be provided, biennial planning for service delivery, laws related to service delivery, and the terms and conditions for financing community developmental disability services. This amendment will restate and extend the 2015-2017 agreement through June 30, 2019.

**Fiscal Impact:** The 2017-2019 biennial amount provided by Oregon Department of Human Services for developmental disabilities services is \$1,745,445.00. These services have been traditionally subcontracted with a community private non-profit provider. Currently the County subcontracts with Clatsop Behavioral Healthcare to provide these services.

**Options to Consider:**

1. Approve and sign the amendment restating and extending Intergovernmental Agreement #148059 with Oregon Department of Human Services
2. Decline to accept funding to provide community developmental disability services

**Staff Recommendation:** Option #1

**Recommended Motion:** *"I move to approve the amendment to the 2015-2017 Intergovernmental Agreement for the financing of community developmental disability services to restate and extend the Agreement in its entirety through June 30, 2019."*

**Attachment List:**

- A. Amendment to restate and extend Intergovernmental Agreement #148059 with the Oregon Department of Human Services for the financing of community developmental disabilities services

# DOCUMENT RETURN STATEMENT

Please complete the following statement and return with the completed signature page and the Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable.

If you have any questions or find errors in the above referenced Document, please contact the contract specialist.

Document number: 148059, hereinafter referred to as "Document."

I, Cameron Moore County Manager  
Name Title

received a copy of the above referenced Document, between the State of Oregon, acting by and through the Department of Human Services, the Oregon Health Authority, and

Clatsop County by email.

Contractor's name

On \_\_\_\_\_,  
Date

I signed the electronically transmitted Document without change. I am returning the completed signature page, Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable, with this Document Return Statement.

\_\_\_\_\_  
Authorizing signature

\_\_\_\_\_  
Date

Please attach this completed form with your signed document(s) and return to the contract specialist via email.

**STATE OF OREGON  
INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING OF  
COMMUNITY DEVELOPMENTAL DISABILITY SERVICES  
AMENDED AND RESTATED**

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This Amendment number 03 for the Intergovernmental Grant Agreement for the Financing of Community Developmental Disability Services (the "Agreement") is between the State of Oregon, acting by and through its Department of Human Services, hereinafter referred to as "DHS" and Clatsop County ("County").

**RECITALS**

WHEREAS, DHS and County entered into that certain Agreement number 148059-3 effective on July 1, 2015 incorporated herein by this reference;

WHEREAS, DHS and County desire to amend and restate the Agreement in its entirety as of October 1, 2017 and to extend the restated Agreement through June 30, 2019 and otherwise modify it as set forth herein;

WHEREAS, County when operating as the CDDP is acting on actions within federal or Oregon statute, administrative rule or contract.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**AGREEMENT**

1. DHS and County hereby restate the Agreement in its entirety as of October 1, 2017 and agree that the Agreement was, is and will be in full force and effect from the effective date through the expiration date set forth in Section 2 "Effective Date and Duration", subject to the termination provisions otherwise set forth in the Agreement.



**2. Effective Date and Duration.**

This Agreement shall become effective on October 1, 2017. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on June 30, 2019. Agreement termination or expiration shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

**3. Agreement Documents, Order of Precedence.**

- a. This Agreement consists of the following documents and includes the Exhibits listed below which are by this reference incorporated herein:

This Agreement without Exhibits;  
Exhibit A Definitions;  
Exhibit B Part 1 Operations and Administration Terms and Conditions;  
Exhibit B Part 2 Service Element Standards and Procedures;  
Exhibit B Part 3 Financial Terms and Conditions;  
Exhibit C Special Terms and Conditions;  
Exhibit D General Terms and Conditions;  
Exhibit E Standard Terms and Conditions;  
Exhibit F Required Federal Terms and Conditions;  
Exhibit G Part 1 Required Subcontractor Provisions;  
Exhibit G Part 2 Subcontractor Insurance Requirements; and  
Exhibit H Reserved

This Agreement constitutes the entire agreement between the parties on the subject matter hereof; there are no understandings, agreements, or representations, oral or written, regarding this Agreement that are not specified herein.

- b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of the documents comprising this Agreement is as follows, the documents being listed from highest precedence to lowest precedence:

This Agreement without Exhibits;  
(1) Exhibit F Required Federal Terms and Conditions;  
(2) Exhibit A Definitions;  
(3) Exhibit B Part 3 Financial Terms and Conditions;  
(4) Exhibit B Part 1 Operations and Administration Terms and Conditions;  
(5) Exhibit B Part 2 Service Element Standards and Procedures;  
(6) Exhibit C Special Terms and Conditions;  
(7) Exhibit D General Terms and Conditions;  
(8) Exhibit E Standard Terms and Conditions;  
(9) Exhibit G Part 1 Required Subcontractor Provisions;  
(10) Exhibit G Part 2 Subcontractor Insurance Requirements; and  
(11) Exhibit H Reserved

- c. For purposes of this Agreement, "Work" means specific work to be performed or services to be delivered by County as set forth in Exhibit B, Part 2.

**EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY  
ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT,  
AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**Clatsop County**

**By:**

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Authorized Signature	Title	Date
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**State of Oregon, acting by and through its Department of Human Services**

**By:**

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Authorized Signature	Title	Date
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**Approved for Legal Sufficiency:**

/s/ Steven Marlowe

September 13, 2017

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Authorized Signature	Title	Date
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**INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING OF  
COMMUNITY DEVELOPMENTAL DISABILITY SERVICES**

**EXHIBIT A  
DEFINITIONS**

As used in this Agreement, the following words and phrases shall have the indicated meanings. Certain additional words and phrases are defined in the Service Element Standards and Procedures, and special conditions in the Service Element Prior Authorization (SEPA). When a word or phrase is defined in a particular Service Element Standards and Procedures, or special condition in the Service Element Prior Authorization, the word or phrase shall not necessarily have the ascribed meaning in any part of the Agreement other than the particular Service Element Standards and Procedures, or special condition in which it is defined.

1. **“Access”** means the ability or the means necessary to read, communicate, or otherwise use any DHS Information Asset.
2. **“Agreement Settlement”** means DHS’ final reconciliation, after termination or expiration of this Agreement, of amounts DHS actually disbursed to County from the Service Element Prior Authorization with amounts that DHS is obligated to pay in accordance with the funding calculation methodologies set forth in the Service Element Standards and Procedures. DHS reconciles disbursements and payments on an individual Service Element basis as set forth in the Service Element Standards and Procedures, and in accordance with Exhibit B Part 3, Section 1 Disbursement of Payments, and Section 6 Recovery of Funding for Misexpenditure of this Agreement.
3. **“Allowable Costs”** means the costs determined in accordance with the provisions of 2 C.F.R. Subtitle B, with guidance at 2 C.F.R. part 200, except to the extent such costs are limited or excluded by other provisions of this Agreement, whether in the applicable Service Element Standards and Procedures, or special conditions identified in the Service Element Prior Authorization.
4. **“Brokerage”** has the meaning as set forth in OAR 411-317-0000.
5. **“Career Development Plan”** or **“CDP”** has the meaning set forth in OAR 411-317-0000.
6. **“Case Management Services”** has the meaning as set forth in OAR 411-317-0000.
7. **“Choice”** has the meaning as set forth in OAR 411-317-0000.
8. **“Claim”** has the meaning set forth in OAR 411-370-0010.
9. **“Client”** has the same meaning as Individual or Recipient, for purposes of this Agreement.
10. **“Client Record(s)”** means any client, applicant, or participant information regardless of the media or source, provided by DHS to CDDP or exchanged between the parties.
11. **“Client Prior Authorization”** or **“CPA”** means an authorization for a specific Individual to receive a particular Service, by an identified Provider at a rate approved by

DHS. The CPA is submitted by County for the Provider once an Individual and the Provider have agreed to a service. The CPA specifies:

- a. the Service,
  - b. the Individual or Recipient,
  - c. the effective date and end date for the Services authorized in the CPA, and
  - d. the rate for the Service.
12. **“CMS”** means Centers for Medicare and Medicaid Services.
  13. **“Community Developmental Disability Program”** or **“CDDP”** has the meaning as set forth in OAR 411-317-0000.
  14. **“Community First Choice State Plan”** or **“KPlan”** has the meaning as set forth in OAR 411-317-0000.
  15. **“County Authorization”** means an authorization by County of the DD Services that County is responsible to authorize according to Exhibit B Part 1, Section 2, and as identified in an Individual’s ISP and entered for billing purposes into eXPRS via POC or a CPA.
  16. **“County CDDP Administrator”** has the meaning set forth in Exhibit C, Section 3 of this Agreement.
  17. **“Developmental Disability”** or **“DD”** has the meaning as set forth in OAR 411-317-0000.
  18. **“Developmental Disability Services”** or **“DD Services”** has the meaning as set forth in OAR 411-317-0000.
  19. **“DHS Diagnosis and Evaluation Coordinator”** means the DHS staff responsible for determining whether an Individual meets DD LOC eligibility based on the CDDP Services Coordinator’s initial LOC eligibility determination.
  20. **“Disbursement Claim”** means a document executed and delivered to DHS by a Provider or County, either electronically in eXPRS or in hard copy, with respect to a DD Service authorized in a CPA and PPA, or Plan of Care, certifying that a unit of that DD Service was delivered by a Provider identified in the CPA and PPA, or Plan of Care, to the Individual identified in the CPA or Plan of Care, during the period specified in the CPA or Plan of Care; and requesting disbursement of funds for that unit of DD Service.
  21. **“Employer”** has the meaning as set forth in OAR 411-317-0000.
  22. **“Common Law Employer”** means the employer referred to in OAR 411-375-0010.
  23. **“Employment First Policy”** means the policy set forth at <http://www.oregon.gov/dhs/employment/employment-first/Documents/policy.pdf> that states that work in integrated jobs is the first priority option in planning employment services for working-age adults and youth.
  24. **“Express Payment and Reporting System”** or **“eXPRS”** means an information system for managing the disbursement and tracking of DHS payments for developmental disability programs.

25. **“Federal Funds”** means all funds paid to CDDP under this Agreement that DHS receives from an agency, instrumentality or program of the federal government of the United States.
26. **“Fiscal Intermediary”** has the meaning set forth in OAR 411-375-0010.
27. **“Foster Provider”** has the meaning set forth in OAR 411-346-0110.
28. **“Full-time Equivalent”** or **“FTE”** means a unit of measure equivalent to one person working full-time. An FTE of 1.0 is equivalent to full-time; an FTE of 0.5 is half of a full-time work load.
29. **“Functional Needs Assessment”** or **“FNA”** has the meaning as set forth in OAR 411-317-0000.
30. **“Home and Community-Based Services”** has the meaning as set forth in OAR 411-317-0000.
31. **“Incident”** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of any network and information system or DHS information asset including, but not limited to unauthorized disclosure of information; failure to protect user’s identification (ID) provided by DHS; or, theft of computer equipment that uses or stores any DHS information asset.
32. **“Individual”** has the meaning as set forth in OAR 411-317-0000.
33. **“Individual Support Plan”** or **“ISP”** has the meaning as set forth in OAR 411-317-0000.
34. **“Individual Support Plan Team”** or **“ISP Team”** means the individual or their designated representative, the Services coordinator, and others chosen by the individual to participate in service planning, as set forth in OAR 411-415-0070.
35. **“Individual User Profile (IUP)”** refers to the DHS form used to authorize a User, identify their job assignment and the required access to DHS Network and Information System(s). It generates a unique alpha/numeric code used to access the DHS Network and Information Systems.
36. **“Information Asset(s)”** refers to all information provided through DHS, regardless of the source, which requires measures for security and privacy
37. **“Intellectual Disability”** or **“ID”** has the meaning as set forth in OAR 411-317-0000.
38. **“Intellectual or Developmental Disability”** or **“I/DD”** has the meaning as set forth in OAR 411-317-0000.
39. **“Juvenile Psychiatric Security Review Board”** or **“JPSRB”** is the juvenile panel of the Oregon Psychiatric Security Review Board as constituted under ORS 161.385. The JPSRB, along with DHS, identifies and designates a child placed under jurisdiction of JPSRB with a Developmental Disability requiring a significant increase in supervision, support, and legal monitoring in lieu of incarceration or placement under Oregon Youth Authority.

40. **“Level of Care” or “LOC”** means the Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID) Level of Care, Hospital Level of Care, or Nursing Facility Level of Care, as defined in OAR 411-317-0000.
41. **“Local Administration Services”** has the meaning set forth in the Service Element Standards and Procedures DD 02 Local Administration (LA) and described in OAR 411-320.
42. **“Local Match”** means the opportunity for Local Government Entities, including Transit Districts, to request additional federal funds to recoup costs for IDD program expenditures, *exceeding allotted state funds*, in the following services, SE53, SE02, SE48. The Local Government Entity is responsible for the local fund portion and providing the necessary documentation to DHS for approval. If approved the local funds will be submitted for federal match.
43. **“Management Entity”** has the meaning set forth in OAR 411-320-0020.
44. **“Management Plan” or “CDDP Management Plan”** has the meaning as set forth in OAR 411-320-0030 (2).
45. **“Medicaid”** means Federal Funds received by DHS under Title XIX of the Social Security Act and Children’s Health Insurance Funds administered jointly with Title XIX funds as part of state medical assistance programs by DHS.
46. **“Medicaid Fraud”** means the providing of false information to claim reimbursement for Medicaid funded services. Medicaid Fraud includes, but is not limited to, the following activities: billing for services not actually performed; billing for more expensive services than actually rendered; billing for several services that should be combined into one billing; and billing twice for the same service.
47. **“Misexpenditure”** means money, other than Overexpenditure, disbursed to County by DHS under this Agreement and expended by County or a Subcontractor that:
  - a. Is identified by the federal government as expended contrary to applicable statutes, rules, the provisions of 2 C.F.R. Subtitle B, with guidance at 2 C.F.R. part 200, or any other authority that governs the permissible expenditure of such money, for which the federal government has requested reimbursement by the State of Oregon, whether in the form of a federal determination of improper use of Federal Funds, a federal notice of disallowance, or otherwise; or
  - b. Is expended in a manner not permitted by this Agreement, including without limitation, any money expended by County, contrary to applicable statutes, rules, OMB Circulars, or any other authority that governs the permissible expenditure of such money; or
  - c. Is expended on the delivery of a DD Service in violation of the Standards and Procedures of this Agreement with respect to that DD Service.
48. **“Network and Information System(s)”** means the DHS and State of Oregon’s computer infrastructure which provides personal communications, Client Records and other sensitive Information Assets, regional, wide area, and local networks, and the internetworking of various types of networks.

49. **“ODDS”** has the meaning set forth in OAR 411-317-0000.
50. **“ODDS Fund Allocation Coordinator”** or **“ODDS FAC”** means the ODDS staff person assigned to serve as the liaison with County and to coordinate the addition of funding in a SEPA or review and acceptance of CPAs under this Agreement.
51. **“Office of Adult Abuse Prevention and Investigation”** or **“OAAPI”** means the DHS office that investigates reports of suspected abuse or neglect.
52. **“Oregon Supplemental Income Program-Medical”** or **“OSIPM”** means the Oregon Medicaid insurance coverage for an Individual who meets eligibility criteria as described in OAR Chapter 461.
53. **“Overexpenditure”** means money disbursed by DHS under this Agreement and expended by County that is in excess of the amount County is entitled to expend as determined in accordance with the funding calculation methodologies set forth in the applicable Service Element Standards and Procedures.
54. **“Personal Support Worker”** or **“PSW”** has the meaning as set forth in OAR 411-317-0000.
55. **“Plan of Care”** or **“POC”** means a service authorization feature in eXPRS that is a collection of individual Provider service authorizations for an I/DD Individual. These Service authorizations in accepted status are required to enable the Provider of the authorized Service to successfully submit Claims for payment.
56. **“Program Area”** means the area within the State of Oregon where County is contracted to provide DD Services.
57. **“Provider”** has the meaning as set forth in OAR 411-317-0000.
58. **“Provider Authorization”** identifies the person performing the duties identified in the service authorization as well as the rate and dates the services are authorized in compliance with the applicable Expenditure Guidelines published by ODDS. Providers specific duties are tied to the individual they are serving and are identified in the Service Level Agreement between the Employer and the Provider.
59. **“Provider Enrollment Agreement”** or **“PEA”** has the meaning set forth in OAR 411-370, Provider Enrollment, Service Billing and Service Payment.
60. **“Provider Prior Authorization”** or **“PPA”** means an authorization, either through eXPRS or by submission to DHS of a document acceptable to DHS, for funding awarded in the SEPA for delivery of a particular DD Service by a particular Provider, and for Provider submission of Disbursement Claims for the DD Service, that specifies:
  - a. the DD Service,
  - b. the Provider,
  - c. a period of time, during which the authorization may be used to support delivery of the DD Service by the Provider,
  - d. whether the PPA is an “Opt Out” PPA for those Providers that are paid through a CPA and have fluctuating amounts in a specific month; or the PPA is for a specific amount authorized to the Provider for a specified time frame. If the PPA

is for an amount for a specific Provider, the total amounts authorized in the PPAs cannot exceed the total SEPA amount for that time frame for that DD Service.

61. **“Recipient”** has the meaning as set forth in OAR 411-370-0010.
62. **“Restructuring Budgets, Assessments and Rates”** or **“ReBAR”** means the DHS process for conducting Functional Needs Assessments for Individuals; using assessment results to determine a Service budget amount for the Individual; and establishing fair and equitable rates for Providers of the Services to the Individual.
63. **“SEPA Adjustment”** means a document, acceptable to DHS, that may be presented and executed in hard copy, or electronically in eXPRS, by County, that amends the SEPA, with respect to one or more DD Services, to reflect the new maximum amount of funding that DHS will provide under this Agreement through eXPRS for the specified Service Element(s), as well as any new or modified special performance or other requirements.
64. **“SEPA Pass Phrase/Pass Code”** or **“SEPA Pass Phrase”** means a code used by eXPRS to verify the identity of the individual accepting the SEPA Adjustment on behalf of County.
65. **“Service”** means any one of the DD Services for Individuals listed in Exhibit B Part 2 of this Agreement provided directly by CDDP, subcontracted by County, or authorized by CDDP pursuant to this Agreement.
66. **“Service Authorization”** means an authorization by CDDP of the DD Services that CDDP is responsible to authorize according to Exhibit B, Part 1 Section 2, and as identified in an Individual’s ISP and entered for billing purposes into eXPRS via POC or a CPA.
67. **“Services Coordinator”** has the meaning as set forth in OAR 411-317-0000.
68. **“Service Element”** has the meaning as set forth in OAR 411-317-0000.
69. **“Service Element Prior Authorization”** or **“SEPA”** means the maximum amount of Service Element funding that DHS will provide to County under this Agreement through eXPRS, and any Service Element associated special performance or other requirements. The SEPA is broken down by Service Element and may be amended from time to time by a SEPA Adjustment.
70. **“Service Element Standards and Procedures”** means the description of a Service Element and the Standards and Procedures associated with the Service Element. The Service Element Standards and Procedures apply to those DD Services funded through this Agreement and for all DD Services authorized by County.
71. **“Settlement”** means the process through which ODDS determines Underexpenditures and Overexpenditures, and resolves Misexpenditures at the end of each biennium or on an interim basis during the term of this Agreement.
72. **“Stabilization and Crisis Unit”** or **“SACU”** means the DHS unit that directly provides 24-hour residential services, as described in OAR Chapter 411, Division 325, for Individuals with DD, as opposed to DHS financing the DD Services under an intergovernmental agreement with County, or purchasing the DD Services from a DD Service Provider.



73. **“STEPS”** means the voluntary training program provided by the Oregon Home Care Commission and offered to all Individuals receiving in-home Services. STEPS meets the KPlan requirement for voluntary training on how to select, manage, and dismiss attendants, and provides activities to empower and inform Individuals receiving in-home Services regarding their rights, roles, and responsibilities as employers of homecare workers.
74. **“Subcontract”** has the meaning as set forth in Exhibit D Section 2 of this Agreement.
75. **“Subcontractor”** has the meaning as set forth in Exhibit D Section 2 of this Agreement.
76. **“Transmittals”** means communications that request action from, or provide policy, program, training, and other information to County. Transmittals take the form of Action Requests (AR), Information Memoranda (IM), or Policy Transmittals (PT).
77. **“Underexpenditure”** means money disbursed by DHS under this Agreement and not expended by County that is less than the amount County is entitled to expend as determined in accordance with the funding calculation methodologies set forth in the applicable Service Element Standards and Procedures.
78. **“User”** means any individual authorized by DHS to access Network and Information Systems and who has an assigned unique log-on identifier.

**INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING OF  
COMMUNITY DEVELOPMENTAL DISABILITY SERVICES**

**EXHIBIT B PART 1  
OPERATIONS AND ADMINISTRATION TERMS AND CONDITIONS**

1. **Biennial Plan.** County shall provide DHS with a Biennial Plan and related budget information pursuant to ORS 430.662 and 430.664 for the operation of the CDDP, using forms provided by DHS. County shall submit its Biennial Plan within 180 calendar days, following receipt of the Biennial Plan forms, or within 180 calendar days of the end of the biennium, whichever is later. Except as provided in ORS 430.662(f), subsequent amendments or modifications to County's Biennial Plan must be approved in advance by DHS before the amendments or modifications are implemented. DHS shall provide technical assistance to County for the development of its Biennial Plan.

The Biennial Plan shall include but not be limited to the following:

- a. **System Overview.** Provide an overview of County's current I/DD service and support system for each of the DD Services funded through this Agreement. Include the role of County and, when applicable, County's subcontractor. Describe how County is collaborating with oversight entities, other governmental and non-governmental entities to ensure the delivery of DD Services.
- b. **County Needs Evaluation.** Identify areas where County has identified that the DD Service needs of Individuals or Service capacity needs are not being met and possible solutions for meeting those needs.
- c. **Strengths Evaluation.** Identify areas where Services are being met and where County is successfully meeting Individual's DD Service needs. Describe how this is being accomplished and any new or innovative methods being used to meet the Service needs.
- d. **Performance Measures.** Provide an overview of County's management plans for monitoring and improving results for the Performance Measures identified in Exhibit B Part 1, Section 7.
- e. **Disaster and Data Recovery Plan.** Describe County's disaster and data recovery plan and how County plans to maintain it.
- f. **Additional Information.** Provide any additional information that County believes DHS should be aware of with regards to successes, concerns, or limitations being faced by County's CDDP.

Written approval by DHS in connection with this Agreement of Services as part of County's Biennial Plan is effective only for those Services insofar as they are funded under this Agreement.

## **2. CDDP Administrative Responsibilities.**

In performing the Work under this Agreement:

- a. CDDP shall comply with 42 CFR §447.10 as the conditions and provisions apply to an organized health care delivery system.
- b. CDDP shall participate in person, by phone, or video conference, in monthly CDDP program manager meetings and other meetings as designated by ODDS. Meetings will be scheduled by DHS with representatives designated by DHS to review, clarify, and further plan the Work performed under this Agreement. These DHS-CDDP meetings shall be scheduled at a time mutually acceptable to both parties.
- c. CDDP shall adhere to all OARs, ORS', CFRs and Service Element Standards and Procedures pursuant to this Agreement. If a CDDP refuses to take the action necessary to assure the health and safety of Individuals enrolled in DD services, ODDS will notify the CDDP in writing that ODDS intends to perform the functions necessary for the health and safety of the Individual. DHS will reduce the funding received by the County, to cover the costs of ODDS fulfilling the roles necessary for the needed actions.
- d. CDDP management is responsible for ensuring information provided by DHS, such as transmittals, worker guides, and information gathered from the CDDP program managers meeting, is communicated effectively and timely with all applicable CDDP staff.
- e. CDDPs must comply with the use of DHS electronic systems utilized for information related to individuals and providers upon implementation and training.
- f. CDDP must complete the Eligibility Survey emailed from DHS in July and December within 30 calendar days of receipt. The Survey gathers information available through the 0337 process.

## **3. County Assistance with Provider and Employer Enrollment and Credentials.**

- a. County shall assist any Individual who wishes to hire a Personal Support Worker (PSW) in the following ways:
  - (1) Assist the Individual in becoming a Common Law Employer (CLE) or identifying a designated CLE and provide resources to prospective CLEs on their role. For each CLE County will:
    - (a) Initiate enrollment of the CLE into the Fiscal Management Agent Servicer (FMAS) vendor's web portal (currently referred to as "BetterOnline"). For each new CLE, County will provide the required information to successfully enroll the CLE.
    - (b) Provide assistance to the Individual or the designated CLE in completing the required paperwork. County may provide this assistance or refer the CLE to the STEPS program.

- (c) Upon request, if the County identifies a need, County shall refer the CLE to the STEPS program.
    - (2) Assist the Individual in qualifying PSWs by:
      - (a) Providing PSWs with a Provider Enrollment Agreement (PEA) and initiating a Criminal History Check (CHC).
      - (b) Initiating the PSW enrollment in the FMAS vendor's web portal. For each new PSW, County will provide the required information to successfully enroll the PSW.
  - b. County shall assist any Individual who wishes to hire an Independent Contractor (IC) by initiating a CHC for all new IC's.
  - c. For PSW Providers, County shall assist Individuals by verifying certifications, licenses, CHC, driver's licenses, and auto insurance are appropriate and up to date prior to Services being authorized. Additionally, County shall assist Individuals by ensuring that IC's CHC is valid and up to date prior to Services being authorized.
- 4. CDDP Responsibilities with regards to Lane v. Brown et al Settlement Agreement.**
- CDDP shall develop a Career Development Plan (CDP), consistent with ODDS policy and administrative rules, as well as Executive Order 15-01, as part of the ISP for all individuals of working age, including transition age individuals prior to their expected exit from school or within one year of an unexpected exit from school.
- a. CDDP shall submit copies of the CDP documents to DHS upon request or cooperate with ODDS field review to verify compliance with timely development of CDPs.
  - b. In the event the CDDP fails to develop a CDP for any individual, the CDDP shall take corrective action and develop the CDP within 90 calendar days of the date the CDDP is notified by DHS, or CDDP self identifies the absence of a required CDP. The development must meet the requirements as outlined in ODDS policy and administrative rule. These newly developed CDPs must be submitted to ODDS for a quality assurance review.
  - c. If CDDP fails to respond or follow the directives as lined out in a. and b. above, a financial penalty not to exceed \$150.00 per identified CDP may be assessed.
- 5. ODDS Administrative Responsibilities.**
- a. ODDS will publish transmittals prior to the effective date of the transmittal.
  - b. ODDS will provide training to the CDDP staff prior to implementing new systems. Training may be in multiple formats including but not limited to:
    - (1) In person
    - (2) Webinars
    - (3) iLearn

- (4) Other media sources

Trainings will be conducted, at a minimum, in four areas of the state if in person.

## 6. **Quality Assurance.**

- a. DHS' quality assurance activities include:
  - (1) Review of case management services;
  - (2) Review of assessments, ISPs, and Level of Care;
  - (3) Review of CDDP's Provider monitoring, complaints, and other contracted obligations; and
  - (4) Review of approved claims.
- b. CDDP shall:
  - (1) Comply with all DHS quality assurance reviews, plans, and processes designed to monitor and ensure CDDP's timely and accurate CMS compliance.
  - (2) CDDP shall follow any and all undisputed remediation instructions, including timelines, resulting from the quality assurance review findings.
  - (3) Make available to DHS' quality assurance staff, upon request, access, including a login and password, to any electronic systems that contain I/DD information regarding Individuals enrolled in DD 48 Case Management Services as allowed under federal and state law.
- c. DHS shall:
  - (1) Notify County in advance of a DHS quality assurance review.
  - (2) Provide timely feedback to County of quality assurance review findings and an opportunity for County to dispute those findings.
  - (3) Provide technical assistance and training to County in the areas identified as needing improvement by the quality assurance review. Technical assistance and training provided by DHS will not negate necessary remediation activities by County.
  - (4) Provide Counties and Providers, if applicable, access to the quality assurance review reports prior to the reports posting on the DHS website.

## 7. **Performance Measure Requirements.**

- a. The following processes have been identified as the performances to be measured. Performance measure results will be tracked. Scoring from the 17-19 biennium quality assurance review will be used to measure the following:
  - (1) Level of Care, assessments, and service plans must be cumulatively scored at minimum 90%.
  - (2) Completed Career Development Plans must be scored at 85% or higher.
  - (3) Health and welfare must be cumulatively scored at minimum 90%.

- (4) Monitoring and complaints must be cumulatively scored at minimum 90%.
- (5) Progress notes must be scored at a minimum 90%.
- b. County Manager Compliance. County will comply with Exhibit B Part 1, subsection 2.b. above, with a 95% attendance.
- c. Publication of Performance Measure Tracking Results.  
DHS may publish performance measure tracking results and post to the DHS website after providing the results to Counties and Providers, if applicable.

**INTERGOVERNMENTAL GRANT AGREEMENT  
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**EXHIBIT B PART 2  
STANDARDS AND PROCEDURES**

**1. Provision of Services.**

The DD Services listed in subsections a. and b. below must be provided as described in the appropriate federal regulations, Oregon Revised Statutes, Oregon Administrative Rules, and Service Element Standards and Procedures for the DD Services. Requirements for Service Elements may be found in the OARs listed below. Any additional Standards and Procedures may be found in this Exhibit B, Part 2. Only DD Services listed in subsections a. and b. below are subject to this Agreement.

- a. Upon acceptance of the Service Element Prior Authorization in eXPRS, County agrees to directly provide or subcontract for the DD Services listed in this subsection. The DD Services provided by County whose costs are covered in whole or in part with the SEPA are:

Service Name	Service Code	OAR(s)
Local Administration (LA)	DD 02	Chapter 411, Division 320, Service Element Standards and Procedures
Case Management	DD 48	Chapter 411, Division 415; Service Element Standards and Procedures
Abuse Investigation Services	DD 55	Chapter 411, Division 320; Service Element Standards and Procedures

- b. DD Services authorized by County through a CPA or Plan of Care Authorization in eXPRS and performed by DHS enrolled Providers are:

Service Name	Service Code	OAR(s)
Nursing Facility Specialized Services	DD 45	Chapter 411, Division 86
Comprehensive In-Home Support Services for Adults	DD 49	Chapter 411, Divisions 345, 435 and 450
Residential Facilities	DD 50	Chapter 411, Division 325
Supported Living Services	DD 51	Chapter 411, Division 328
Transportation Services	DD 53	Service Element Standards and Procedures
Employment and other Non-Residential Day Services	DD 54	Chapter 411, Divisions 345 and 450

Service Name	Service Code	OAR(s)
Rent Subsidy	DD 56	Service Element Standards and Procedures
Special Projects	DD 57	Service Element Standards and Procedures
Adult Foster Homes	DD 58 Adult	Chapter 411, Division 360
Child Foster Homes	DD 58 Child	Chapter 411, Division 346
Family Support Services for Children	DD 150	Chapter 411, Division 305
In-Home Support for Children	DD 151	Chapter 411, Divisions 435 and 450
Room & Board General Fund	DD 156	Service Element Standards and Procedures

**2. Service Element Standards and Procedures Review Process.**

DHS shall update the Service Element Standards and Procedures as follows:

- a. ODDS will engage with a standing group of stakeholders to review and, if needed, modify these Service Elements at least once per biennium. Stakeholders include CDDP staff, designated representatives, ODDS staff, and other identified parties.
- b. Upon determining that an update is necessary to any of the above listed Service Element Standards and Procedures, a draft of the document changes will be sent to the stakeholder group via e-mail for review and comment. The e-mail shall include a time, date, and conference line number for a discussion between DHS and County regarding the draft Standards and Procedures being reviewed. DHS will accept comments via e-mail for 15 business days after the date of the e-mail.
- c. After the conference call and the deadline for receipt of any e-mail review and comment by County staff, DHS will consider any information from counties when determining the final changes to the Standards and Procedures.
- d. Upon completion of the Standards and Procedures review process, DHS shall follow the amendment process as outlined in Exhibit D, Section 6 of this Agreement to add the updated Service Element Standards and Procedures.



## Service Element DD 02 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Local Administration (LA)  
**Service ID Code:** DD 02

### 1. Overview.

Local Administration encompasses the activities related to the general administration and management of a Community Developmental Disability Program (CDDP). These activities include but are not limited to:

- a. Insuring all staff receive necessary training;
- b. Insuring all services offered by the CDDP are understood by staff as well as the rules that govern those services;
- c. Complying with OAR Chapter 411, Division 320 as it describes the requirements of CDDP staff;
- d. Assisting in the licensing of Adult Foster Homes under OAR Chapter 411, Division 360; and assistance in certifying Child Foster Homes under OAR Chapter 411, Division 346 unless otherwise exempt under Oregon law.

### 2. Standards and Procedures not identified in rule.

- a. Comply and track compliance with Oregon Administrative Rules, DHS policies and procedures, and Transmittals.
- b. Assist DHS with the implementation of and compliance with Executive Order 15-01 and OAR Chapter 407, Division 025 and as outlined in Exhibit B, Part 1 of this Agreement.

#### c. Special Reporting Requirements

Upon DHS request, CDDP will provide data and information relative to the implementation of DD 02 Services within the time specified by DHS in its request to CDDP.

#### d. Billing and Payment Procedures

- (1) DHS will provide CDDP with funding for DD 02 Services by entering a Service Element Prior Authorization (SEPA) and Provider Prior Authorization (PPA) based on the approved CDDP workload model or its funding level for FTE staff.
- (2) DHS will disburse funding for DD 02 Services for a specified period of time equal to the monthly amount set forth in the accepted SEPA and approved in the PPA, as such amounts may be updated from time to time. Any recovery of funding will be done as outlined in Exhibit B, Part 3 of this Agreement unless the recovery falls in the following section c.

- (3) If, due to administrative error, CDDP fails to timely approved PSW time submitted and requests an Out of Cycle payment, CDDP will have their 02 SEPA allocation reduced by \$50 per accepted request.
- e. CDDP, as a Provider of DD 02 Services that are funded by DHS, must:
- (1) Employ an identified individual as an Eligibility Specialist, as defined in OAR 411-320-0020 (14), or have an agreement with another county to perform eligibility determination for the County receiving the DD 02 funding. If there is an agreement with another county to perform eligibility determinations, the agreement must include the provision of DD 02 Services in that county's geographic Program Area. Eligibility Specialists employed to provide eligibility services must:
    - (a) Meet the criteria of a Services Coordinator Eligibility Specialist, as described in OAR 411-320-0030 (5)(d), as such rules may be revised from time to time;
    - (b) Complete a competency based training given by DHS' Diagnosis and Evaluation Coordinator within one year of hire;
    - (c) Participate in DHS sponsored training on an annual basis; and
    - (d) Participate in a minimum of 20 hours of training related to Developmental Disabilities or eligibility on an annual basis.
  - (2) The Provider of DD 02 Services funded by DHS, whether County, a CDDP, or Subcontractor, must employ the staff indicated on its workload model in the specific position type indicated for local administrative services. The Provider must hire as many employees as possible for each identified position per the funding allocated to Provider.
  - (3) Employ sufficient staff to perform the eligibility determinations for its own County and the county with whom it is subcontracting if performing eligibility determinations for another county.
  - (4) Use DHS approved forms and procedures for eligibility determination services.
  - (5) Inform DHS' Office of Developmental Disability Services (ODDS) of the name(s) of the County's designated Eligibility Specialist(s), and notify ODDS if the County assigns a new Eligibility Specialist.
  - (6) Follow the processes established by DHS to complete the Level of Care determination when an Individual is initially eligible for Developmental Disability Services.
  - (7) Ensure any Provider of DD 02 Services for County completes the Eligibility Specialist section of the DHS Level of Care form within 10 calendar days of the date of initial eligibility. The LOC must be completed in its entirety as soon as possible after eligibility is determined, in compliance with OAR 411-415. Upon completion, the LOC must be submitted to ODDS within 30 calendar days.

- (8) Work with all Individuals and their ISP Teams to reevaluate the need for institutional LOC on an annual basis or more often if there is a change in an Individual's need or an Individual requests a review.
- (9) Terminate from Level of Care for any Individual that does not meet the LOC eligibility requirements and refer the Individual to other non-waiver or non-K Plan Services.

**3. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 45 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Nursing Facility Specialized Services  
**Service ID Code:** DD 45

### 1. Overview.

Nursing Facility Specialized Services (DD 45 Services) are individualized habilitation services for Individuals with Intellectual or Developmental Disabilities (I/DD) residing in a Nursing Facility, as defined in OAR 411-070-0005 (32). These DD 45 Services are to be integrated with, but are in addition to and not duplicative of, care the Nursing Facility is required to provide.

### 2. Standards and Procedures.

#### a. Service Authorization

DD 45 Services must be authorized in advance by the County's CDDP in which the Individual is enrolled and through which Individual is receiving DD 48 Case Management Services. This authorization must be obtained and documented according to DHS policies and procedures.

#### b. General Performance Requirements

- (1) Individuals receiving DD 45 Services must be eligible for Developmental Disability Services (DD Services) under OAR Chapter 411, Division 320.
- (2) DD 45 Services funded by DHS must be directly tied to the findings of assessment(s) of the Service needs of Individuals receiving the DD 45 Services, including Service needs identified in the Pre-Admission Screening (PAS), as defined in OAR 411-070-0005 (61), or a Level II assessment, which is defined in OAR 411-070-0005 (43), as the current version of the Pre-Admission Screening. Additional assessments, including the minimum data set (MDS), as defined in OAR 333-018-0100 (27), which a Nursing Facility must complete for all residents, may be used to identify or clarify additional Service needs.
- (3) All Individuals receiving DD 45 Services funded by DHS must have been determined, through the Pre-Admission Screening process, to:
  - (a) require Nursing Facility services but not be eligible for these services via Medicaid;
  - (b) not have an active plan to return to another community residential service placement; and
  - (c) require specialized habilitation services specifically related to the Individual's I/DD.

- (4) Providers of DD 45 Services shall provide at least 25 hours per week of direct Service outside of the Nursing Facility setting to each Individual who is able to participate and is currently receiving DD 45 Services funded through DHS. Time to transport an Individual receiving DD 45 Services to the Service site, community activities and events may be included in computing the 25 hours per week.
- (5) Providers of DD 45 Services must be certified to provide employment services as described in OAR Chapter 411, Division 345 Employment Services for Individuals with Intellectual or Developmental Disabilities.
- (6) Providers of DD 45 Services must maintain a case management record for each Individual served, that includes at a minimum
  - (a) a description of the specific habilitation services to be provided with DD 45 funds;
  - (b) documentation of enrollment in DD 45 Services;
  - (c) copies of records documenting the level of participation and attendance for each Individual receiving DD 45 Services;
  - (d) copies of Incident Reports; and
  - (e) a copy of the Nursing Facility Rehabilitation Plan.

**c. Special Reporting Requirements**

- (1) An Individual enrolled in DD 45 Services must be reported by the Provider as terminated from a Provider's DD 45 Services when the Individual dies, moves out of a Nursing Facility, or, if still residing in a Nursing Facility, has not received DD 45 Services for more than 30 consecutive business days.
- (2) A Provider of DD 45 Services must make the information described in Section 2.b. General Performance Requirements available to the County and DHS upon request.
- (3) County must provide written notification to DHS' program specialist for specialized nursing services within 14 calendar days after an Individual receiving DD 45 Services funded through DHS dies, moves out of a Nursing Facility, or is removed from DD 45 Services for any other reason.

**d. Billing and Payment Procedures**

- (1) All Individuals receiving DD 45 Services must be enrolled in eXPRS, and the Individual's record for DD 45 Services must be maintained by Provider, County, and DHS, as applicable.
- (2) Funding will be made available for DD 45 Services by DHS through the eXPRS system. DHS will maintain the Service Element Prior Authorization (SEPA) funding and establish Provider Prior Authorizations (PPAs) for payment each month.

- (3) Settlement will be used to confirm and reconcile any discrepancies that may have occurred during the term of the Agreement between actual DHS disbursements of funding awarded for DD 45 Services under a particular line of the Service Element Prior Authorization and the amount of qualifying billable DD 45 Services actually delivered.
- (4) DHS is not obligated to pay for any DD 45 Services that are not properly reported through eXPRS within 60 calendar days after the earlier of: expiration or termination of the Provider agreement; termination of DHS' obligation to provide funding for DD 45 Services; or termination of County's obligation to include the Program Area in which the DD 45 Services are provided.

**3. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 48 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Case Management  
**Service ID Code:** DD 48

### 1. Overview.

Case Management Services (DD 48 Services) are delivered to Individuals who are eligible for Intellectual or Developmental Disability Services (I/DD Services) funded by DHS in an identified CDDP's geographic Program Area.

### 2. Standards and Procedures.

#### a. General Performance Requirements

- (1) For each eligible Individual receiving DD 48 Services, the CDDP shall create and submit a Client Prior Authorization (CPA) in eXPRS for DD 48 Services within five business days of the CDDP's determination that the Individual is eligible for DD 48 Services. Updates or changes to an Individual's eligibility or service period for DD 48 Services must be reflected in the Individual's CPA within five business days of the CDDP's receipt of notification of change. The DD 48 CPAs that are submitted successfully by the CDDP and are accepted through eXPRS will serve as the CDDP enrollment roster for DD 48 Services;
- (2) Providers of DD 48 Services funded by DHS shall:
  - (a) Comply with the requirements of OAR Chapter 411 Division 320 and Division 415, as such rules may be revised from time to time;
  - (b) Whether County, a CDDP, or Subcontractor, employ the staff indicated on its workload model in the specific position type indicated for case management services. The Provider must hire as many employees as possible for each identified position per the funding allocated to Provider.
  - (c) Complete annual plan entry into eXPRS for any Plan of Care Services under the guidelines identified in OAR 411-415-0050. CDDP must utilize the code "TBD" for any services where a provider has not yet been identified. Failure to follow the guidelines identified may result in payment withholding for services rendered or other actions as deemed appropriate by DHS.
  - (d) Develop, maintain, and effectively implement systems and procedures for the timely and accurate documentation of DD 48 Services;

- (e) Comply with all DHS requirements designed to assure the timely and accurate enrollment, service authorization, and service payment for Individuals receiving DD 48 Services;
- (f) Provide, at minimum, one annual qualifying billable Claim for each Individual enrolled in DD 48 Services;
- (g) Ensure that all Claims billed are for activities that meet DHS guidelines as qualifying billable Claims;
- (h) Ensure each Individual receiving DD 48 Services is eligible for DD Services, with eligibility determined in accordance with OAR Chapter 411, Division 320, as such rule may be revised from time to time; and
- (i) Complete and submit DD 48 Service eligibility or enrollment information via established methods, and update forms following instructions and forms(s) or method(s) designated by DHS. Failure to submit the DD 48 Service eligibility or enrollment form may delay the approval of the CPA for DD 48 Services.

**b. Special Reporting Requirements**

- (1) Upon the request of DHS, the CDDP shall supply data and information relative to the implementation of DD 48 Services.
- (2) CDDP shall respond to DHS staff inquiries or request for additional information within five business days of a request pertaining to a complaint or administrative hearing to include but not be limited to eligibility or service complaints and hearings.

**c. Billing and Payment Procedures**

- (1) Funding for DD48 Services are:
  - (a) Based upon the amount of qualified billable encounters or Claims submitted by the Provider of DD 48 Services, up to the monthly amount authorized by the CDDP's DD 48 Services Provider Prior Authorization (PPA);
  - (b) Paid to the CDDP after the Claims processing cycle on the 15<sup>th</sup> of the month based on:
    - i. Title XIX eligible Claims cleared since the first of the month; and
    - ii. Title XIX eligible Claims made for the previous month(s) that have cleared but have not previously been paid, will also be processed for payment at this time up to the monthly authorized amount.



- iii. General fund Claims submitted for the time period between the 1<sup>st</sup> of the month and the 15<sup>th</sup> of the month will be held until the next monthly Claims processing cycle described in 2.c.(1)(c) of this DD 48 Standards and Procedures.
- (c) Paid to CDDP after the Claims processing cycle on the last day of the month based on:
- i. If any funds remain or are available in the monthly authorized amount;
  - ii. Title XIX eligible Claims cleared since the 15<sup>th</sup> will be processed and paid first;
  - iii. Title XIX eligible Claims cleared but not yet paid for the previous month(s) will be processed and paid second up to the maximum monthly authorized amount;
  - iv. If any funds remain or are available for the month after payment of the Title XIX eligible Claims, general fund Claims that have cleared that month will be processed and paid third; and
  - v. General fund Claims cleared but not yet paid for the previous month(s) will be processed and paid fourth until the monthly authorized amount is exhausted.

*Note: Exception to this process is for those billings made prior to the effective date of the transition to the billable encounters claims system. Any encounter entered before the effective date but not covered by previous allotment payments will be taken into account at the time of the final biennial settlement.*

- (2) DHS is not obligated to provide funding for any DD 48 Services that are not properly documented in Individual case files, or are not properly reported through eXPRS within 12 months of the DD48 Service, and by the date 60 calendar days after the earlier of expiration or termination of the Agreement; termination of DHS' obligation to provide funding for DD 48 Services; or termination of County's obligation to include the Program Area in which DD 48 Services fall in its Community Developmental Disability Program (CDDP).
- (3) Provider of DD 48 Services shall resolve all Provider Liability Accounts (PLA) as shown in eXPRS relating to DD 48 Services, by ensuring the PLA ending balance is zero, within 60 calendar days after the earlier of expiration or termination of the Agreement with DHS; termination of DHS' obligation to provide funding for DD 48 Services; or termination of County's obligation to include the Program Area, in which DD 48 Services fall, in its Community Developmental Disability Program.

- (4) Each Individual receiving DD 48 Services must have an active, accepted CPA within eXPRS for the period DD 48 Services are provided to the Individual in order for Provider to submit a qualifying Claim.
- (5) For each unit of DD 48 Services reported in eXPRS as delivered to an Individual, a qualifying billable DD 48 Service must have been delivered to the Individual and sufficiently documented in progress notes within the Individual's file. DHS will not provide funding for more than one billable DD 48 Service or unit per Individual per day.
- (6) Settlement will be used to confirm and reconcile any discrepancies that may have occurred between actual DHS disbursements of funding awarded for DD 48 Services through a Service Element Prior Authorization (SEPA) and the amount of qualifying billable DD 48 Services actually delivered.

**3. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 49 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Comprehensive In-Home Support Services for Adults  
**Service ID Code:** DD 49

### 1. Overview.

Comprehensive In-Home Support Services for Adults (DD 49) includes assistance to Individuals aged 18 and over to continue to live in their own homes or in their family homes. DD 49 Services include Services identified in OAR Chapter 411, Division 450 Community Living Supports, OAR Chapter 411, Division 435, Ancillary Services, and OAR Chapter 411, Division 345, Employment Services for individuals with Intellectual or Developmental Disabilities.

### 2. Standards and Procedures.

#### a. Service Authorization

DD49 Services must be prior authorized by the County in which the Individual is enrolled and receiving Case Management Services in accordance with Rules. This authorization must be provided and documented according to DHS Oregon Administrative Rules, policy and procedure. County shall enter all DD 49 Service plans in the Plan of Care system in eXPRS prior to start of Services.

#### b. Billing and Payment Procedure(s)

- (1) County shall draft a Plan of Care Service authorization within eXPRS upon completion of the Individual's ISP.
- (2) County shall add a POC Service Plan line for each Service authorized by the County and agreed to by the Individual consistent with the most recent published expenditure guidelines.
- (3) Once the Individual or their delegate has chosen the Service Provider, the County shall add the Service Prior Authorization lines in the Individual's POC.
- (4) Until such time as DHS implements time capture tools, County must review and approve or reject the PSW time sheet, progress note, and mileage log, County shall review, and approve or reject PSW submitted Services Delivered billing entries accordingly.

### 3. CFDA Number(s).

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through the Agreement: 93-778.

## Service Element DD 50 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Residential Facilities  
**Service ID Code:** DD 50

### 1. Overview.

Residential Facilities Services (DD 50 Services) consist of 24-hour residential care and supervision to eligible Individuals in community licensed service settings.

### 2. Standards and Procedures.

#### a. Service Authorization

DD 50 Services must be authorized in advance by the County in which the Individual is enrolled and is receiving DD 48 Case Management Services. This authorization must be obtained and documented in accordance with Oregon Administrative Rules and DHS policies and procedures.

#### b. General Performance Requirements

- (1) Providers of DD 50 Services funded by DHS will provide those DD 50 Services in facilities licensed under the applicable Oregon Administrative Rule (OAR), as such rules may be revised from time to time.
  - (a) OAR Chapter 411, Division 325, 24 Hour Residential Services for Children and Adults with Developmental Disabilities;
  - (b) OAR Chapter 411 Division 054, Residential Care and Assisted Living Facilities;
  - (c) OAR Chapter 309, Division 035, Residential Care Facilities for Mentally or Emotionally Disturbed Persons.
- (2) Providers of DD 50 Services funded by DHS must comply with the OARs under which they are licensed.
- (3) Providers of DD50 Services must comply with 42 CFR § 441.530 that identifies the standards of Home and Community Based Services (HCBS) settings, and with Oregon's HCBS global transition plan and Oregon Administrative Rules regarding HCBS.
- (4) If a Provider of DD 50 Services provides such Services at a setting licensed under OAR Chapter 411, Division 325, 24 Hour Residential Services for Children and Adults with Developmental Disabilities, Provider shall comply with the following requirement:

The Board of Directors (or other governing authority of the residential facility, as applicable) of a Provider of DD 50 Services funded by DHS will define, establish, and maintain a "Vacancy Reserve" fund in a dollar amount sufficient to ensure that the Provider can continue to provide

Services that meet applicable statutory, administrative rule, and contract requirements, when payments to Provider are reduced due to vacancies. The Board or governing authority will implement the plan to replenish the Vacancy Reserve fund in a timely manner when the Vacancy Reserve fund falls below the level established by the Provider's Board or governing authority. Each Provider subject to the Vacancy Reserve fund requirement will include a line item on its routine financial statements that documents the status of its Vacancy Reserve fund. These financial statements must be made available to DHS or its designee upon request by DHS.

**c. Special Reporting Requirements**

- (1) If a Provider of DD 50 Services funded by DHS provides such Services at a setting licensed under OAR Chapter 411, Division 325, 24-Hour Residential Services for Children and Adults with Developmental Disabilities, the Provider will report to DHS the direct service staff wages and turnover data for each DD 50 Service type, using forms and procedures designated by DHS. Failure by a Provider to comply with this reporting requirement may result in a delay in payment to the Provider.
- (2) For purposes of Medicaid compliance, DHS must be notified when an eXPRS Disbursement Claim is submitted with a Modifier Code due to absence of the Individual receiving DD 50 Services, as identified under section 2.e. (2) of this Standards and Procedures. Provider of the DD 50 Services will notify DHS' Information Technology Business Support Unit/Technical Assistance Unit (ITBSU/TAU), using forms and procedures designated by DHS.

**d. Placement, Rates, and Authorizations**

- (1) Upon agreement between County and the Provider for Individual placement into a DD 50 Services setting, County will submit a Client Prior Authorization (CPA) for the specific Individual for DD 50 Services the County authorized at the DHS approved rate for a specified period of time. County shall not request payment for DD 50 Services provided prior to the submission of the CPA.
- (2) CPA Monthly Rate
  - (a) The CPA monthly rate for DD 50 Services in a 24-hour residential setting for adults is based upon the Individual's assessed tier and the licensed capacity of the home where the Individual resides as of the effective date of the CPA. The website <http://www.oregon.gov/dhs/DD/rebar/Pages/st-rate-info.aspx> details the current rates for each assessed tier and the licensed capacity. These rates are subject to change upon notice from DHS.  
  
For an Individual age 18 or older receiving DD 50 Services in a 24-hour residential setting for adults, who has been assessed by DHS through the Restructuring Budgets, Assessments, and Rates

(ReBAR) process for establishing DD 50 Service rates based on client service needs, the Individual's monthly rate shall be established as described above.

For an Individual less than age 18 (Child) receiving DD 50 Services in a 24-hour residential setting for children, a support needs assessment profile (SNAP) will be done to determine the monthly rate for the Child.

- (b) An Individual selecting a residential setting in accordance with OAR Chapter 411, Division 054 Residential Care and Assisted Living Facilities or OAR Chapter 309, Division 035 Residential Care Facilities for Mentally or Emotionally Disturbed Persons will have a DD 50 Service rate established by the application of the Individual's DD Functional Needs Assessment to the specific residential setting published rates for Services. The rates are subject to change upon notice from DHS. The CPA monthly rates for above are established in eXPRS by the County.
- (3) For an Individual whose DD 50 Service needs exceed the assessed tier, an exception rate may be established by DHS. Notification of the DHS approved rate, with a specific effective date, will be submitted to the County and the Provider. This exception rate is considered a temporary rate enhancement and may be approved or discontinued at the discretion of DHS in conjunction with evaluation of the Individual's assessed support needs.

e. Billing and Payment Procedures

- (1) DHS will disburse funds to a Provider of DD 50 Services for amounts documented in a Disbursement Claim submitted to DHS by Provider for Services authorized by County and approved by DHS in a CPA, as soon as reasonably possible after submission and processing of the Disbursement Claim, in accordance with OAR Chapter 411, Division 370 and OAR Chapter 407, Division 120.

Payments from DHS to Provider for DD 50 Services will be reduced or offset by the amount paid directly to the Provider from the Individual's resources for support of residential care and services. Provider shall be responsible for the billing and collection of the offset amount.

- (2) DHS will allow payment for certain absences, up to a total of 21 calendar days per calendar year, if the Individual receiving DD 50 Services is residing at the Provider's facility and overnight care is provided immediately prior to the absence, and:
  - (a) The Individual is absent for not more than five consecutive days, as a result of incarceration or absence unreported to the Provider, and it has not been determined by Provider and County that the Individual will not be returning to the Provider's DD 50 Services facility; or

- (b) The Individual is absent for not more than 14 consecutive days, not to exceed 21 calendar days in any 12 consecutive month period, as a result of being on vacation or family visit(s), and it has not been determined by Provider and County that the Individual will not be returning to the Provider's DD 50 Services facility; or
  - (c) The Individual is absent for not more than 21 consecutive days, as a result of being on convalescent leave or admittance to either a medical hospital, a psychiatric hospital, or a DHS Stabilization and Crisis Unit, and it has not been determined by Provider and County that the Individual will be not be returning to the Provider's facility.
- (3) DHS is not obligated to provide funding for DD 50 Services if a Claim for Services is not submitted by the Provider within 12 months of the date such Services were provided, as described in OAR Chapter 407-120-0340.

**3. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 51 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Supported Living Services  
**Service ID Code:** DD 51

### 1. Overview.

Supported Living Services (DD 51 Services) consist of individual support, delivered in a personalized manner, to adults with Developmental Disabilities based on the Individual's needs and preferences. These DD 51 Services include attendant care, training, and support that promote opportunities for Individuals to live in their own home or apartment or in their family home and to be part of and participate in the communities in which they live.

### 2. Standards and Procedures.

#### a. Service Authorization

DD 51 Services must be authorized in advance by the County in which the Individual is enrolled and is receiving DD 48 Case Management Services. This authorization must be obtained and documented in accordance with DHS policies and procedures.

#### b. General Performance Requirements

- (1) Providers of DD 51 Services funded by DHS must comply with OAR Chapter 411, Division 328, as such rules may be revised from time to time.
- (2) The Board of Directors (or other governing authority, as applicable) of a Provider of DD 51 Services funded by DHS must define, establish, and maintain a "Vacancy Reserve" fund in a dollar amount sufficient to ensure that the Provider can continue to provide Services that meet applicable statutory, administrative rule, and contract requirements, when payments to Provider are reduced due to vacancies. The Board or governing authority must implement the plan to replenish the Vacancy Reserve fund in a timely manner when the Vacancy Reserve fund falls below the level established by the Provider's Board or governing authority. Each Provider subject to the Vacancy Reserve fund requirement must include a line item on its routine financial statements that documents the status of its Vacancy Reserve fund. These financial statements must be made available to DHS or its designee upon request by DHS.

#### c. Special Reporting Requirements

- (1) For purposes of Medicaid compliance, DHS must be notified when an eXPRS Disbursement Claim is submitted with a Modifier Code due to absence of the Individual receiving DD 51 Services, as required by section



2.e.(2) of this Standards and Procedures. Provider of DD 51 Services will notify DHS' Information Technology Business Support Unit/Technical Assistance Unit (ITBSU/TAU), using forms and procedures designated by DHS.

- (2) Providers of DD 51 Services funded by DHS must report to DHS the direct service staff wages and staff turnover data for each DD 51 Service type provided to Individuals, using forms and procedures designated by DHS. Failure by a Provider to comply with this reporting requirement may result in a delay in payment to the Provider.

d. Placement, Rates, and Authorizations

- (1) Upon agreement between the County and the Provider for Individual placement into a DD 51 Services setting, County will submit a Client Prior Authorization (CPA) for the specific Individual for DD 51 Services the County authorized at the DHS approved rate for a specified period of time. County shall not request payment for DD 51 Services provided prior to submission of the CPA.
- (2) The CPA monthly rate for DD 51 Services is based upon the Individual's needs assessment and the approved DHS budget tool. The budget tool provides the approved hourly rates and limitations to other program expenses. The hourly rates and limitations may not be changed by the County or Provider when using the DHS budget tool. These rates are subject to change upon notice from DHS. County shall draft the CPA in eXPRS authorizing the DD 51 Service and submit it prior to the start of DD 51 Services.
- (3) Individuals receiving DD 51 Services from a Provider are not eligible for rent subsidies paid by DHS through ODDS.

e. Billing and Payment Procedures

- (1) DHS will disburse funds to a Provider of DD 51 Services for amounts documented in a Disbursement Claim submitted to DHS by County for Services authorized by County and approved by DHS in a CPA, as soon as reasonably possible after submission and processing of the Disbursement Claim in accordance with OAR Chapter 411, Division 370 and OAR Chapter 407, Division 120.

Payments from DHS to Provider for DD 51 Services will be reduced or offset by the amount paid directly to the Provider from the Individual's resources for support of residential care and services. Provider shall be responsible for the billing and collection of the offset amount.

- (2) DHS will allow payment for certain absences if the Individual receiving DD 51 Services is residing at the Provider's facility and overnight care is provided immediately prior to the absence, and:
  - (a) The Individual is absent for not more than five consecutive days, as a result of incarceration, or absence unreported to Provider, and

it has not been determined that the Individual will not be returning to Provider's DD 51 Services facility; or

(b) The Individual is absent for not more than 14 consecutive days, not to exceed 21 calendar days in any 12 consecutive month period, as a result of being on vacation or family visit(s), and it has not been determined that the Individual will not be returning to Provider's DD 51 Services facility; or

(c) The Individual is absent for not more than 21 consecutive days as a result of being on convalescent leave, or admittance to either a medical hospital or a psychiatric hospital, or a DHS Stabilization and Crisis Unit, and it has not been determined that the Individual will not be returning to the Provider's facility.

(3) DHS is not obligated to provide funding for DD 51 Services, if a Claim for DD 51 Services is not submitted by the Provider in a timely manner, as described in OAR 407-120-0340.

**3. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 53 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Transportation Services Non-Transit Districts  
**Service ID Code:** DD 53

### 1. Overview.

Transportation Services (DD 53 Services) are public or private transportation supports provided to individuals with Intellectual/Developmental Disabilities (I/DD) receiving services from a Community Developmental Disabilities Program (CDDP) for the individual to gain access to community-based state plan (K-plan) and waiver services, activities and resources. Transportation services are not used 1) to replace natural supports, volunteer transportation and other transportation services available to the individual; 2) to compensate the service provider for travel to or from the service provider's home; 3) for medical needs; or 4) to benefit others in the household. DD 53 Services are to be related to an individual's service plan needs and are to be provided in the most cost-effective manner that will meet those needs.

Individuals receiving DD 49 Comprehensive In-Home Support (DD 49), DD 50 24-Hour Residential Services (DD 50), DD 51 Supported Living Services (DD 51) or DD 58 Adult Foster Care Services (DD 58) are to access DD 53 Services for transportation for Individual Supported Employment (OR401), Small Group Supported Employment (OR543), Discovery (OR539), Employment Path Services (OR541), Day Support Activity (OR542). Other transportation, not including medical transportation, is inclusive of the service payment rate for DD 50, DD 51 and DD 58. Community Transportation for DD 49 is accessed in Plan of Care (POC).

DD 53 Services are to be in accordance with the ODDS Transportation Worker Guide Authorizing Community Transportation.

DD 53 Services are for one ride from the individual's home to service site and one ride from service site to the individual's home.

Below are examples of when DD 53 Services can be accessed:

- From home to employment site to home
- From home to DSA to home
- From home to Job coaching to home
- From home to Job Development to home
- From home to Discovery to home

### 2. Standards and Procedures.

#### Service Authorization

- a. All individuals receiving DD 53 Services funded through the Department of Human Services (DHS) must have a Community Developmental Disabilities Services (CDDP) Case Manager prior authorize DD 53 Services if the monthly

rate is \$350.00 or less. This authorization must be provided and documented per the ODDS Transportation Worker Guide Authorizing Community Transportation.

- b. Monthly rates of more than \$350.00 for DD 53 Services are required to be prior authorized by DHS before DD 53 services can be implemented.
- c. DD 53 Services and monthly rates are to be reviewed annually at the time of the individual's ISP annual renewal. DD 53 exceptional rates will not automatically be transferred to the new ISP plan year or to another provider and/or CDDP. Exceptional rates must be approved annually.
- d. DD 53 Services are to accomplish ADL/IADL or employment goals identified in an individual's ISP. The individual must have and assessed need for ADL/IADL services or a need for a waiver or support services during transportation or at the destination and identified in the individuals ISP, whether those supports are paid or unpaid natural supports to access DD 53 Services.
- e. DD 53 Services monthly rates are not transferrable between providers, Brokerages or CDDPs. If an individual transfers from a Brokerage to a CDDP or transfers from a CDDP to another CDDP or transfers between providers but stays within the same CDDP, DD 53 Services and the monthly rate must be reviewed by the CDDP and provider to determine what the individual's ADL/IADL or transportation needs are with the new provider or CDDP and what the new monthly rate will be.
- f. When transporting an individual for DD 53 Services the transportation provider must:
  - (1) be at least 18 years old;
  - (2) have a valid driver's license;
  - (3) have a good driving record;
  - (4) have proof of valid automotive insurance;
  - (5) any other license or certification that is required under State and Local law;
  - (6) be enrolled in the eXPRS Payment and Reporting System; and
  - (7) have a current Provider Enrollment Agreement.
- g. DD 53 Services exclude:
  - (1) Medical transportation;
  - (2) Purchase or lease of a vehicle;
  - (3) Routine vehicle maintenance and repair, insurance and fuel;
  - (4) Ambulance services;
  - (5) Costs for transporting a person other than the individual;
  - (6) Transportation for a provider to travel to and from the workplace of the provider;
  - (7) Transportation that is not for the sole benefit of the individual;

- (8) Transportation to vacation destinations or trips for relaxation purposes;
- (9) Transportation provided by family members who are not personal support workers and are not simultaneously providing other paid supports at the time of the transportation;
- (10) Payment to the spouse of an individual receiving in-home support;
- (11) Reimbursement for out-of-state travel expenses; or
- (12) Mileage reimbursement for the vehicle of the supported individual.

**3. General Performance Requirements.**

Individuals must be found eligible for I/DD Services under OAR Chapter 411, Division 320.

**4. Special Reporting Requirements.**

- a. If requested by DHS, DD 53 Services Provider will submit information and/or documentation on actual expenditures of DD 53 Services funds under the Agreement between provider and DHS. Information will be provided using forms and procedures designated by DHS and be submitted within the timeframe designated by DHS.
- b. If requested by DHS, CDDPs will submit information and documentation for DD 53 Services as per the Interagency Agreement. Information will be provided using forms and procedures designated by DHS.

**5. Billing and Payment Procedures.**

- a. CDDPs work with DD 53 Service Provider to establish a rate using the DD 53 Budget Tool.
- b. CDDP must complete a DD 53 Service Client Prior Authorization (CPA) in eXPRS for each individual authorized to receive the service based upon the rate established in the DD 53 Budget Tool. Upon transition of DD 53 to Plan of Care (POC), CDDP must complete and authorize a Service Prior Authorization (SPA).
- c. DD 53 Services rates are calculated by:
  - (1) Mileage: Must be in accordance with current DHS rate. See DD 53 Budget Tool. Mileage can only be claimed for the time the individual is actually in the vehicle being provided DD 53 Services.
    - (a) Adult Foster Care providers that have become transportation providers can only claim mileage.
    - (b) Provider agencies with no established “Agency” rate must use mileage only if not purchasing a bus pass.
  - (2) Bus Passes: must be in accordance with the transit provider’s current published rate.

- (3) “Agency” rate: Currently some provider agencies have an “agency” rate. This “agency” rate is a rate previously approved by DHS that reflects the cost of transporting all of their DD individuals in a geographic area and calculating that in to an individual monthly rate. This rate is reviewed and approved by DHS prior to any services being implemented.
- d. Any request for DD 53 services with a rate of more than \$350.00 a month will be reviewed and approved by DHS prior to implementation of services. If services begin prior to DHS approval, DHS will not pay for any DD 53 Services provided prior to DHS approval. Requests must be sent to [ODDS.fundingreview@state.or.us](mailto:ODDS.fundingreview@state.or.us).
- e. All DD 53 requests for a DD 53 Client Prior Authorization (CPA) to be accepted at a rate of \$350/month or less must include the following information:
  - (1) DD 53 Budget Tool fully completed. This includes the justification pages of the tool.
  - (2) Calculation method used to determine rate if not mileage or bus pass.
  - (3) The identified DD 53 Provider.
  - (4) Assurance statement that the request is only during the time the individual is in the vehicle.
  - (5) CDDP prior authorization.
  - (6) Pending DD 53 CPA in eXPRS.
- f. All DD 53 requests for a rate greater than \$350/month must include the following information (additional information may be requested by DHS):
  - (1) DD 53 Budget Tool fully completed. This includes the justification pages of the tool.
  - (2) Calculation method used to determine rate;
  - (3) The identified DD 53 Provider;
  - (4) If request is for services provided by a car/van pool that serves multiple people, provide the number of people riding regularly; and
  - (5) Assurance that the request is only during the time the individual is in the vehicle.
- g. DHS will review the submitted request that has been CDDP prior authorized for DD 53 Services at a monthly rate of \$350.00 or less or DHS prior authorized at a monthly rate of more than \$350.00 to ensure the request follows OARs, Standards and Procedures, Transmittals and ODDS Transportation Worker Guide Authorizing Community Transportation. If the request for DD 53 Services is accepted by DHS, DHS will move the DD 53 CPA from “pending” to “accepted” status. The provider may then submit claims in eXPRS to receive payment for services rendered.

**6. CDDP Roles.**

CDDP roles include, but are not limited to, the following. These and other roles are stated throughout these Standards and Procedures, the IGA and OARs:

- a. Ensures DD 53 Services follow these Standards & Procedures, the ODDS Transportation Worker Guide and Oregon Administrative Rules.
- b. Verifies that the individual has an assessed need for ADL/IADL services or a need for a waiver or support services during transportation or at the destination and identified in the individual's ISP, whether those supports are paid or unpaid natural supports, to access DD 53 Services as outlined in the ODDS Transportation Worker Guide Authorizing Community Transportation. .
- c. Prior authorizes DD 53 Transportation Services if \$350.00 or less.
- d. Creates a DD 53 CPA in eXPRS and push to pending or accepted status as applicable. Upon transition of DD 53 services to POC, creates a SPA in eXPRS and submits to pending or accepted status.
- e. Works with provider agency and/or DHS to determine a transportation rate using the DD 53 Budget Tool.
  - (1) Enter mileage or published rate of a bus pass into DD 53 Budget Tool.
  - (2) If a provider agency has an established agency rate, use the DD 53 Budget Tool. CDDP contacts DHS if unsure if a provider agency has an established agency rate.
  - (3) If a new agency rate needs to be determined, CDDP needs to work with the Subject Matter Expert at DHS for Transportation Services prior to implementation of services to develop the new rate. The new agency rate must be approved by DHS prior to services being implemented at the proposed rate.
- f. Ensures DD 53 CPAs are accurate and up to date.
- g. DD 53 Service rates are not transferrable between providers or counties. If an individual transfers to another provider or county, the DD 53 services and monthly rate must be reviewed and a new rate established for the new provider or county.
- h. If requested by DHS, CDDP will submit information and documentation for DD 53 Services as per the Interagency Agreement. Information will be provided using forms and procedures designated by DHS.
- i. Services and the rate must be reviewed by the CDDP and provider to determine what the individual's ADL/IADL or employment needs are with the new provider or county.
- j. CDDP must follow the requirements for verifying that all PSW providers can deliver transportation services as outlined in OAR 411-415-0110.
- k. Submits all documentation and information for services to DHS.

**7. Provider Roles.**

Provider roles include, but are not limited to, the following. These and other roles are stated throughout these Standards and Procedures, the IGA and OARs:

- a. Helps create rate with provider and/or DHS. If mileage or bus pass use budget tool. If established agency rate use budget tool. If new agency rate, work with DHS prior to implementation of services.
- b. Ensures DD 53 services are authorized prior to starting services. Authorization comes from the CDDP if 350.00 or less and from DHS if more than 350.00.
- c. DD 53 Services rates are not transferrable between providers or counties. If an individual transfers to another provider or county, DD 53 Services and the rate must be reviewed by the CDDP and provider to determine what the individual's ADL/IADL or employment needs are with the new provider or county.

**8. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that Contractor is a subrecipient.

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Contract: 93-778.

**9. Form(s) that apply.**

- a. DD 53 Budget Tool
- b. Provider Enrollment Forms
- c. ODDS Transportation Worker Guide Authorizing Community Transportation

**10. Reference(s).**

- a. OAR 411-370
- b. OAR 411-323



## Service Element DD 54 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Employment and Community Living Supports  
**Service ID Code:** DD 54

### 1. Overview.

DD 54 Services include Employment Services and Community Living Supports. Employment must be provided as outlined in OAR Chapter 411, Division 345. Community Living Supports must be provided consistent with OAR Chapter 411, Division 450. Employment of Individuals with Intellectual or Developmental Disabilities in competitive integrated employment is the highest priority over unemployment, segregated employment, or other non-work day activities.

### 2. Standards and Procedures.

#### a. Service Authorization

DD 54 Services must be authorized in advance by the County in which the Individual is enrolled and is receiving DD 48 Case Management Services. This authorization must be obtained and documented in accordance with DHS policies and procedures. County shall enter all DD 54 Service plans in the Plan of Care (POC) system in eXPRS prior to start of DD 54 Services for an Individual.

#### b. General Performance Requirements

Individuals receiving DD 54 Services funded by DHS must be eligible for Intellectual or Developmental Disability (I/DD) Services under OAR Chapter 411, Division 320. Individuals using ODDS Employment services must also be eligible for employment services under Chapter 411, Division 345. Individuals using Community Living Supports must be eligible for services under Chapter 411, Division 450. Such rules may be revised from time to time.

#### c. Special Reporting Requirements

- (1) Providers of DD 54 Services shall complete such Provider assessments as requested by DHS. Provider assessments include those that assess the type of DD 54 Service rendered as well as those that assess the nature and quality of the setting and whether it is consistent with federal and state home and community-based setting requirements. Provider assessments must be complete, timely, and accurate in order for the Provider to be authorized to provide DD 54 Services and request payment for DD 54 Services rendered.
- (2) Providers of DD 54 Services shall maintain records for all Individuals who receive DD 54 Services funded by DHS, including documentation to support billing and payments made in accordance with sub-section e. of this section 2 (Standards and Procedures). Documentation requirements

are outlined in OAR Chapter 411, Division 345 and OAR Chapter 411, Division 370, OAR Chapter 411, Division 450, as well as DHS policies and procedures (DHS' I/DD website under "Provider/Partner Resources"). Providers shall make such records available to DHS or its designee upon request.

- (3) Providers of DD 54 Services shall submit reports, through the DHS Employment Outcomes System (EOS), Plan of Care in eXPRS, or other successor reporting systems developed by DHS. These reports must include data that measure individual and program outcomes and be completed in accordance with current instructions provided by DHS.
- (4) Providers of DD 54 Services must use forms and procedures designated by DHS to provide timely reports to DHS regarding requested employment related information, including but not limited to wages, earnings and turnover data.
- (5) Providers must at all times comply with all other legal requirements and maintain documentation evidencing compliance such as subminimum wage certificates including the US Department of Labor Section 14(c) certificate.

**d. Referrals, Rates and Authorizations**

Upon agreement between the Individual, County, and the Provider, County will authorize a line in Plan of Care for DD 54 Services for this specific Individual for a specified time period, at the applicable Provider employment service rate(s). DD 54 Services provided prior to the authorized line in POC may not be submitted for payment.

- (1) The amount of authorization is subject to limitations outlined in OAR Chapter 411, Division 345, and OAR Chapter 411, Division 450.
- (2) Exceptions to the published rate(s) may be allowed with prior approval by DHS.
- (3) County is responsible for monitoring compliance with all special reporting requirements as set forth in Section 2.c. above.

**e. Billing and Payment Procedures**

- (1) The Provider or its designee shall submit its Disbursement Claim in the eXPRS system for the actual hours of DD 54 Services provided to an Individual. Claims must be submitted in accordance with OAR Chapter 411, Division 370. DHS will disburse payment to a Provider of employment services for an Individual specified in the line in POC as soon as reasonably possible after submission and processing of a Disbursement Claim with respect to DD 54 Services.
- (2) DHS is not obligated to reimburse a Provider for a Claim for Services that is not received within 12 months of the date such Services were provided, per OAR 407-120- 0340.

- (3) A Provider must not bill for DD 54 Services for an Individual if the DD 54 Services were not delivered in a manner consistent with the terms outlined in the Individual Support Plan (ISP) for that Individual, or if service agreement requirements are not met.
- (4) The Individual will receive the hours of DD 54 Services per week as agreed to by the Individual, his or her ISP team, and the Provider. DD 54 Service hours provided to the Individual may not be lowered to accommodate any DHS reductions in the Provider rate.

**3. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 55 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Abuse Investigation Services  
**Service ID Code:** DD 55

### 1. Overview.

Abuse Investigation Services (DD 55 Services) for adults include responding to abuse allegations and assuring that the abuse allegations are appropriately reported, screened and investigated. County must operate a Community Developmental Disability Program (CDDP) or have a service agreement with another CDDP to perform abuse investigation activities included in the DD 55 Services.

### 2. Standards and Procedures.

#### a. General Performance Requirements

- (1) When providing DD55 Services for DHS, County will:
  - (a) Comply with OAR Chapter 411, Division 320, as such rules may be revised from time to time.
  - (b) Comply with OAR Chapter 407, Division 045, as such rules may be revised from time to time.
  - (c) Comply with DHS policies and procedures and DHS Transmittals requesting action or providing policy information.
- (2) County must employ or have agreement with an identified CDDP or subcontractor to employ individuals as Abuse Investigators to perform abuse investigation activities which includes the provision of DD 55 Services in a geographic Program Area and will be referred to as the “provider”.
- (3) The County shall employ and provide training for all staff indicated in the county workload model for abuse investigation services within the funding allotted. If at any time the FTE staffing level falls below the number indicated on its workload model, DHS reserves the right to decrease funding of the DD 55 Services. Requirements for FTE staff employed for abuse investigations:
  - (a) Must not be currently employed in the primary capacity of a case manager or services coordinator;
  - (b) Must have a Bachelor’s degree in human, social, behavioral or criminal science and two years human services, law enforcement, or investigative experience; or an Associate’s degree in the human, social, behavioral or criminal science and four years human services, law enforcement, or investigative experience;

- (c) Must complete Core Competency training provided by DHS' Office of Adult Abuse Prevention and Investigations (OAAPI) and be able to meet core competencies as determined by OAAPI within six months of hire.
  - (d) Must complete a minimum of 20 training hours annually to increase skills, knowledge, and abilities necessary to perform the position.
- (4) DHS may approve a variance to the performance requirements set out in (2) and (3) above. Approval in writing from DHS is required prior to implementing a variance to the performance requirements.
  - (5) Providers must use DHS approved forms and procedures for reporting, screening and documentation of findings regarding abuse allegations.
  - (6) Providers must complete the abuse investigation form within the investigation timelines outlined in rule. If an extension for submission of the investigation form is needed, the Provider shall request the extension in writing and must receive written approval for an extension from OAAPI prior to implementing the revised due date. A request for time extension must comply with OAR 407-045-0320.
  - (7) Providers must screen allegations within identified timeframes outlined in Oregon Administrative Rules
  - (8) Providers must participate in quarterly meetings held by OAAPI. At a minimum, one meeting per year must be attended in person by the county abuse investigator.
  - (9) Providers must participate in the county multidisciplinary team relative to ORS 430.739 and provide any requested data and information needed to comply with ORS 403.739 timely
  - (10) Per ORS 430.731(3) a person employed by or under contract with the department the designee of the department or a CDDP to provide case management services may not serve as the lead investigator of an allegation of abuse of a person with a developmental disability. Providers may identify a back-up abuse investigator who is also a case manager or service coordinator. Back-up abuse investigators must complete the Core Competencies training as delivered by OAAPI. A back-up abuse investigator may be used in a situation where the primary Abuse Investigation Specialist is absent or temporarily unavailable.
  - (11) Circumstances where the provider may have a potential conflict of interest OAR 0407-045-0300(1) and 407-045-0360 should be consulted. A conflict of interest is limited to cases where a provider employee is the accused person, there is a familial relationship to the investigator or the allegation is a highly sensitive issue requiring outside investigation. The following steps should be taken in order to determine the conflict of interest and whether the community program or OAAPI shall investigate the report of abuse.

- (a) The provider must consult with providers in neighboring service areas to coordinate an out of county investigation. Providers cannot reject a request for an out of county investigation based solely on workload impacts. A continued conflict must be present to deny an out of county investigation.
- (b) If there is a continued conflict of interest a formal request must be submitted by the provider to the designated Abuse Investigations Coordinator (AIC) using the department provided form.
- (c) OAAPI in consultation with the AIC, will determine if there is an actual or potential conflict of interest that cannot be remedied through assignment to another provider.
- (d) OAAPI will provide a written response regarding the outcome of the formal request to the original provider within 24 hours.

**b. Special Reporting Requirements:**

Upon DHS request, County will provide data and information relative to the implementation of DD 55 Services within the time specified by DHS in its request to County.

**3. Billing and Payment Procedures**

- a. DHS will provide County with funding for DD 55 Services by entering a Service Element Prior Authorization (SEPA) and Provider Prior Authorization (PPA) based on the approved County workload model or its funding level for FTE staff.
- b. DHS will disburse funding for DD 55 Services, for a specified period of time, in an amount equal to the monthly amount set forth in the accepted SEPA and approved in the PPA, as such amounts may be updated from time to time, subject to the following:
  - (1) If County fails to deliver DD 55 Services for part of a month, the funding for DD 55 Services for that month will be prorated and DHS may reduce future disbursements of DD 55 funds accordingly.
  - (2) If requested by DHS, County shall also accept an appropriate SEPA Adjustment to amend funding for DD 55 Services as a result of the County's failure to deliver the DD 55 Services for a full month.

**4. Centralized Abuse Management System Procedures - PLACHOLDER**

**5. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 56 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Rent Subsidy  
**Service ID Code:** DD 56

### 1. Overview.

DD 56 Rent Subsidy provides funding for rent and other allowable housing-related costs that are paid to Providers of residential sites for Individuals receiving certain Department of Human Services (DHS) funded Intellectual/Developmental Disability (I/DD) Services. Allowable housing-related costs are for electricity, natural gas, water, and sewer only.

### 2. Standards and Procedures.

#### a. Authorization

(1) DD 56 Rent Subsidy may be authorized when:

- (a) An eligible Individual's room and board costs exceed the amount that can be billed to the Individual's Supplemental Security Income (SSI) or equivalent sources of funds available to the Individual for these costs; and
- (b) Other resources, such as federal housing subsidies, are either unavailable or insufficient to cover the Individual's household expenses, such as room and board costs.

(2) DD 56 Rent Subsidies are only authorized for Individuals receiving:

- (a) DD 50 Residential Facilities Services; or
- (b) DD 142 Children's Residential Facilities Services

Individuals receiving rent subsidy prior to July 1, 2011 in DD51 Supported Living Service are grandfathered in until they leave these sites. Once the Individual exits DD 51 Supported Living Services, the DD 56 Rent Subsidy funds will no longer be available for a Supported Living Site. Any payments the Provider receives after the date the Individual is no longer eligible for DD 51 Supported Living Services, must be returned to DHS immediately.

- (3) The monthly rate for DD 56 Rent Subsidy in eXPRS is established by DHS using the approved budget form and periodically, but no less than biennially, to justify continuation of DD 56 Rent Subsidy funding. All budget forms must be completed using the procedures designated by DHS.
- (4) DD 56 Rent Subsidy for an Individual must be initially authorized in advance by the DHS Office of Developmental Disability Services (ODDS). The advance authorization applies to, but is not limited to:

- (a) An Individual's request to assume a vacant slot at a DD 56 Rent Subsidy authorized site; or
  - (b) An Individual receiving DD 51 Supported Living Services who is moving to a new DD 50 Service site. Advanced authorization does not apply to Individuals moving from one DD 51 site to another DD 51 site.
- (5) Provider will submit all requests for DD 56 funding for Individuals to ODDS Chief Operations Officer (COO) via [leaann.stutheit@state.or.us](mailto:leaann.stutheit@state.or.us), or other method as designated by the ODDS COO. ODDS COO will review the DD 56 Rent Subsidy request and will determine the effective date and allowable monthly rate. The COO will notify the Provider if the DD 56 Rent Subsidy request has been approved or denied. The COO will not approve retroactive requests for DD 56 Rent Subsidy.

The DD 56 Rent Subsidy request must include, but is not limited to:

- (a) Individual's name,
  - (b) Individual's prime number,
  - (c) Address of the Provider's site,
  - (d) Requested effective date,
  - (e) An accepted eXPRS Client Prior Authorization (CPA) matching the requested effective date for services at the requested Provider site; and
  - (f) A completed Rent Subsidy Budget Worksheet for the site, as described in Section 2 of this S&P.
- (6) ODDS COO or designee, will authorize DD 56 Rent Subsidy for a specific Provider site and the Individuals in that site who qualify for DD 56 Rent Subsidy.
- (a) DD 56 Rent Subsidy funds authorized to a specific Provider site do not transfer with an Individual who moves to another of the Provider's sites, relocates to another County, or moves to a different Provider. DD 56 funds awarded to a specific Provider site stay with that specific site until the site is no longer authorized DD 56 Rent Subsidy.
  - (b) If an Individual authorized to receive DD 56 Rent Subsidy leaves a DD 50 Residential Facility, or a DD 142 Children's Residential Facility, the DD 56 funds will remain with the vacancy at the specific DD 56 Rent Subsidy authorized site at a maximum of six months. Funds may be used for new Individuals, enrolled prior the six months of the available site, who qualify for and are approved by ODDS COO to receive DD 56 funds.
  - (c) Provider must actively work with the Case Management Entity (CME) to fill the vacancy of a DD 50 Residential Facility, or a DD



142 Children's Residential Facility, the DD 56 Rent Subsidy amount associated with the exiting Individual will continue to be paid to the Provider for a maximum vacancy period of six months. Should the Provider be unable to fill the DD 50 or DD 142 vacancy by the end of the six-month vacancy period, the DD 56 Rent Subsidy vacancy payments shall end.

- (d) Should a new DD 56 Rent Subsidy-qualified Individual move into the DD 50 or DD 142 vacancy prior to the end of the six-month vacancy payment period, the Provider must submit a Rent Subsidy Budget Worksheet for the home and the Individual. Individuals moving into the vacancy after six months must request funding as a new ask.
- (e) Authorization from ODDS COO or designee must be obtained in advance of the transfer of DD 56 funds to any new location.

**b. General Performance Requirements**

- (1) All Individuals receiving DD 56 Rent Subsidy Funds by DHS must be eligible for I/DD Services under OAR Chapter 411, Division 320.
- (2) Providers will only expend DD 56 Rent Subsidy funds awarded to them by ODDS for rent, lease, or mortgage, electricity, natural gas, and water and sewer for the specific site authorized in the award.
- (3) Providers of Services to Individuals eligible for the DD 56 Rent Subsidy will apply and maintain an active application for Section 8 or other housing subsidies available through the applicable local housing authority for the Individual or for the residential sites at which such Individuals reside, or for both, if appropriate prior to requesting rent subsidies. Documentation of the Provider's application and the approval or denial must be kept in the Individual's file with the Provider. Provider will make this documentation available to the CDDP or DHS upon request.
- (4) Providers of DD 56 Rent Subsidy must provide written notification to DHS of any approvals of Section 8, or any other housing subsidies, for Individuals or residential sites, within 14 calendar days of receipt of the approval. Provider's notifications must be submitted to ODDS COO via [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) and must include, but are not limited to:
  - (a) The names(s) of Individuals or residential sites for which subsidies have been approved;
  - (b) The address of the applicable residential site;
  - (c) The sources and amounts of the subsidies itemized by Individual or by the residential site;
  - (d) The effective date of each subsidy; and
  - (e) A Rent Subsidy Budget Worksheet for each site.

- (5) A Provider receiving DD 56 Rent Subsidy for an Individual receiving DD 50 Residential Facility Services of DD 142 Children’s Residential Facility Services must, when the Individual exits the site, notify DHS, within 14 calendar days of the exit date, by submitting to the ODDS COO via [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) the following information:
  - (a) Individual’s name
  - (b) Individual’s prime number
  - (c) Address of the residential site, and
  - (d) Exit or effective date.
- (6) A Provider receiving DD 56 Rent Subsidy for an Individual receiving DD 51 Supported Living Services must, when the Individual exits the DD 51 Services, notify DHS, within 14 calendar days of the exit date, by submitting to the ODDS COO via [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) the following information:
  - (a) Individual’s name
  - (b) Individual’s prime number
  - (c) Address of the residential location, and
  - (d) Exit or effective date.

**3. Billing and Payment Procedures**

- a. Provider will submit a DD 56 Rent Subsidy Contractor Invoice and a Rent Subsidy Budget Worksheet, when applicable, to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us).
- b. Upon receipt of a complete and accurate Provider Invoice and, if applicable, a Rent Subsidy Budget Worksheet, DD 56 funds will be released directly to the Provider via a eXPRS Provider Prior Authorization
- c. If billing for a vacancy the invoice must indicate that as a separate line item and must indicate the month (one of six) that you are billing. For example the invoice line item for the first month should indicate Vacancy 1<sup>st</sup> Month and continue until the vacancy is filled or until you have billed for the allowed six months.

**4. Rent Subsidy Budget Worksheets**

- a. All Providers of DD 56 Rent Subsidy Services will be required to complete a DHS designated Rent Subsidy Budget Worksheet for each site awarded DD 56 Rent Subsidy funding. This Worksheet can be obtained by sending an email request to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us).
- b. A Rent Subsidy Budget Worksheet is to be completed by the Provider under the following conditions:
  - (1) When the federal government authorizes a cost of living adjustment (COLA) for SSI;

- (2) Any time there is an increase or decrease to the rent, mortgage, or lease amount or the allowable utilities costs that equals a combined total of 100.00 or more;
- (3) When there is no longer a rent, mortgage, or lease payment for a DD 56 Rent Subsidy authorized site;
- (4) Upon a DHS request; and
- (5) When a licensed capacity change occurs for a DD 50 Residential Facilities Services or DD 142 Children's Residential Facilities Services site, or the available capacity changes in a DD 51 Supported Living Services location.

Unless otherwise specified in the S&P or the DHS request, the Rent Subsidy Budget Worksheet must be completed by the Provider within 14 calendar days of the condition that created the need for the worksheet.

- c. The Rent Subsidy Budget Worksheet calculates the DD 56 Rent Subsidy amount per unit that could be paid to the provider on behalf of each IDD person living at the Provider's residential site. The Budget Worksheet is populated with the current or expected federal amount of SSI used for rent. Only the Individuals at the Provider's residential site who are authorized by DHS to receive DD 56 Rent Subsidy will be used in the calculations for either the amount per unit or the previously assigned rate, whichever is less. Funding determinations are based on available funding.
- d. ODDS COO will review the submitted Budget Worksheet and will determine the monthly rate(s) for DD 56 Rent Subsidy. If the Budget Worksheet:
  - (1) Shows a negative or zero amount per unit, there is no financial need for DD 56 Rent Subsidy. The Rent Subsidy amount to be paid to the Provider for the Individual is zero.
  - (2) Shows an amount per unit that is less than the amount previously authorized for the Individual, the Individual's DD 56 Rent Subsidy rate will be reduced to match the per unit amount noted in the current Budget Worksheet.
  - (3) Shows an amount per unit that is higher than the amount previously authorized for the Individual, there will be no change to the current DD 56 Rent Subsidy rate. Due to DHS budgetary limitations, there can be no increase to a DD 56 Rent Subsidy rate.
- e. When the federal government authorizes a COLA for SSI, DHS will revise the Rent Subsidy Budget Worksheet template and will send the new template to Providers. The revised Budget Worksheet must be completed with the change in allowable rent before any changes in the monthly rate for DD 56 Rent Subsidy will be effective.
  - (1) Provider must complete and return the revised Rent Subsidy Budget Worksheet to ODDS within a minimum of 14 calendar days, or by the otherwise specified timeframe provided by DHS in writing.

- (2) CAU will review the completed Budget Worksheets to determine if any changes to the monthly rates for DD 56 Rent Subsidy are required, based upon the criteria specified in section 4. d. above.
- (3) In cases where a new monthly rate is identified, DHS will create a revised Contractor Invoice template and will send the revised template to the Provider
- (4) If a Rent Subsidy Budget Worksheet is required or has been requested, DD 56 Rent Subsidy payments will not be released to the Provider until the Budget Worksheet has been received and processed by CAU.

**5. DD 56 Rent Subsidy DHS Contractor Invoice**

- a. A DD 56 Rent Subsidy Contractor Invoice must be completed by the Provider and submitted monthly via [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) by the 15<sup>th</sup> of each month. The Contractor Invoice must be complete and accurate to allow submission of an eXPRS PPA for Provider payment. The Contractor Invoice will be returned to the Provider to correct, if any required information or documentation is missing, incomplete or inaccurate. The Provider is responsible to correct any errors and return the complete and accurate Contractor Invoice to ODDS for payment within the time allotted in paragraph b, below.
- b. All complete and accurate DD 56 Rent Subsidy Contractor Invoices are to be received by DHS within 45 calendar days from the end of the service month. Any Contractor Invoices received after this time period may not be paid.
- c. Contractor Invoices are to be submitted only for Individuals and sites with DD 56 Rent Subsidy authorization.
- d. DHS will not prorate DD 56 Rent Subsidy payments. A newly approved Individual must be in the approved DD 56 Rent Subsidy site from at least the 1<sup>st</sup> to the 15<sup>th</sup> of the month to qualify for Rent Subsidy for that month. If an Individual moves into the site after the 15<sup>th</sup> of the month, the DD 56 Rent Subsidy will be paid to the provider beginning with the following month.

**6. Settlement and Quality Assurance**

- a. Settlement will be used to confirm and reconcile any discrepancies that may have occurred between actual DHS disbursements of funding awarded for DD 56 Rent Subsidy Services and the amount of qualifying billable Services actually delivered on a monthly basis and at the end of each biennium. Information requested by DHS as part of the Settlement process must be submitted to DHS within the timeframe designated by DHS. The Provider is fully responsible for the accuracy of the information submitted to DHS.
- b. DHS may conduct quality assurance reviews of the Provider's adherence to the DD 56 Rent Subsidy S&P.

**7. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 57 Standards and Procedures

**Effective Date:** October 1, 2017

**Service Name:** Special Projects

**Service ID Code:** DD 57

DD 57 Special Projects governs two different Services that are supported by two different funding sources: the State General Fund (GF Special Projects) or the Community First Choice State Plan – K-Plan Fund (K-Plan Special Projects).

### 1. GF Special Projects.

#### a. GF Special Projects Overview

GF Special Projects are one-time-only or time-limited Services, for Individuals with Intellectual or Developmental Disabilities (I/DD), approved in advance by the Department of Human Services' (DHS) Office of Developmental Disability Services (ODDS). GF Special Projects include:

- (1) Sex offender treatment through group therapy, individual therapy, or group and individual therapy;
- (2) Necessary expenditures to prepare for implementation of new or revised Services (Start-up); or
- (3) Other I/DD Services not detailed in any other S&P.

#### b. General Performance Requirements for GF Special Projects

- (1) Individuals receiving GF Special Project Services must be found eligible for I/DD Services under OAR Chapter 411, Division 320. Under extraordinary circumstances, ODDS may authorize an exception to this eligibility requirement.
- (2) All GF Special Project funding requests must be submitted to ODDS at [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) for prior authorization. DHS will not pay for any GF Special Project Services rendered prior to ODDS's approval authorizing the Services. ODDS will not approve retroactive requests for GF Special Projects.

#### c. Performance Requirements for Start-Up GF Special Projects

- (1) Start-Up funding requests for GF Special Projects can be made for the development of new Services for new Individuals in a residential facility receiving DD 50 Residential Facilities Services for up to \$2,500.00 per Individual for a biennium. Prior to development of the new Service, County will confirm the need and approve the Start-Up GF Special Project. County will determine whether other capacity resources have been considered and ruled out prior to submission of the GF Special Projects funding request to ODDS at [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us).

- (2) Requests for GF Special Project Start-Up funding must be submitted separately and must include the following:
  - (a) A DHS prescribed line-item budget;
  - (b) A description of the Start-Up GF Special Project being requested;
  - (c) The effective date and the end date of the requested GF Special Project;
  - (d) The Individual's name;
  - (e) The Individual's prime number;
  - (f) The dollar amount requested for the Individual; and
  - (g) Any other information requested by ODDS.
- (3) GF Special Project Start-Up funds must be expended according to the request for the funds and in accordance with any required line-item budget submitted by County and approved by ODDS. Expenditures must comply with the allowable costs detailed in 1. c. (4) below.
- (4) GF Special Project Start-up funds:
  - (a) Cannot be used for County or Provider administration or overhead costs.
  - (b) May only be applied to GF Special Projects from qualified Providers, or vendors and contractors, who are licensed, bonded and insured in Oregon in accordance with OAR 812.
- (5) GF Special Project Start-Up allowable costs include:
  - (a) Program and office supplies specific to the approved GF Special Project Start-Up;
  - (b) Initial staff training, including training materials and training fees, for the GF Special Project Start-Up;
  - (c) Supplies of food, and maintenance and housekeeping items needed only for the first 30 calendar days of the GF Special Project Start-Up;
  - (d) Insurance premiums for fire or liability coverage and professional performance bonds for only the first month's coverage for the residential facility;
  - (e) Health and safety professional, contract services necessary for a program, or for support of an Individual living in a residential facility, such as behavior consultation and nursing assessments; and
  - (f) Initial licensing fees.

- (6) Capital outlay costs allowed under GF Special Projects for Start-up may include:
  - (a) Furnishings and equipment appropriate for the type of Service being provided, such as necessary household furnishings and appliances for the residential facility to support the Individual;
  - (b) Office furnishings and equipment proportionate to the size of the program being implemented, or to the number of staff required for the program being implemented, or to both the program size and the number of staff;
  - (c) Environmental modifications, such as wall hardening, locks on cabinets, ramps, bathroom modifications, and technology, necessary to meet the health and safety needs of the Individual, appropriate for the type of Service being provided, and not available to the residential facility through any other resource. All environmental modifications must be performed by a contractor licensed, bonded and insured in Oregon.
- d. Performance Requirements for GF Special Projects for Sex Offender Therapy
  - (1) The sex offender treatment funded by GF Special Projects must be court ordered, ordered as a condition of parole or probation, or an exception authorized in advance of the therapy by ODDS. Individuals under the jurisdiction of the Psychiatric Security Review Board (PSRB) do not qualify for GF Special Project funding for sex offender therapy and County will not use GF Special Project funds for sex offender treatment for these individuals.
  - (2) The initial GF Special Projects request for sex offender treatment must be submitted to ODDS at CAU.Invoice@state.or.us for ODDS approval. The request for treatment must include the following:
    - (a) An agreement to the sex offender therapy by the Individual's support team prior to submission of the request to ODDS. Documentation of this agreement must be submitted with the request.
    - (b) A budget or a quote for the cost of the therapy services. Therapy rates must not exceed the usual and customary rates for the geographic service area in which the Individual receives sex offender treatment.
  - (3) The request for GF Special Projects funds for sex offender therapy treatment must include:
    - (a) The Individual's full name;
    - (b) The Individual's date of birth;
    - (c) The Individual's prime number;
    - (d) The sex offender therapy Provider's name;



- (e) The type of sex offender therapy (individual or group or individual and group therapy);
  - (f) The number of sessions per week by type of therapy requested;
  - (g) The effective and end dates of the requested therapy. The term of the requested therapy cannot exceed the amount of time ordered by the court, or specified by the terms of a probation or parole agreement;
  - (h) The hourly rate for each type of therapy requested;
  - (i) The total amount being requested for the Individual per month; and
  - (j) Information or documentation of funds the Individual receives from any non-Supplemental Security Income (SSI) source. The Individual will be required to contribute toward the cost for sex offender treatment if receiving funds from a non-SSI source.
  - (k) Documentation that the sex offender treatment is court ordered or is required by the terms of the parole or probation agreement. County will make this documentation available to ODDS upon request.
- (4) When GF Special Project funds are used to pay for sex offender treatment, the therapy must be provided by a qualified Provider as determined by the applicable ODDS program rules, such as the rules that apply to Residential Facilities Services, Supported Living Services, and Adult Foster Homes Services; or recognized by a board in Oregon authorized to license or certify professionals, such as Board of Social Workers or Board of Licensed Psychologists.
- (5) Prior to completion of the court ordered sex offender treatment, when requested by County, ODDS will determine whether to modify or continue the sex offender treatment by reviewing the following information provided by the County:
- (a) Is the Individual in Developmental Disability licensed housing;
  - (b) Is the Individual actively participating in the sex offender therapy;
  - (c) Is there a continued need for the Individual to participate in the individual, group or individual and group therapy; and
  - (d) Is the current sex offender therapy resulting in the desired change in the Individual's behavior?

County will submit this information to ODDS at [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) before the end date of the court order, or parole or probation agreement for determination.

- (6) County shall obtain and maintain documentation regarding the Individual and the Individual's sex offender treatment. This documentation shall include but is not limited to:
  - (a) Clinical reports;
  - (b) Agreements to the sex offender treatment from the Individual's support team ; and
  - (c) An itemization of the Individual's treatment costs.
- e. Performance Requirements for Other I/DD Services Funded by GF Special Projects
 

Requests for GF Special Projects that are not for Start-Up or sex offender treatments must be submitted to ODDS at [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) . The written request must include the following information:

  - (1) The Individual's name;
  - (2) The Individual's prime number;
  - (3) The Individual's date of birth;
  - (4) The effective and end dates of the GF Special Project; and
  - (5) A detailed description of the I/DD Services and why this GF Special Project cannot be funded under any other Service Element. The detailed description must also include:
    - (a) The dollar amount requested for the Individual;
    - (b) A budget or an analysis of how the GF Special Project funding will be spent; and
    - (c) Any other information as requested by ODDS.
- f. Any GF Special Project Services requested by the County will not be provided until County receives authorization from ODDS. ODDS will send a written determination of the GF Special Project request by email within 14 calendar days of the date the County's request is received by ODDS.
- g. GF Special Project Reporting Requirements
 

County shall supply all data, documentation, and information required by ODDS relative to the implementation of, or payment for, GF Special Project Services requested by County. ODDS shall identify the time frame for receipt of the ODDS required data, documentation, or information in its requests to County.
- h. GF Special Projects Financial and Billing Procedures
  - (1) All GF Special Projects will be funded through a particular line of a Service Element Prior Authorization (SEPA) in the eXPRS Payment & Reporting System (eXPRS). All GF Special Project funds will be paid based upon receipt of a completed, accurate, and approved, DHS-prescribed form submitted by County to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) .

- (2) GF Special Project Start-Up funds are entered into an accepted SEPA in eXPRS. County must submit the approved line-item budget and a request for payment on a DHS prescribed form to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us). ODDS will not authorize a payment to County for the GF Special Project Start-Up funds until a completed and accurate form is received by ODDS. Upon receipt and approval by ODDS of the form, ODDS will create a Provider Prior Authorization (PPA) in eXPRS. The PPA will allow the release of funds to County. County will issue payment to the Provider of the GF Special Project Start-Up Service.
- (3) Upon completion of a GF Special Project Start-up project County will submit an expenditure report on a DHS prescribed form, with receipts for all expenditures for the GF Special Project Start-up project attached. The expenditure report is due 45 calendar days after the completion date of the GF Special Project Start-up project and is to be submitted to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us).
- (4) Any unused GF Special Project Start-up funds must be returned to DHS. Provider shall return to County all unused GF Special Project Start-up funds paid to Provider by County. County shall return to ODDS all unused GF Special Project Start-up funds released to County by ODDS. All unused GF Special Project Start-up funds must be returned to DHS no later than 45 calendar days after the close of the biennium in which the funds were released to County.
- (5) GF Special Projects for sex offender treatment must be approved in advance by ODDS, accepted in a SEPA in eXPRS, and Services must be provided before ODDS will release GF Special Project funding. Provider of the GF Special Project sex offender treatment shall submit a monthly invoice to County. County shall review the monthly Provider invoice for accuracy and to ensure the Services, rates and service dates were authorized by ODDS. County will submit the Provider invoice and a contractor invoice in the form prescribed by DHS to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us). Invoices for sex offender treatment must be submitted by County within 45 calendar days from the end of the service month. ODDS will release payment to County upon receipt of a complete and accurate invoice by creating a PPA in eXPRS. ODDS shall release payments to County on or around the 1<sup>st</sup> and 15<sup>th</sup> of each month. County will pay the released funds to the Provider of the GF Special Project sex offender treatment Services. ODDS will not pay any invoices for GF Special Project sex offender treatment Services that are received after 45 calendar days from the end of the service month or for GF Special Project sex offender treatment Services that are not authorized by ODDS.
- (6) GF Special Projects funding for other I/DD Services must be authorized in advance by ODDS, accepted in a SEPA in eXPRS, and the GF Special Project Services must be provided before ODDS will release funding. Payment for other I/DD Services funded by GF Special Projects funding will be paid directly to County by ODDS. County will submit a monthly

contractor invoice on a form prescribed by DHS to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) for processing. Upon receipt of fully completed and accurate contractor invoice from County, ODDS will release the payment by creating a PPA in eXPRS. Payments are released to the County on or around the 1<sup>st</sup> and 15<sup>th</sup> of each month. County shall pay the Provider of the IDD Services from the GF Special Project funds. County invoices will be submitted within 45 calendar days from end of the service month. ODDS will not pay any invoices for I/DD Services under GF Special Project funds that are received after 45 calendar days from the end of the service month.

**2. K-Plan Special Projects.**

**a. K-Plan Special Projects Overview**

K-Plan Special Projects are one-time-only or time-limited I/DD Services for Individuals receiving DD 50 Residential Facility Services, DD 51 Supported Living Services, or DD 58 Adult Foster Home Services. K-Plan Special Projects include the following:

- (1) Assistive devices;
- (2) Assistive technology for Individuals receiving Supported Living Services only;
- (3) Community nursing services for Individuals in Supported Living and Adult Foster Home care only;
- (4) Emergency response systems for Individuals receiving Supported Living Services only;
- (5) Environmental modifications; and
- (6) Home delivered meals for Individuals receiving Supported Living Services only.

Detailed information about these Services is located in the CDDP Comprehensive In-Home Expenditure Guidelines (CDDP Expenditure Guidelines) at <http://www.oregon.gov/dhs/DD/adults/compserv-exp-guide.pdf>.

**b. General Performance Requirements for K-Plan Special Projects**

- (1) Individuals receiving K-Plan Special Project Services must be eligible for I/DD Services under OAR Chapter 411, Division 320.
- (2) Requests to fund K-Plan Special Project Services must be approved in advance by County, if \$500.00 or less, or by ODDS, if over \$500.00, and must follow the CDDP Expenditure Guidelines.
- (3) County requests for K-Plan Special Project funding that require ODDS approval must be submitted to [ODDS.FundingReview@state.or.us](mailto:ODDS.FundingReview@state.or.us) with a detailed description of the K-Plan Special Project.

**c. Special Reporting Requirements for K-Plan Special Projects**

County shall supply all data, supporting justification, and information required by ODDS relative to the implementation of, or payment for, the K-Plan Special Projects requested by County. ODDS shall identify the time frame for receipt of the data, supporting justification, or information required by ODDS in its requests to County.

**d. K-Plan Special Projects Financial and Billing Procedures**

- (1) All required K-Plan Special Projects will be funded through an accepted SEPA in eXPRS and the K-Plan Special Project Services must be provided before ODDS will release the K-Plan Special Projects funding.
- (2) Provider of the K-Plan Special Project Services shall submit a monthly invoice to County. County shall review the monthly Provider invoice for accuracy and to ensure the K-Plan Special Projects Services, rates and Service dates were authorized by County if \$500.00 or less and by ODDS if over \$500.00.
- (3) County will submit the Provider invoice and an invoice on a form prescribed by DHS to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) . Invoices for K-Plan Special Projects must be submitted by County within 90 calendar days from the date of service.
- (4) ODDS will release payment to County upon receipt of a complete and accurate invoice by creating a PPA in eXPRS. ODDS shall release payments to County on or around the 1<sup>st</sup> and 15<sup>th</sup> of each month. County shall pay the released funds to the Provider of the K-Plan Special Project Service. ODDS will not pay any invoices for K-Plan Special Project Services not authorized in advance by ODDS if over \$500.00; or not authorized in advance by County if \$500.00 or less.

**3. Settlement for All DD 57 Special Projects.**

Settlement will be used to confirm and reconcile any discrepancies that may have occurred between actual DHS disbursements of funding awarded for DD 57 Special Projects through a SEPA and the amount of authorized and allowable DD 57 Services actually delivered and invoiced in accordance with these DD 57 Standards and Procedures.

**4. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 58 Adult Foster Home Services Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Adult Foster Homes  
**Service ID Code:** DD 58 Adults

### 1. Overview.

DD 58 Adult Foster Home Services governs the delivery of residential care and services to Individuals who are 18 years or older with an Intellectual or Developmental Disability (I/DD) in adult foster homes. DD 58 Adult Foster Home Services include 24-hour supervision, room and board, and assistance with the activities of daily living, instrumental activities of daily living and other activities, including recreation, socialization and access to services which help the Individuals develop appropriate skills to increase or maintain their level of functioning in accordance with each Individual's person-centered plan.

### 2. Standards and Procedures.

#### a. Service Authorization

DD58 Adult Foster Home Services must be authorized in advance by County in which the Individual is enrolled and is receiving DD 48 Case Management Services. This authorization must be obtained and documented according to the applicable DHS policies and procedures.

Prior to authorization of DD 58 Adult Foster Home Services, County shall ensure that each Individual receiving DD 58 Adult Foster Home Services funded by DHS is eligible for Developmental Disability Services, with eligibility determined in accordance with OAR Chapter 411, Division 320, as such rules may be revised from time to time.

#### b. Special Reporting Requirements

- (1) For purposes of Medicaid compliance, DHS must be notified when payment has been authorized for DD 58 Adult Foster Home Services. County will notify DHS using forms and procedures designated by DHS.
- (2) County shall submit to DHS Information Technology Business Support Unit/Technical Assistance Unit (ITBSU/TAU) a completed DD Eligibility/Enrollment/Update Form (DHS0337) within 45 calendar days of the DD 58 Adult Foster Home Services delivery date.
- (3) Prior to the implementation of eXPRS for DD 58 Adult Foster Home Services, all Individuals receiving DD 58 Adult Foster Home Services shall be enrolled in the community based care system and, at minimum, in DD 48 Case Management Services in the eXPRS Payment System.
- (4) Upon implementation of eXPRS for DD 58 Adult Foster Home Services, CDDP will submit a Client Prior Authorization (CPA) for the specific

Individual for DD 58 Services the CDDP authorized at the DHS approved rate for a specified period of time. CDDP shall not request payment for DD 58 Services provided prior to the submission of the CPA.

c. Billing and Payment Procedures

- (1) DHS provides funding for DD 58 Adult Foster Home Services solely through DHS funds. DD 58 Adult Foster Home Services funding is disbursed by DHS directly to Providers of DD 58 Adult Foster Home Services at the monthly rates authorized by CDDP for the Providers. All payment rates for DD 58 Adult Foster Home Services authorized by CDDP must meet the following requirements:
  - (a) Monthly payment rates for Individuals receiving DD 58 Adult Foster Home Services will be established through an assessment process approved by DHS and are calculated on the basis of the Individual's residential care and service needs, the Foster Care Support Needs Assessment Profile, or the current approved Functional Needs Assessment tool.
  - (b) Behavior consultation services may only be included in the DD 58 Adult Foster Home Services monthly rates for a total of 90 calendar days per Individual unless the Individual has a support needs assessment that requires regular oversight or revision of the behavior consultation services. The Provider of DD58 Adult Foster Home Services shall maintain a separate accounting of the funds for behavior consultation services, and County shall monitor the separate accounting in accordance with DHS monitoring guidelines. Behavior Consultation service funding may only be included in the DD 58 monthly rates during the period prior to implementation of DD58 in eXPRS, unless otherwise authorized in writing by DHS. County shall not authorize payments for DD 58 Adult Foster Home Services funded by DHS in excess of the DD Adult Foster Home established monthly rate for an Individual. DD 58 Adult Foster Home Services monthly rates are individualized and are not transferable to another eligible Individual.
- (2) The monthly rate for DD 58 Adult Foster Home Services for an Individual will be prorated for any month in which DD Adult Foster Home Services are not provided to the Individual for a portion of the month.
- (3) Providers of DD50 Services must comply with 42 CFR § 441.530 that identifies the standards of Home and Community Based Services (HCBS) settings, and with Oregon's HCBS global transition plan and Oregon Administrative Rules regarding HCBS.

- (4) Payments from DHS to the Provider for DD 58 Adult Foster Home Services will be reduced or offset by the amount paid directly to the Provider from the Individual's resources for support of residential care and services. Provider shall be responsible for the billing and collection of the offset amount.
- (5) Payment for DD 58 Adult Foster Home Services to the Provider will be made by DHS through the eXPRS Payment and Reporting System after County submits a DD Eligibility/Enrollment/Update form (DHS0337). DHS0337 is the source document for all DD 58 Adult Foster Home Service and rate authorizations, and it must be completed by County in conformance with instructions from DHS.
- (6) County shall submit a new DHS0337 with the budget summary pages from the Individual's most current DD Foster Care Support Needs Assessment Profile (SNAP), or the current DHS approved Functional Needs Assessment tool, to generate payment for DD 58 Adult Foster Home Services to the Provider.
- (7) County shall submit a new or updated DHS0337 form as soon as possible when changes to the DD 58 Adult Foster Home Services or monthly rate occur. When an Individual is absent from the AFH-DD, the DHS0337 authorizes payment for the absence.
- (8) If the Individual is out of the AFH-DD due to time spent in another institutional setting, incarceration, or nursing facility or is otherwise determined ineligible for the funding, then payment for DD 58 Adult Foster Home Services will be made by DHS through the eXPRS Payment and Reporting System directly to the County. Payment will be monthly at the beginning of the month after DHS has approved a Service Element Prior Authorization (SEPA), County has accepted it, and DHS has completed a Provider Prior Authorization (PPA).
- (9) For purposes of the Adult Foster Home agreement between DHS and the Provider, an Individual is deemed to have received DD 58 Adult Foster Home Services, and DHS will allow payment to the Provider, when the Individual is residing at the AFH-DD where overnight care is provided, and one of the following conditions is met:
  - (a) The Individual had been receiving DD 58 Adult Foster Home Services at the AFH-DD immediately prior to an absence and the Individual is absent for not more than five consecutive days, as a result of incarceration or an absence unreported to Provider, and it has not been determined by Provider and County that the Individual will not be returning to the AFH-DD; or
  - (b) The Individual had been receiving DD 58 Adult Foster Home Services at the AFH-DD immediately prior to the absence and the Individual is absent for not more than 14 consecutive days, not to exceed 21 calendar days, in any consecutive 12 month period, as a



result of being on vacation, a family visit, or in relief care, and it has not been determined by Provider and County that the Individual will not be returning to the AFH-DD; or

- (c) The Individual had been receiving DD 58 Adult Foster Home Services at the AFH-DD immediately prior to the absence and the Individual is absent for not more than 21 consecutive days, as a result of being on convalescent leave or admittance to either a medical hospital, a psychiatric hospital, or a DHS Stabilization and Crisis Unit, and it has not been determined by Provider and County that the Individual will not be returning to the AFH-DD.

**3. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 58 Child Foster Home Services Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Child Foster Homes  
**Service ID Code:** DD 58 Children

### 1. Overview.

Developmental Disability Child Foster Home (DD 58) Services governs the delivery of residential care and services in child foster homes to Children who are less than 18 years of age with intellectual or developmental disabilities (I/DD); or individuals 18 to 21 who remain in the same Child Foster Home under an approved variance. The purpose of DD 58 Services is to provide 24-hour supervision, room and board, and structure and daily activities designed to promote the physical, social, intellectual, cultural, spiritual, and emotional development of the Child.

### 2. Standards and Procedures.

#### a. Service Authorization

DD 58 Services must be authorized in advance by the Community Developmental Disabilities Program (CDDP) providing DD 48 Case Management Services to the Child. This authorization must be obtained and documented according to Department of Human Services (DHS) policies and procedures.

Prior to authorization of DD 58 Services, the CDDP must ensure all Children receiving DD 58 Services are eligible for Developmental Disability Services; eligibility must be determined in accordance with OAR Chapter 411, Division 320, as such rules may be revised periodically.

#### b. Special Reporting Requirements

- (1) For purposes of Medicaid compliance, the CDDP must notify DHS using forms and procedures designated by DHS when payment has been authorized for DD 58 Services.
- (2) Prior to implementation of Client Prior Authorizations (CPAs) in eXPRS, for DD58 Services, the CDDP must submit to DHS Information Technology Business Support Unit/Technical Assistance Unit (ITBSU/TAU) a completed DD Eligibility/Enrollment/Update form (DHS0337) within 45 calendar days of the DD 58 Service delivery date. Upon implementation of DD58 CPAs in eXPRS, the CDDP must submit a CPA for the specific Individual for DD 58 Services the CDDP authorized at the assessed rate for a specified period of time. County shall not request payment for DD 58 Services provided prior to the submission of the CPA.
- (3) All Children receiving DD 58 Services must be enrolled in the community based care system and, at a minimum, in DD 48 Case Management Services in the eXPRS Payment System.

c. Billing and Payment Procedures

- (1) DHS provides funding for DD 58 Services solely through DHS funds. Child Foster Home funding is disbursed by DHS directly to DD 58 Service Providers based on monthly service rates authorized by the CDDP. All monthly service rates for DD 58 Services authorized by the CDDP must meet the following requirements:
  - (a) Monthly service rates for Children receiving DD 58 Services are based on the child's assessed residential care and service needs and must be established using the current DHS-approved Functional Needs Assessment (FNA) tool.
  - (b) Prior to the implementation of DD 58 CPAs in eXPRS, behavior consultation services may only be included in the DD 58 Services monthly service rates for a maximum of 90 calendar days per Child unless an exception is granted by ODDS. The Provider of DD58 Services must maintain a separate accounting of the funds for behavior consultation services, and the CDDP must monitor the separate accounting in accordance with DHS monitoring guidelines. Unused behavior consultation service funds must be recouped in accordance with DHS policy. Upon implementation of DD58 CPAs in eXPRS, behavior consultation may not be included in the DD 58 monthly service rates.
- (2) Providers of DD 58 Services must comply with 42 CFR § 441.530 that identifies the standards of Home and Community Based Services (HCBS) settings, and with Oregon's HCBS global transition plan and Oregon Administrative Rules regarding HCBS.
- (3) The CDDP shall not authorize payments for DD 58 Services in excess of the monthly service rate established by the current DHS-approved FNA tool for the Child. Monthly service rates are individualized and are not transferable to another eligible Child.
- (4) The monthly service rate for DD 58 Services for a Child will be prorated for any month in which DD 58 Services are provided to the Child for a portion of the month rather than the full month
- (5) Payment to the Provider for the provision of DD 58 Services will be made by DHS through the eXPRS Payment and Reporting System.
  - (a) Prior to implementation of DD58 CPAs in eXPRS, the CDDP must submit a DD Eligibility/Enrollment/Update form (DHS0337) with a copy of the Child's most current FNA tool to initiate payment or changes in payment. The CDDP must complete all applicable sections, including the Foster Care section, of the DHS0337 in conformance with instructions from DHS for payment to be made.
  - (b) Upon implementation of DD58 CPAs in eXPRS, the CDDP must submit a Client Prior Authorization (CPA) for the specific Child for DD 58 Services the CDDP authorized at the assessed rate for a

specified period of time. A copy of the Child's most current FNA tool must be submitted to the ODDS FAC.

- (6) Prior to implementation of the DD58 CPAs in eXPRS, the CDDP must submit a new or updated DHS0337 as soon as possible when changes to the DD 58 Services or monthly service rate occur. Upon implementation of DD 58 CPAs in eXPRS, the CDDP must changes to DD 58 Services or monthly rates by editing the DD 58 CPA or submitting a new must be
- (7) When a Child is absent from the CFH, the DHS0337 authorizes or suspends payment during the absence depending on the reason for and duration of the absence as described in (8) (b) below. Payment of the service rate during periods of absence is contingent on the availability of funding.
- (8) For purposes of the Foster Home Medicaid Provider Enrollment Agreement between DHS and the Provider, a Child shall be deemed to have received DD 58 Services , and DHS will allow payment to the Provider, when:
  - (a) The Child is residing and receiving overnight care at the CFH; or.
  - (b) If funding is approved by the legislature to allow for payment during specific absences for the purpose of maintaining the Child's placement, then a Child will be deemed to have received DD 58 Services and DHS will allow payment to the Provider when the Child was temporarily absent from the CFH under one of the following conditions:
    - i. Absence was a result of juvenile detention or unapproved leave; immediately prior to the absence, the Child had been receiving DD 58 Services at the Provider's CFH as described in (8)(a) above; the absence did not exceed five consecutive days (excluding weekends and holidays) ; and it was determined by Provider and CDDP that the Child would return.to that same CFH after the period of absence
    - ii. Absence was a result of the Child being on vacation, a family visit, or in relief care; immediately prior to the absence, the Child had been receiving DD Services at the Provider's CFH as described in (8) (a) above; absence was not greater than 14 consecutive days and did not exceed 21 calendar days in a consecutive 12 month period; and it was determined by Provider and CDDP that the Child would return to that same CFH after the period of absence.
    - iii. Absence was the result of being admitted to a medical hospital, psychiatric hospital, or DHS Stabilization and Crisis Unit; immediately prior to the absence, the Child had been receiving DD 58 Services at the Provider's CFH as described in (8) (a) above; absence did not exceed 21

consecutive days; and it was determined by Provider and CDDP that the Child would return to that same CFH after the period of absence..

- (9) If the Child is out of the CFH due to time spent in another institutional setting, incarceration, or nursing facility or is otherwise determined ineligible for the funding, then payment for DD 58 Child Foster Home Services will be made by DHS through the eXPRS Payment and Reporting System directly to the County. Payment will be monthly at the beginning of the month after DHS has approved a Service Element Prior Authorization (SEPA), County has accepted it, and DHS has completed a Provider Prior Authorization (PPA).

**3. CFDA Number(s).**

In accordance with the State Controller’s Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure “Contractual Governance”, DHS’ determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 142 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Children's Residential Facilities  
**Service ID Code:** DD 142

### 1. Overview.

Children's Residential Facilities Services (DD 142 Services) are care, training, and support services, primarily delivered in neighborhood homes, to individuals less than 18 years of age (each a Child) with Developmental Disabilities who require 24-hour care, supervision, and training in an environment other than the Child's family home or foster care.

### 2. Standards and Procedures.

#### a. Service Authorization

All DD142 Services must be approved in advance by the Department of Human Services (DHS) Office of Developmental Disability Services (ODDS).

#### b. Standards of Placements

- (1) Provider must provide those DD 142 Services in facilities licensed under the following Oregon Administrative Rules (OAR), as such rules may be revised from time to time:
  - (a) OAR Chapter 411, Division 325 - 24 Hour Residential Services for Children and Adults with Developmental Disabilities;
  - (b) OAR Chapter 413, Division 215 - Private Child Caring Agencies (DHS Child Welfare Programs); or
  - (c) OAR Chapter 416, Division 530 - Youth Offender Foster Care Certification (Oregon Youth Authority).
- (2) Provider must comply with the OARs under which they are licensed.
- (3) County shall ensure all Children receiving DD 142 Services funded by DHS are eligible for DD Services, with eligibility determined in accordance with OAR Chapter 411, Division 320, as such rules may be revised from time to time.
- (4) All Children referred for DD142 Services must have a Social Security card, a certified copy of his/her birth certificate, and, if applicable, a legal adoption certificate or proof of US citizenship and current Oregon residence.
- (5) All Children receiving DD 142 Services funded by DHS through a Provider Enrollment Agreement (PEA) between the DD 142 Service Provider and DHS must be eligible for Oregon Health Plan Plus (OHP

Plus) or Oregon Supplemental Income Program-Medical (OSIPM), and must meet Level of Care eligibility.

c. Standards for Facilities

At any facility in which DD 142 Services are delivered, regardless of the facility's licensing, Provider will:

- (1) Maintain at the facility, at a minimum, one direct care staff that is awake at any time a Child receiving DD 142 Services is present at the facility. Provider must maintain staffing levels appropriate to the number of Children served as required by OAR 411-325-0170 Staffing Requirements and as stated in the Provider's contract.
- (2) Furnish each Child receiving DD 142 Services with a separate sleeping room that meets the requirements specified in OAR Chapter 411, Division 325, regardless of the OARs under which the Provider is licensed.
- (3) Comply with the following requirements for any residential facility licensed under OAR Chapter 411, Division 325 (24 Hour Residential Services for Children and Adults with Developmental Disabilities):
  - (a) Vacancy Reserve Fund. The Board of Directors (or other governing authority of the residential facility, as applicable) of a Provider of DD 142 Services funded by DHS will define, establish, and maintain a "Vacancy Reserve" fund in a dollar amount sufficient to ensure that the Provider can continue to provide Services that meet applicable statutory, administrative rule, and contract requirements when payments to Provider are reduced due to vacancies. The Board or governing authority will implement a plan to replenish the Vacancy Reserve fund in a timely manner when the Vacancy Reserve fund falls below the level established by the Provider's Board or governing authority. Each Provider subject to the Vacancy Reserve fund requirement will include a line item on its routine financial statements that documents the status of its Vacancy Reserve fund. These financial statements must be made available to DHS or its designee upon request by DHS.
  - (b) Gender Specific Services. Provider will provide DD 142 Services that comprehensively address the unique needs, strengths and risk factors of each gender and foster positive gender identity development.
  - (c) Individual Support Plan (ISP) Implementation and Documentation. All Children receiving DD 142 Services must have an ISP, and the ISP must address the gender specific needs of the Child.

Provider will maintain documentation, as prescribed by DHS, of each support, activity, and service noted in the ISP; will train and educate Provider's staff on the content and implementation of the ISP; and will implement the ISP as written.

- (4) Comply with the following when providing DD142 Services to Children under the jurisdiction of the Juvenile Psychiatric Security Review Board (JPSRB):
  - (a) Provider will coordinate all JPSRB placements and transfers with the designated DHS Residential Specialist.
  - (b) Provider will assure, through policy, employee training, and Individual Support Plans, that all communication to the JPSRB, its panel members or employees, regarding Children receiving DD 142 Services, are coordinated with the DHS staff designated for such communication and reporting. Providers of DD142 Services and their staff will communicate to the JPSRB regarding Children under its care within the scope approved by designated DHS staff.
  - (c) Provider will not terminate DD 142 Services for Children under the jurisdiction of JPSRB during the term of the Provider's contract with DHS. This requirement does not prohibit Providers from giving notice to the DHS' Residential Specialist to terminate all DD142 Services per OAR and the provisions of Provider's contract.

**d. Standards for Health, Medical and Behavioral Supports**

**(1) Medication Management.**

- (a) Provider must not administer psychotropic medications on an as needed or pro re nata (PRN) basis to Children. PRN psychotropic medications are prohibited.
- (b) A physician's, or licensed health care providers, written and signed order is required prior to the administration by the Provider of prescription medications and non-prescription medications except over-the-counter topical agents.
- (c) Provider must administer medications as ordered by a physician or other licensed health care provider.
- (d) Provider must record all medications for a Child on an individualized medication administration record for that Child. The medication administration record must be signed and dated for each administration of medication by Provider.
- (e) Provider's medication administration records must be available for review upon request by the DHS Residential Specialist.

**(2) Behavioral Support.**

- (a) Individualized, positive behavioral support strategies are required for Children with Developmental Disabilities receiving DD 142 Services.
- (b) Provider must include the Child's behavioral support strategies in the Child's ISP.



- (c) Provider's staff must be trained in the delivery and implementation of the behavioral support strategies.
  - (d) Provider is prohibited from using punishment, including threats and aversive stimuli, and physical discipline.
  - (e) Provider may use physical interventions and restraints when the specific techniques are part of a nationally accepted standard of practice and when included in the Child's approved ISP or behavioral support plan.
  - (f) Provider's staff must be trained in the use of physical intervention and restraint techniques described in (e).
  - (g) Use of seclusion rooms by Provider is specifically prohibited unless:
    - i. The seclusion is part of a specific mental health treatment intervention for the Child.
    - ii. The seclusion is not connected to a threat of punishment or punishment of the Child.
    - iii. The use of seclusion is included in the Child's ISP.
    - iv. The Child resides in a mental health residential treatment facility, as defined in OAR 309-035-0105 (42).
- (3) Children's Personal Property.
- (a) Provider must prepare and maintain an accurate written record of each Child's personal property that has significant or monetary value to the Child as determined by a documented ISP team or guardian decision. The personal property record must include:
    - i. The description and identifying number, if any, of the personal property;
    - ii. The date the personal property was included in the record;
    - iii. The date and reason the personal property was removed from the record;
    - iv. The signature of staff making each entry in the personal property record; and
    - v. An annual review (signed and dated by Provider) for accuracy and completeness of the personal property record.
  - (b) Provider will ensure that each Child has a process to safeguard and track the use of his/her funds, including the Supplemental Security Income (SSI) equivalent for room, board and personal funds and other gifted or earned funds.
  - (c) Provider will maintain a separate financial record for each Child. The Child's financial record must include:

- i. Documentation that the Child received any or all of the following payments or funds:
    - the monthly DHS payment for the SSI equivalent for room and board;
    - the monthly personal, gifted or earned funds or the SSI equivalent; and
    - other funds from gifts or earnings.
  - ii. A personal funds disbursement log with corresponding receipts and dates for spending by or on behalf of the Child. Receipts must be kept for each item or activity expense of the Child.
  - iii. An entry by the Provider in the Child's personal funds disbursement log to record the purpose of a disbursement, the date of the entry, and the signature of the Provider's staff.
  - iv. The approved spending plan and the amount of funds the Child may carry on their person according to the Child's ISP. The Child's spending plan must be approved by the DHS Residential Specialist and the Child's guardian.
- (d) Provider must transfer a Child's personal funds with the Child if a Child transfers to another Provider or returns to the family home.
  - (e) Provider must reimburse a Child any funds that are missing due to theft or mismanagement on the part of Provider's staff; or any funds within the custody of the Provider that are missing. Reimbursement to the Child must be made within ten working days of the date the missing funds are verified.

(4) Availability of Information.

All information or documents related to the provision of DD 142 Services, the service locations or premises, and the Child's records must be made available to DHS upon request. The information, documents, Child's records and service locations for DD 142 Services are subject to review and in person monitoring by the DHS Residential Specialist.

e. Special Reporting Requirements

- (1) For purposes of Medicaid compliance, DHS must be notified when an eXPRS Disbursement Claim is submitted with a Modifier Code due to an absence of a Child receiving DD 142 Services. Provider of the DD 142 Services must notify ODDS using forms and procedures designated by DHS.
- (2) If Provider provides DD 142 Services at a facility licensed under OAR Chapter 413, Division 215 Private Child Caring Agencies (DHS Child Welfare Programs), or OAR 416-530-0000 to 416-530-0090 Youth

Offender Foster Care Certification (Oregon Youth Authority), Provider shall submit documentation of support, activities and services provided under the Individual Support Plan to DHS' designee upon request.

- (3) Incident Reports and Emergency Notifications. Provider shall submit a written report of any injury, accident, act of physical aggression, or unusual incident involving a Child (Incident Report, as defined in OAR 411-325-0020 (41)), to the DHS Residential Specialist, County Service Coordinator, and the Child's legal guardian within five business days of the date of the incident. Copies of Incident Reports provided to legal guardians must have any personal or confidential information about other Individuals removed or redacted as required by federal and state privacy laws.
- (4) Unusual Incidents, as defined in OAR 411-325-0020 (77), require immediate notification by the Provider to the DHS Residential Specialist and the CDDP Services Coordinator. Provider will not provide copies of Unusual Incident reports to the Child's legal guardian when the report is part of an abuse investigation, unless the guardian is a State agency.
- (5) Allegations of abuse or neglect and abuse investigations require immediate notification to the DHS Residential Specialist by the Provider. When an abuse investigation has been initiated, the DHS Residential Specialist will ensure that either the CDDP Services Coordinator or ODDS is notified. The DHS Residential Specialist will also immediately notify the Child's legal guardian of the allegation unless notification is prohibited by law.

f. Billing and Payment Procedures

- (1) Calculation of Service Payments. DHS will provide payment for DD 142 Services, per the DHS authorized Client Prior Authorization (CPA), for a specific Child, for a specified period of time, subject to the following:
  - (a) Payment for a partial month of DD 142 Service will be prorated.
  - (b) DHS will not authorize payment for DD 142 Service that exceeds the amount in the authorized CPA or are outside the effective dates of the CPA.
- (2) DHS will allow payment for certain absences if the Child receiving DD 142 Services is residing at the Provider's facility and the Services are provided for the full 24 hours immediately prior to the absence, and:
  - (a) The Child is absent for not more than five consecutive days, as a result of incarceration or absence unreported to the Provider, and it has not been determined by Provider and County that the Child will not be returning to the Provider's DD 142 Services facility; or
  - (b) The Child is absent for not more than 14 consecutive days, not to exceed 21 calendar days in any consecutive 12 month period, as a result of being on vacation or family visits, and it has not been

determined by Provider and County that the Child will not be returning to the Provider's DD 142 Services facility; or

(c) The Child is absent for not more than 21 consecutive days, as a result of being on convalescent leave, or admittance to either a medical hospital, a psychiatric hospital, or a DHS Stabilization and Crisis Unit, and it has not been determined by Provider and County that the Child will not be returning to the Provider's facility. If the Child returns to the same Provider placement within 90 calendar days, DHS may authorize up to an additional 15 days of payment, not to exceed 60 days in the aggregate.

(3) DHS is not obligated to provide payment for a unit of DD 142 Service, if a Disbursement Claim for that unit is not received by DHS by the date that is 60 calendar days after the earlier of:

(a) Termination of the contract or agreement with DHS, or

(b) Termination of DHS' obligation to provide payment for DD 142 Services.

**3. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD150 Standards and Procedures

**Effective Date:** October 1, 2017  
**Program Name:** Family Support Services for Children  
**Service ID Code:** DD 150

### 1. Overview.

Family Support Services for Children (DD150) are available for individuals under 18 years of age (Children) who reside in the family home, are determined eligible for developmental disabilities services by the Community Developmental Disabilities Programs (CDDP) and enrolled into case management services, and not receiving other ODDS-funded services. Family Support services are intended to:

- a. Maximize independence and increase the ability of a child to engage in a life that is fully integrated into the community;
- b. Increase the ability of a family to care for their child in the family home;
- c. Strengthen the role of the family as the primary caregiver.

### 2. Standards and Procedures.

#### a. Program Administration and Operation

The CDDP must ensure the provision of Family Support services are according to the program management and responsibilities as described in OAR Chapter 411, Division 320. Family Support Policy Oversight Group may be utilized as described in OAR Chapter 411, Division 305. The CDDP may also coordinate with other agencies and community partners to develop and manage additional resources in accordance with OAR 411-320-0040.

#### b. Billing and Payment Procedures

- (1) County shall draft a Plan of Care (POC) Service authorization within eXPRS upon completion of the Annual Plan or Individual Support Plan (ISP);
- (2) County shall add a POC Service authorization line for each Service authorized by the County and agreed to by the Child (as age appropriate) or his/her parent or legal representative;
- (3) County shall add the Provider authorization lines in the Child's POC, once the Child or his/her delegate has chosen the Service Provider;
- (4) Upon completion of all DHS required documentation and processes the County shall move each service authorization line to accepted status;
- (5) County shall enter Claims for Provider's submitted hard copy billings, upon receipt of Provider's time sheet, invoice or other County required documentation; and

- (6) County shall electronically approve Provider's disbursement Claims for DD 150 Services delivered,

**3. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 151 Standards and Procedures

**Effective Date:** July 1, 2017  
**Program Name:** Community Living Supports and Developmental Disabilities  
**Service ID Code:** DD 151

### 1. Overview.

Community Living Supports and Developmental Disabilities Ancillary Services are program services (DD151) available for individuals under 18 years of age (Children) who reside in the family home, are determined eligible for developmental disabilities services and enrolled into case management under the Community Developmental Disabilities Programs (CDDP), and not receiving Family Support Services for Children (DD150). Community Living Supports and Ancillary Services are intended to:

- a. Maximize independence and increase the ability of a child to engage in a life that is fully integrated into the community;
- b. Increase the ability of a family to care for their child in the family home; and
- c. Strengthen the role of the family as the primary caregiver.

### 2. Billing and Payment Procedures

- a. County shall draft a Plan of Care (POC) Service authorization within eXPRS upon completion of the Individual's ISP;
- b. County shall add a POC service plan line for each Service authorized by County and agreed to by the Individual's guardian or representative consistent with the published expenditure guidelines and within the timeframes identified in rule.
- c. Once the Individual's guardian or his/her delegate has chosen the service Provider, County shall add the service prior authorization lines in the Individuals POC;
- d. Until such time as DHS implements time capture tools, County must review and approve or reject the PSW time sheet, progress note, and mileage log, County shall review, and approve or reject PSW submitted Services Delivered billing entries accordingly.

### 3. CFDA Number(s).

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

## Service Element DD 156 Standards and Procedures

**Effective Date:** October 1, 2017  
**Service Name:** Room & Board General Fund  
**Service ID Code:** DD 156

### 1. Overview.

Room & Board (R&B) General Fund Services (DD 156 Services) are funds for assistance with room and board, personal incidental items, and, when authorized by ODDS, necessary allowable medical expenditures, for Individuals 18 or older with Intellectual or Developmental Disabilities (I/DD), who are currently not Medicaid eligible due to the Individual being undocumented, but who are working towards United States citizenship.

### 2. Standards and Procedures.

#### a. Service Authorization

- (1) All Individuals receiving DD 156 Services must be eligible for I/DD Services with eligibility determined in accordance with OAR Chapter 411 Division 320, as such rules may be revised from time to time.
- (2) All Individuals receiving DD 156 Services must concurrently be receiving DD 50 Residential Facilities Services or DD 58 Adult Foster Home Services.
- (3) DD 156 Services must be approved in advance by the Department of Human Services (DHS), Office of Developmental Disability Services (ODDS). County must submit a request for DD 156 Services to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) with all DHS required information and documentation, including but not limited to:
  - (a) Individual's name;
  - (b) Individual's prime number;
  - (c) Effective date of requested DD 156 Services;
  - (d) Amount of monthly funds requested;
  - (e) Information regarding Individual's citizenship status;
  - (f) Steps Individual has taken to date in obtaining citizenship;
  - (g) Steps to be taken by the Individual to obtain citizenship during the time frame requested for DD 156 Services;
  - (h) A copy of the Individual's most current Individual Support Plan (ISP), if funding for medical expenditures is requested; and
  - (i) A methodology for calculating the funds for medical expenditures, if applicable.



- (4) County must submit the required documentation and the request for DD 156 Services in a timely manner in order for the Services to be approved by DHS and funds to be available prior to the start of the DD 156 Services for the Individual. DHS will not approve retroactive requests for DD 156 Services.
- (5) County must submit documentation that the Individual has been denied Citizen Alien Waived Emergent Medical (CAWEM) and Oregon Health Plan (OHP) insurance coverage with the request for DD 156 Services. A copy of both denials must be submitted with the request for DD 156 Services to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us), if the request is for medical expenditure funding.
- (6) An Individual cannot receive DD 156 medical expenditure funding if the Individual is receiving OHP or CAWEM benefits unless the ISP team determines that the Individual's medical needs exceed what is covered CAWEM benefits. County may request an exception for the Individual to receive DD 156 Services under these circumstances from DHS by submitting the request to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us).
- (7) DHS determines the length of time for the DD 156 Services for an Individual, and DHS may approve new or renewal requests for DD 156 Services for up to twelve consecutive months.
- (8) County must submit a request to renew DD 156 Services to DHS 30 calendar days prior to the end of the current DHS approved time period. The request to renew DD 156 Services for an Individual must include, but is not limited to:
  - (a) Updated information about the status of the Individual's citizenship;
  - (b) Steps the Individual has taken towards citizenship since the last update;
  - (c) Steps to be taken by the Individual to obtain citizenship during the requested timeframe for renewed DD 156 Services; and
  - (d) Updated documentation on CAWEM and OHP eligibility.
- (9) County shall send the request to renew DD 156 Services to DHS at [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us). DHS may request additional information from County in order to make a determination whether to fund the renewal of DD 156 Services. If the additional information is not received from County in the time requested by DHS, the request to renew the DD 156 Services may be denied.

**b. General Performance Requirements**

- (1) The funds awarded for DD 156 Services for R&B and personal incidentals are equivalent to the anticipated Federal Supplemental Security Income (SSI) as defined in Code of Federal Regulations (CFR) Part 416.101 – 416.121, 416.401 – 416.435 and 416.501 - 416.665, and the Oregon

Supplemental Income Program (OSIP) Manual under “Room and Board and Personal Needs Standards”. Monthly rates are subject to change to reflect federal cost-of-living or other DHS approved adjustments. These monthly rate changes do not require a request by County and approval from DHS. Any monthly rate adjustments resulting from these changes will be added by DHS to awards DHS authorized Individuals receiving for DD 156 Services.

- (2) DD 156 funds must be used for “current maintenance” costs incurred by an Individual receiving DD 156 Services, as defined in the above-referenced CFRs, the OSIP Manual, and as outlined in this Standards & Procedures (S&P). Current maintenance includes the room and board fees charged by the Provider to the Individual and costs incurred for clothing, medical care authorized by DHS, and personal comfort care for the Individual, whether provided directly by, or facilitated by, the Provider of DD 156 Services.
- (3) DD 156 funds used for an Individual’s medical expenses must only be for necessary medical expenditures for the Individual up to the amount authorized by DHS.

Necessary medical expenditures are those medical expenditures needed by the Individual as detailed in the ISP by the ISP team. Necessary medical expenditures include, but are not limited to:

- (a) Doctor visits,
- (b) Prescription drugs,
- (c) Laboratory and diagnostic tests,
- (d) Hospital inpatient and outpatient care,
- (e) Mental health care,
- (f) Immunizations,
- (g) Hearing aids and hearing aid exams,
- (h) Medical equipment and supplies,
- (i) Physical and occupational therapy, or
- (j) Vision services for medical treatment (such as treatment for glaucoma).

If the Individual has been approved to receive DD 156 medical expenditure funding and has been approved for CAWEM, CAWEM must be used for any medical expenditure covered by CAWEM. CAWEM coverage is limited to emergency medical services only. See the following website for more information:

<http://www.dhs.state.or.us/spd/tools/program/cawem.htm>. No DD 156 medical expenditure funding may be used for medical expenditures covered by CAWEM.

- (4) DD 156 funds may be used for an Individual in a medical emergency even though the emergency situation is not included in the ISP. For purposes of this Standards and Procedures (S&P), an emergency is defined as a sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the Individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

Allowable DD 156 Services for medical expenditures due to emergency situations include:

- (a) Hospital emergency treatment, or inpatient and outpatient care, or
  - (b) Emergency vision and dental services.
- (5) The following medical services are not allowable under DD 156 Services:
- (a) Routine dental care and diagnostic testing such as annual or semi-annual cleanings, fillings, root canals and routine x-rays.
  - (b) Routine eye exams, diagnostic testing, contacts, glasses and lenses.
  - (c) Anything covered by CAWEM or OHP for an Individual who is currently receiving CAWEM or OHP, subject to 2. a. (5) above.
- (6) Medical expenditure funding for an Individual for DD 156 Services paid to a Provider via County may only be carried over into future months within the same biennium. When medical expenditure funding carry-over occurs, the next monthly payment to County for the Individual will be reduced by DHS by the amount carried over from the previous months. County may not carry over funding of DD 156 Services for medical expenditures into the next biennium. The medical expenditure funding must be returned to DHS immediately upon request by DHS, or within 45 calendar days of the end of the biennium in which the funds were paid, whichever date is sooner.

c. Special Reporting Requirements

- (1) County shall notify the ODDS through [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) within 14 calendar days if the Individual's circumstances change and the Individual is no longer eligible for DD 156 Services. For example: An Individual is now Medicaid eligible due to obtaining US citizenship or is now receiving OHP or CAWEM.
- (2) DHS may request at any time other information regarding the use of DD 156 Services or the justification of such Services. County and the Provider are required to submit the requested information within the timeframe required by DHS. DHS will hold disbursements of all DD 156 funds, until the requested information is received, if the requested information isn't received by DHS within the timeframe indicated in the DHS request.

### 3. **Billing and Payment Procedures.**

#### a. **Room and Board and Personal Incidental Funds**

- (1) R&B and personal incidental funds will be disbursed to County in eXPRS in a Service Element Prior Authorization (SEPA).
- (2) Each Individual will have a Provider Prior Authorization (PPA) created for up to twelve months in eXPRS. The timeframe for the PPA is determined by the effective date of the authorization for DD 156 Services and the timing of future SSI increases. R&B and personal incidental funds will be released to County at the beginning of each month by DHS. County must remit payment to the Provider at the beginning of each Service month for R&B and personal incidentals for each Individual receiving DD 156 Services.
- (3) For audit purposes, County must submit to DHS quarterly paid Provider invoices for R&B and personal incidental expenditures. Provider invoices must reflect that the Individual received the DD 156 Services during the time period covered by the invoices. If paid Provider invoices are not received by DHS, the R&B and personal incidental funds paid to Provider, and not supported by paid Provider invoices, must be recovered by County and County must then return this DD 156 funding to DHS.

#### b. **Medical Expenditures**

- (1) Funds for DD 156 medical expenditures will be disbursed to County in eXPRS in a SEPA.
- (2) DHS will create, at the beginning of each biennium, for each Individual authorized by ODDS to receive DD 156 Services, a PPA for DD 156 medical expenditure funding for three months. The initial PPA for DD 156 medical expenditures and subsequent PPAs will be released by DHS for payment to County. County will immediately pass the DD 156 funds to the Provider so that the Provider will have adequate funding on hand for allowable medical expenditures.
- (3) Providers shall report to County the allowable medical expenditures each month on a DHS prescribed form. This monthly report will serve as the Provider invoice for medical expenditures for DD 156 Services. This monthly medical expenditure report must include the following, at minimum:
  - (a) Individual's name;
  - (b) Individual's prime number;
  - (c) Month or timeframe for the reported DD 156 Services;
  - (d) Provider's name and eXPRS Provider number;
  - (e) Description of each medical expenditure, listed separately;
  - (f) Amount of each medical expenditure;

- (g) Name of entity actually providing the DD 156 Service, such as the name of pharmacy, doctor, or therapist; and
- (h) Actual date of DD 156 Service, not the date the Service was paid for by the Provider.

Provider must submit a monthly medical expenditure report to the County within 14 calendar days of the end of each month DD 156 Services were provided. The Provider medical expenditure report for the last month in the biennium must be submitted to County within 14 calendar days of the end of each biennium.

DD 156 Services included in the monthly Provider report of medical expenditures that are outside of the current biennium (except for the monthly medical expenditure report that must be submitted within 14 calendar days of the end of the prior biennium) are to be reconciled using the settlement process described in Section 4 of this S&P and not submitted to DHS through the standard invoice process.

- (4) County shall submit for payment each Provider's monthly medical expenditures report, and the Provider's invoice on a form prescribed by DHS, to [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us) no later than 45 calendar days from the end of the month in which the DD 156 Services were provided.

If a monthly medical expenditure report for DD 156 Services for an eligible Individual is in compliance with this S&P and is received by County within the current biennium, but after the 45 calendar day deadline, the Provider shall include the medical expenditure in its next monthly report, and County will include the medical expenditure in its next DHS prescribed Provider invoice, with an explanation of the late submission, to request an exception.

- (5) DHS will review all monthly medical expenditure reports submitted by County to verify that they are allowable medical expenditures per this S&P or are approved exceptions. DHS will reconcile DD 156 medical expenditure funds paid to County with the medical expenditures reported by the Provider and the Provider's invoice submitted by County. Any medical expenditure that is determined not to be an allowable DD 156 medical expenditure will be deducted from the total amount of the Provider's invoice. County will be promptly notified of this change by email. DHS will complete its review and reconciliation within 45 calendar days of receipt by DHS of the correctly completed Provider's medical expenditure report and invoice.
- (6) If DHS has paid to County, through the release of the PPA funding, more DD 156 medical expenditure funds than reported by the Provider and submitted by County, DHS will stop releasing funds for DD 156 medical expenditures until the balance due County for DD 156 medical expenditures is no less than one month of the allocated PPA funding.

If a Provider's monthly medical expenditure report shows the Provider needs additional medical expenditure funds to cover future medical costs for an Individual, and the additional funds and medical expenditures are within the Individual's DHS authorized funding, then DHS will release the additional funding up to, but not to exceed, the SEPA amount.

**4. Settlement and Quality Assurance.**

- a. On a monthly basis and at the end of each biennium, Settlement will be used to confirm and reconcile any discrepancies that may have occurred between actual DHS disbursements of funding awarded for DD 156 Services and the amounts of qualifying billable Services actually delivered. Information requested by DHS as part of the Settlement process must be submitted to DHS within the timeframe designated by DHS. Provider and County are equally and fully responsible for the accuracy of the information submitted to DHS.
- b. Funds for medical expenditures or other expenses not related to R&B and personal incidental funding that are not expended during a biennium are subject to Settlement by confirming and reconciling actual County medical expenditures against the DD 156 medical expenditure funds paid by DHS. Settlement for medical expenditures will occur on a monthly basis and at the end of each biennium.
- c. County must submit to DHS final invoices for all DD 156 Services no later than 45 calendar days from the end of the biennium. County may submit a request to ODDS for an exception to extend this 45 calendar day deadline at [CAU.Invoice@state.or.us](mailto:CAU.Invoice@state.or.us). Requests for exceptions must be submitted prior to the initial 45 calendar day deadline. The original final invoice submission deadline can be extended one time for up to an additional 45 calendar days.
- d. DHS will conduct quality assurance reviews of the County's and Provider's adherence to this DD 156 Services S&P.

**5. CFDA Number(s).**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, and DHS procedure "Contractual Governance", DHS' determination is that County is a subrecipient.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

**INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING OF  
COMMUNITY DEVELOPMENTAL DISABILITY SERVICES**

**EXHIBIT B PART 3  
FINANCIAL TERMS AND CONDITIONS**

**1. Disbursement of Payments.**

- a. Disbursement Generally. Subject to the conditions precedent set forth in subsection c. below, DHS shall disburse the payments described in the SEPA to County and Subcontractors in accordance with the procedures set forth in this Section 1 and, as applicable, in the Service Element Standards and Procedures. Disbursement procedures may vary by DD Service.
- b. Disbursements Remain Subject to Recovery. All disbursements of funds to County and Subcontractors under this Agreement remain subject to recovery from County, in accordance with Section 6 below, as a Misexpenditure.
- c. Conditions Precedent to Disbursement. DHS' obligation to disburse payments to County and Subcontractors under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
  - (1) No County default as described in Section 8 County Default of Exhibit E Standard Terms and Conditions has occurred.
  - (2) County's representations and warranties set forth in Section 4 Representations and Warranties of Exhibit E Standard Terms and Conditions are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

**2. Use of Funding.** County shall use the funds disbursed to County under this Agreement solely to cover actual Allowable Costs reasonably and necessarily incurred to deliver DD Services during the term of this Agreement.

**3. Effect of SEPA or IGA Amendments Reducing Funding.** If County and DHS amend the SEPA or IGA to reduce the amount of funding awarded for a particular DD Service, County is not required by this Agreement to utilize other County funds to replace the funds no longer received under this Agreement as a result of the SEPA or IGA Amendment and County may, from and after the date of the SEPA or IGA Amendment, reduce the quantity of that DD Service included in its CDDP commensurate with the amount of the reduction in funds awarded for that DD Service.

If a CDDP receives Local Match funding to recoup the reduced funding, services may not be reduced. Nothing in the preceding sentence shall affect County's obligations under this Agreement with respect to payments actually disbursed by DHS under this Agreement or with respect to DD Services actually delivered.

**4. Carryover.**

- a. Funds received by County for the Service Elements DD 02, DD 48, DD 55 and DD 157 that remain available at the close of a State fiscal year or a biennium may

be retained by County upon DHS review and approval (“Carryover”). The amount or percentage of funding to be retained by County shall be determined by DHS. Any amount of Carryover funds authorized by DHS is to be used by County in support of DD Services provided to Individuals as approved by DHS and may not be co-mingled with other county departments.

- b. Carryover funds retained from a previous State fiscal year must be reported to DHS by October 31 following the end of such fiscal year in a format provided by DHS. The report must include the following:
  - (1) Amount of awarded funds or other compensation under this Agreement for the DD Service being carried over by County, if any, for Service Elements DD 02, DD 48, DD 55 and DD 157.
  - (2) A written description of how the Carryover funds will be used by County to increase DD Services or cover cost of DD Services under the same Service Element for which the funds were awarded to County.

## **5. Process for Settlement.**

County shall cooperate with DHS during the biennial, or any interim, Settlement process for those DD Services where funds are paid directly to County.

- a. DHS will analyze the DHS paid versus County expended funds for each DD Service funded under this Agreement for the timeframe of the Settlement process. Upon completion of the DHS analysis, DHS will notify County via an e-mail addressed to the County CDDP Administrator of the results of its Settlement process. The e-mail will include the following:
  - (1) Settlement Cover Letter, and
  - (2) Initial Settlement Report.
- b. County shall have 90 calendar days from the date of the Settlement notification e-mail to respond with corrections, additional information, or acceptance of the Settlement amount as presented by DHS
- c. County shall submit any additional information or corrections on the spreadsheet provided in the original Settlement packet per the instructions in the packet, as well as any documentation needed to support a disputed amount.
- d. DHS shall review and respond to County’s response file within 120 calendar days of receipt of response file. DHS shall clearly identify in a revised Settlement notice e-mailed to the County CDDP Administrator which items DHS has accepted or denied.
- e. Any additional backup documentation provided by County is subject to 42 CFR §447.45 Medicaid Claims which allows Medicaid match for new claims if paid within 12 months from date of Service and seven quarters plus current quarter for corrections to existing claims.
- f. If DHS and County continue to disagree as to the Settlement amount, the parties may agree to further appropriate dispute resolution processes, subject to Exhibit E Section 18 of this Agreement.



- g. The final Settlement notification sent by DHS to County shall indicate the amount and the expected date of payment to DHS by way of a check from County or recovered through future payments in the manner described in this Exhibit B Part 3. If funds are to be paid to County, the final Settlement notification shall indicate the amount and the expected date of payment by check from DHS. Any disputes to the final Settlement notification shall be resolved through the appeals processes as outlined in this Exhibit B Part 3.

**6. Recovery of Funding for Misexpenditure.**

- a. If DHS identifies a Misexpenditure (as defined in Exhibit A Definitions) of moneys disbursed to County under this Agreement, DHS shall provide County by e-mail with written notice thereof and DHS and County shall engage in the process described in subsection 6.b. below.
- b. From the date of the notice of Misexpenditure, County shall have the lesser of (1) 60 calendar days, or (2) if a Misexpenditure relates to a federal government request for reimbursement, 30 calendar days fewer than the number of days (if any) that DHS has to appeal a final written decision from the federal government, to either:
  - (1) Make a payment to DHS of the full amount of the noticed Misexpenditure identified by DHS; or
  - (2) Notify DHS that County wants to repay the amount of the noticed Misexpenditure from future payments pursuant to subsection 6.d. below; or
  - (3) Notify DHS that it wants to engage in the applicable appeal process set forth in subsection 6.c. below.

If County fails to respond within the time required by this subsection, DHS may recover the amount of the noticed Misexpenditure from future payments as set forth in subsection 6.d. below.

**c. Appeal Process for Misexpenditure.**

If County notifies DHS that it wants to engage in an appeal process with respect to a noticed Misexpenditure, the parties shall comply with the following procedures, as applicable.

**(1) Appeal from DHS-Identified Misexpenditure.**

If DHS' notice of Misexpenditure is based on a Misexpenditure solely of the type described in Section 40 b. or c. of Exhibit A Definitions, County and DHS shall engage in the process described in this subsection to resolve a dispute regarding the noticed Misexpenditure.

- (a) County and DHS shall engage in non-binding discussions to give County an opportunity to present reasons why it claims that there is no Misexpenditure or that the amount of the Misexpenditure is different than the amount identified by DHS; and to give DHS the opportunity to reconsider its notice of recovery.

- (b) County and DHS may negotiate an appropriate apportionment of responsibility for the recovery of a Misexpenditure. At County request, DHS will meet and negotiate with County in good faith concerning appropriate apportionment of responsibility for recovery of a Misexpenditure. In determining an appropriate apportionment of responsibility, County and DHS may consider any relevant factors. An example of a relevant factor is the extent to which either party contributed to an interpretation of a statute, regulation or rule prior to the expenditure that was officially reinterpreted after the expenditure.
  - (c) If DHS and County reach agreement on an amount owed to DHS, County shall, promptly repay that amount to DHS by issuing payment to DHS or direct DHS to withhold future payments pursuant to subsection 6.d. below.
  - (d) If DHS and County continue to disagree as to whether there has been a Misexpenditure or as to the amount owed, the parties may agree to further appropriate dispute resolution processes, including, subject to Department of Justice and County Counsel approval, binding arbitration.
- (2) Appeal from Federal-Identified Misexpenditure.
- (a) If DHS' notice of Misexpenditure is based on a Misexpenditure of the type described in Section 40. a. of Exhibit A Definitions and the relevant federal agency provides a process either by statute or administrative rule to appeal the determination of improper use of Federal Funds, the notice of disallowance or other federal identification of improper use of funds, and if the disallowance is not based on a federal or state court judgment founded in allegations of Medicaid Fraud or abuse, then County may, prior to 30 calendar days prior to the applicable federal appeals deadline, request that DHS appeal the determination of improper use, notice of disallowance, or other federal identification of improper use of funds, in accordance with the process established or adopted by the federal agency.
  - (b) If County so requests that DHS appeal the determination of improper use of Federal Funds, federal notice of disallowance, or other federal identification of improper use of funds, the amount in controversy shall, at the option of County, be retained by County or returned to DHS pending the final federal decision resulting from the initial appeal.
  - (c) If County does request, prior to the deadline set forth in (2) (a) above, that DHS appeal, DHS shall appeal the determination of improper use, notice of disallowance or other federal identification of improper use of funds in accordance with the established process and shall pursue the appeal until a decision is issued by the

Departmental Grant Appeals Board of the Department of Health and Human Services (the “Grant Appeals Board”) pursuant to the process for appeal set forth in 45 C.F.R. Subtitle A, Part 16, or an equivalent decision is issued under the appeal process established or adopted by the federal agency. County and DHS shall cooperate with each other in pursuing the appeal.

- (d) If the Grant Appeals Board or its equivalent denies the appeal, then either County, DHS, or both may, in their discretion, pursue further appeals. Regardless of any further appeals, within 90 calendar days of the date the federal decision resulting from the initial appeal is final, County shall repay to DHS the amount of the noticed Misexpenditure (reduced, if at all, as a result of the appeal) by issuing payment to DHS or by directing DHS to withhold future payments pursuant to subsection 6.d. below. To the extent that County retained any of the amounts in controversy while the appeal was pending, County shall pay to DHS the interest, if any, charged by the federal government on such amount.
- (e) If the relevant federal agency does not provide a process either by statute or administrative rule to appeal the determination of improper use of Federal Funds, the notice of disallowance or other federal identification of improper use of funds or County does not request that DHS pursue an appeal 30 calendar days prior to the applicable federal appeals deadline, and if DHS does not appeal, then within 90 calendar days of the date the federal determination of improper use of Federal Funds, the federal notice of disallowance, or other federal identification of improper use of funds is final, County shall repay to DHS the amount of the noticed Misexpenditure by issuing a payment to DHS or by directing DHS to withhold future payments pursuant to subsection 6.d. below.
- (f) If County does not request that DHS pursue an appeal of the determination of improper use of Federal Funds, the notice of disallowance, or other federal identification of improper use of funds, prior to 30 calendar days prior to the applicable federal appeals deadline, but DHS nevertheless appeals, County shall repay to DHS the amount of the noticed Misexpenditure (reduced, if at all, as a result of the appeal), within 90 calendar days of the date the federal decision resulting from the appeal is final, by issuing payment to DHS or by directing DHS to withhold future payments pursuant to subsection 6.d. below.
- (g) If the Misexpenditure was expressly authorized by a DHS rule or a DHS writing that applied when the expenditure was made, but was prohibited by federal statutes or regulations that applied when the expenditure was made, County will not be responsible for repaying the amount of the Misexpenditure to DHS, provided that:

- i. Where post-expenditure official reinterpretation of federal statutes or regulations results in a Misexpenditure, County and DHS will meet and negotiate in good faith an appropriate apportionment of responsibility between them for repayment of the Misexpenditure.
- ii. For purposes of this section, a DHS writing must interpret this Agreement or a DHS rule and be signed by the Director of DHS or by one of the following DHS officers concerning DD Services:

Director of the Office of Developmental Disability Services;

Deputy Director of the Office of Developmental Disability Services;

Chief Operating Officer of the Office of Developmental Disability Services.

DHS shall designate alternate officers in the event the offices designated in the previous sentence are abolished. Upon County request, DHS shall notify County of the names of individual officers with the above titles. DHS shall send DHS writings described in this paragraph to County by mail and e-mail and to County's CDDP directors by e-mail.

- iii. The DHS writing must be in response to a request from County for expenditure authorization, or a statement intended to provide official guidance to County or counties generally, for making expenditures under this Agreement. The DHS writing must not be contrary to this Agreement or contrary to law or other applicable authority that is clearly established at the time of the writing.
- iv. If the DHS writing is in response to a request from County for expenditure authorization, the request must be in writing and signed by the director of a County department with authority to make such a request or by County Counsel. It must identify the supporting data, provisions of this Agreement and provisions of applicable law relevant to determining if the expenditure should be authorized.
- v. A DHS writing expires on the date stated in the writing, or if no expiration date is stated, upon expiration of this Agreement. An expired DHS writing continues to apply to County expenditures that were made in compliance with the writing and during the term of the writing.
- vi. DHS may revoke or revise DHS writing at any time if it determines in its sole discretion that the writing allowed

expenditures in violation of this Agreement or law or any other applicable authority. However, County is not responsible for a Misexpenditure that was based on a DHS writing that was effective at the time of the Misexpenditure.

vii. The DHS rule or the DHS writing does not authorize an expenditure that this Agreement prohibits.

d. Recovery of Misexpenditure from Future Payments.

- (1) To the extent that DHS is entitled to recover a Misexpenditure pursuant to subsection 6.b., DHS may recover the Misexpenditure by offsetting the amount thereof against future amounts owed to County by DHS, including, but not limited to, any amount owed to County by DHS under this Agreement, or any amount owed to County by DHS under any other contract or agreement between County and DHS, present or future.
- (2) DHS shall provide County written notice of its intent to recover the amount of the Misexpenditure as set forth in this section from amounts owed County by DHS, and DHS shall identify the amounts owed by DHS to County which DHS intends to offset to recover the Misexpenditure amount, including the contracts or agreements, if any, under which the amounts owed arose and those other contracts or agreements from which DHS wishes to deduct payments.
- (3) County shall then have 14 calendar days from the date of DHS' notice in which to request the deduction be made from other amounts owed to County by DHS and identified by County. DHS shall comply with County's request for alternate offset.
- (4) In the event that DHS and County are unable to agree on which specific amounts, owed to County by DHS, DHS may offset in order to recover the amount of the Misexpenditure, then DHS may select the particular contracts or agreements between DHS and County and amounts from which it will recover the amount of the Misexpenditure, after providing notice to County, and within the following limitations:
  - (a) DHS shall first look to amounts owed to County (but unpaid) under this Agreement.
  - (b) If that amount is insufficient, then DHS may look to any other amounts currently owing or owed in the future to County by DHS.
  - (c) In no case, without the prior consent of County, shall DHS deduct from any one payment due County under the contract or agreement from which DHS is offsetting funds an amount in excess of twenty-five percent (25%) of that payment.
  - (d) DHS may look to as many future payments as necessary in order to fully recover the amount of the Misexpenditure.

**7. Additional Provisions with respect to Settlement and Misexpenditures.**

- a. County shall cooperate with DHS in the Settlement process throughout the Agreement term and with the Agreement Settlement process upon termination or expiration of the Agreement.
- b. DHS' right to recover through Settlement and the Misexpenditure process from County under this Agreement is not subject to or conditioned on County's recovery of any money from any other entity.
- c. If the exercise of DHS' right to offset under this provision requires County to complete a re-budgeting process, nothing in this provision shall be construed to prevent County from fully complying with its budgeting procedures and obligations, or from implementing decisions resulting from those procedures and obligations.
- d. Nothing in this provision shall be construed as a requirement or agreement by County to negotiate and execute any future contract with DHS.
- e. Nothing in this Section 7 shall be construed as a waiver by either party of any process or remedy that might otherwise be available.
- f. County's authorization to Providers must follow all applicable rules, Service Element Standards and Procedures, and DHS' policies and procedures including proper budget approvals.

**8. Resolution of Disputes over Additional Funds Owed County After Termination or Expiration.**

If, after termination or expiration of this Agreement, County believes that DHS disbursements of funds under this Agreement for a particular DD Service are less than the amount of funds that DHS is obligated to provide to County under this Agreement for that DD Service, as determined by the Agreement Settlement and in accordance with the applicable funding calculation methodology, County shall provide DHS with written notice thereof. DHS shall have 90 calendar days from the effective date of County's notice to pay County in full or notify County that it wishes to engage in a dispute resolution process. If DHS notifies County that it wishes to engage in a dispute resolution process, County and DHS' Assistant Administrator shall engage in non-binding discussion to give DHS an opportunity to present reasons why it believes that it does not owe County any additional funds or that the amount owed is different than the amount identified by County in its notices, and to give County the opportunity to reconsider its notice. If DHS and County reach agreement on the additional amount owed to County, DHS shall promptly pay that amount to County. If DHS and County continue to disagree as to the amount owed, the parties may agree to further appropriate dispute resolution processes, including, subject to Department of Justice and County Counsel approval, binding arbitration. Nothing in this Section shall preclude County from raising underpayment concerns at any time prior to termination or expiration of this Agreement.

**INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING OF  
COMMUNITY DEVELOPMENTAL DISABILITY SERVICES**

**EXHIBIT C  
SPECIAL TERMS AND CONDITIONS**

**1. County Authorization of Client Services.**

- a. County shall submit Client Prior Authorizations for the DD Services County is responsible to authorize that are identified in Section 1 Provision of Services, Exhibit B Part 2 of this Agreement.
- b. County shall upload documentation supporting the Plan of Care authorization within eXPRS.
- c. County shall follow current Service Element Standards and Procedures in establishing a Client Prior Authorization or a Plan of Care authorization.
- d. County shall promptly end the CPA or POC authorizations on the date the Individual exits a DD Service or Services.
- e. County shall not authorize a Provider to begin, or to continue, delivery of Services if the Provider's enrollment in eXPRS and any required credentials for the Service are incomplete or have lapsed.

**2. DHS Approval of County Authorized Services.**

- a. DHS will randomly review County's authorizations and associated documentation for DD Services. If DHS has questions or finds errors in County submitted documentation, DHS shall work with County and any other valid parties to remedy the outstanding issues.
- b. DHS reserves the option, in its sole discretion, to require County to terminate a plan or any element of a plan entered into Plan of Care upon determining that the DD Services were authorized outside of the requirements for the Service Element; or the plan procedure code was affected by statute, rules, or DHS policies or procedures; or the Services were not authorized under this Agreement.

**3. Appointment of County CDDP Administrator.**

The County employee, identified by County via e-mail to DHS as the "CDDP Administrator", is authorized to:

- a. Amend the Service Element Prior Authorization, on behalf of County, and amend this Agreement by execution and delivery of amendments in the name of County in hard copy, electronically, or, with respect to the Service Element Prior Authorization only, through electronic acceptance of SEPA Adjustments in eXPRS.
- b. Enable, on behalf of County, the disbursement of funds under this Agreement that is described in the Service Element Prior Authorization, through submission and

modification of CPAs and PPAs, either electronically through eXPRS or by submission of hard copy documents to DHS; and to authorize Providers, to submit Disbursement Claims on behalf of County, either electronically through eXPRS or by submission of hard copy documents to DHS.

- c. Authorize others, including but not limited to CDDPs subcontracting with the Counties, to take one or more of the foregoing actions on behalf of County except for authorizing amendments to this Agreement and SEPAs.



**INTERGOVERNMENTAL GRANT AGREEMENT  
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**EXHIBIT D  
GENERAL TERMS AND CONDITIONS**

- 1. Operation of CDDP.** County shall operate or subcontract for the operation of a CDDP during the term of this Agreement. If County uses funds provided under this Agreement for a particular DD Service, County shall include that DD Service in its CDDP from the date it begins using the funds for that DD Service until the earlier of (a) termination or expiration of this Agreement; (b) termination by DHS of DHS' obligation to provide funds for that DD Service in accordance with Section 5 of Exhibit E; or (c) termination by County, in accordance with Section 10 of Exhibit E, of County's obligation to include in its CDDP a Program Area that includes that DD Service. County shall employ and provide training for all staff indicated in the workload model that provide DD services within the funding allotted. County shall operate their CDDP within the applicable federal and state rules, regulations and the terms of this Agreement. All funds received by the CDDP must be used for the purposes of conducting DD services.
- 2. Subcontracts.**

  - a.** Except when the Service Element Standards and Procedures expressly require the DD Service, or a portion thereof, to be delivered by County directly and subject to Section 19 of Exhibit E of this Agreement, County may use funding provided under this Agreement for DD 53 Services with local match funding, and for DD 57 and DD 58 Services with general fund funding to purchase that Service, or a portion thereof, from a third person or entity (a "Subcontractor") through a contract (a "Subcontract").
  - b.** County shall not permit any person or entity to be a Subcontractor unless the person or entity holds all licenses, certificates, authorizations and other approvals as identified in the applicable Service Element Standards and Procedures.
  - c.** If County purchases a DD Service, or portion thereof, from a Subcontractor, the Subcontract with County must be in writing and contain each of the provisions set forth in Exhibit G, Part 1, Required Subcontract Provisions in substantially the form set forth therein, in addition to any other provisions that must be included to comply with applicable law, that must be included in a Subcontract with County under the terms of this Agreement or that are necessary to implement DD Service delivery in accordance with the applicable Service Element Standards and Procedures and special conditions.
  - d.** County shall maintain an originally executed copy of each Subcontract at its office and shall furnish a copy of any Subcontract to DHS upon request.
  - e.** County shall pay for these DD Services only upon receipt of an itemized invoice, purchase order, or other proper billing instrument evidencing the DD Services rendered. County shall retain the billing instrument in accordance with Exhibit E Section 14.

3. **Reporting Requirements.** County shall report the FTE utilized for Service Elements DD 02, DD 48, and DD 55, if applicable, to DHS semi-annually when requested by DHS. FTE reporting submitted as part of the Biennial Plan will be considered semi-annual FTE reporting for the period in which the Biennial Plan is submitted. DHS may prescribe the format to be used for this reporting.
4. **DHS Reports.** To the extent resources are available to DHS to prepare and deliver the information, DHS shall, during the term of this Agreement, provide County with summary reports from data and other Individual data reported to DHS under this Agreement.
5. **Technical Assistance.** During the term of this Agreement, DHS shall provide technical assistance to County in the delivery of DD Services to the extent that funding is allocated to DHS for this purpose. If the provision of technical assistance to County concerns a Provider or Subcontractor, DHS may require, as a condition to providing the assistance, that County take all action with respect to the Provider or Subcontractor reasonably necessary to facilitate the technical assistance.
6. **Amendments Proposed by DHS.** Subject to Exhibit E Section 21, County shall review all pending Agreement amendments prepared and presented to County by DHS by e-mail and act within 60 calendar days of County's receipt of pending amendment. If County chooses to accept an amendment, County shall follow DHS' procedures for signing and returning the amendment to DHS. If County chooses to reject an amendment, County must submit an e-mail detailing the reason for the rejection to County's assigned DHS Contact.
7. **eXPRS Access.**
  - a. **Effect of Failure to Satisfy Conditions for Access to eXPRS.**
    - (1) If County fails to satisfy the conditions for access to eXPRS as described in this Section, County will not be able to view information in eXPRS electronically and will be required to receive, execute and deliver all SEPA Adjustments, receive, submit, and modify all PPAs, CPAs, and Plans of Care, and submit all Disbursement Claims, in hard copy form.
    - (2) If a Provider fails to satisfy the conditions for access to eXPRS as described in this Section, the Provider will not be able to view information in eXPRS electronically and will be required to submit CPAs, Plans of Care, and Disbursement Claims, to the extent the Provider is authorized to submit CPAs and Plans of Care, and Providers are authorized to submit Disbursement Claims, to DHS in hard copy form.
  - b. **Designation of Direct Contract Chief Security Officer.**
    - (1) DHS will enable an individual or individuals designated by the County CDDP Administrator to access eXPRS after the County CDDP Administrator designates to DHS in writing on a form provided by DHS the name of the individual or individuals County has authorized to perform the duties of the security role, currently titled Direct Contract Chief Security Officer (DCCSO) or as such role may be renamed by DHS.

- (2) Promptly after receipt of the foregoing notice, DHS will send the DCCSO a userid for accessing eXPRS. If County wishes to designate a substitute DCCSO, the County CDDP Administrator may do so by subsequent written notice to DHS. DHS will act upon all subsequent notices in the same manner as the initial notice.
- (3) The individual designated as the DCCSO is responsible to ensure that County is in compliance with OAR 125-800-0005 through 0020 and DHS' security policies DHS-090-001, 090-002, 090-003, 090-004, 090-005, and 090-009.
- (4) The DCCSO shall assign, maintain and, if necessary, revoke all eXPRS user account securities in eXPRS for County staff and County Subcontractors, and via e-mail to DHS Service Desk for Providers as needed.
- (5) If the County CDDP Administrator does not designate another County employee as the DCCSO, the County CDDP Administrator will be designated as the DCCSO and will act as the DCCSO on behalf of County.

c. Responsibilities of Direct Contract Chief Security Officer.

- (1) After receipt of the userid, the DCCSO may log on to eXPRS and assign the necessary roles to County staff and Subcontractors to view the SEPA and SEPA Adjustments made available by DHS for County acceptance in eXPRS and, through use of the SEPA Pass Phrase created in eXPRS by County staff or Subcontractor, accept those SEPA Adjustments, in accordance with the terms and conditions of this Agreement, on behalf of County. Use of the SEPA Pass Phrase to accept electronically a SEPA Adjustment will be deemed for all purposes to constitute a County "signature" on the SEPA Adjustment and will have the same effect as a County signature on a hard copy SEPA Adjustment.
- (2) After receipt of the userid, a DCCSO may log on to eXPRS and authorize individuals to view the SEPA, the CPAs, Plans of Care, the PPAs, and the Disbursement Claims previously submitted on behalf of County, modify CPAs, Plans of Care, PPAs and Disbursement Claims, and submit new CPAs, Plans of Care, PPAs and Disbursement Claims, by creating additional userids or modifying the authority of userids previously created.
  - (a) Only individuals approved in writing by the DCCSO on a form provided by or approved by DHS may be granted access to eXPRS by the DCCSO.
  - (b) Through use of userids created by the DCCSO, the approved individual will be able to view the SEPA, the CPAs, the Plans of Care, the PPAs and the Disbursement Claims previously submitted on behalf of County, modify CPAs, Plans of Care, PPAs and Disbursement Claims, and submit new CPAs, Plans of Care, PPAs and Disbursement Claims to the extent authorized by the DCCSO.

- (c) Use of a userid created by the DCCSO to logon to eXPRS and submit or modify a CPA, Plan of Care, PPA or Disbursement Claim shall, for purposes of this Agreement, be considered an authorized County action in the administration of this Agreement.
- (3) Protection of userids, passwords and SEPA Pass Phrases. The DCCSO is solely responsible for protecting the confidentiality of and regulating the use of eXPRS userids and passwords furnished to or created by the DCCSO in accordance with the terms and conditions of this Agreement. County shall keep all eXPRS userids, passwords and SEPA Pass Phrases secure by taking security measures to prevent unauthorized access to, or disclosure, loss, compromise, or use of, the eXPRS userids, passwords, and SEPA Pass Phrase. The security measures must be equivalent to or stricter than the security measures adopted by DHS in Policy Number DHS-090-002.

**d. Revocation of userids and SEPA Pass Phrase.**

Revocation of an eXPRS userid will disable access to eXPRS through use of that userid. Revocation of a SEPA Pass Phrase will disable the use of that SEPA Pass Phrase to accept SEPA Adjustments on behalf of County. The revocation of a userid or a SEPA Pass Phrase does not alter the rights and duties of DHS and County under this Agreement with respect to SEPA Adjustments accepted through use of the SEPA Pass Phrase prior to revocation of the SEPA Pass Phrase, or with respect to any Agreement administration actions taken through use of the userid, including but not limited to the creation of additional userids by the DCCSO or the submission of CPAs, Plans of Care, PPAs and Disbursement Claims, prior to revocation of the userid. All userids and SEPA Pass Phrases are subject to revocation as follows:

- (1) DHS may temporarily revoke a userid or SEPA Pass Phrase if DHS determines that revocation is reasonably necessary for technical or security reasons. If DHS revokes a SEPA Pass Phrase under this Section, DHS will promptly thereafter request a new SEPA Pass Phrase from the DCCSO whose SEPA Pass Phrase was revoked, to reestablish that the DCCSO's ability to perform the duties of the DCCSO.
- (2) DHS may revoke a userid or SEPA Pass Phrase if DHS determines that:
  - (a) The userid or SEPA Pass Phrase was not properly issued or created or was obtained by fraud,
  - (b) The userid or SEPA Pass Phrase has or may have been lost or its security otherwise compromised,
  - (c) The County has revoked or modified the authorizations of the County CDDP Administrator or the Direct Contract Chief Security Officer in such a way that the authorizations originally conferred by County have been changed in a material way,

(d) County is in default under this Agreement.

If DHS revokes a userid or SEPA Pass Phrase under this Section, DHS will notify County promptly thereafter.

- (3) DHS may, without notice to County, revoke all userids and SEPA Pass Phrases upon termination or expiration of this Agreement.
- (4) DHS will revoke a userid or SEPA Pass Phrase upon the written request of the County CDDP Administrator or other individual that DHS reasonably believes is authorized to request revocation on behalf of County. County shall immediately request revocation of a userid or SEPA Pass Phrase if County suspects or discovers that the userid or SEPA Pass Phrase has been or is in danger of being lost, disclosed, compromised or subjected to unauthorized use. DHS shall revoke the userid or SEPA Pass Phrase promptly after receipt of County's request.
- (5) DHS may decide to modify the requirements for electronic access to eXPRS or the method by which it implements SEPA Pass Phrases, or both. If DHS modifies the eXPRS access requirements or SEPA Pass Phrase method, DHS shall, prior to implementing the new requirements or method, offer to amend this Agreement to reflect the new requirements or method. If County declines the amendment, DHS may, by and effective upon written notice to County, revoke the userids or SEPA Pass Phrases, or both, of the DCCSO and the userids or SEPA Pass Phrases assigned by the DCCSO, through which County or Subcontractor accesses eXPRS or accepts SEPA Adjustments or, by and effective upon written notice to a Subcontractor, revoke the userids through which that Subcontractor accesses eXPRS.
  - (a) After revocation of County's eXPRS userids under this subsection, County will not be able to view information in eXPRS electronically and will be required to receive, execute and deliver all SEPA Adjustments, and receive, submit, and modify all PPAs, CPAs, Plans of Care and Disbursement Claims, in hard copy form.
  - (b) After revocation of County's SEPA Pass Phrases under this subsection, County will be required to receive, execute and deliver all SEPA Adjustments in hard copy form.
  - (c) After revocation of a Subcontractor's eXPRS userids under this subsection, the Subcontractor will not be able to view information in eXPRS electronically and will be required to submit all CPAs and Plans of Care and Disbursement Claims, to the extent Subcontractor is authorized to submit CPAs, Plans of Care, or Disbursement Claims, to DHS in hard copy form.

**8. Alternative Formats and Translation of Written Materials, Interpreter Services.**

In connection with the delivery of DD Services by County directly to Individuals, County shall:

- a. Make available to an Individual, without charge to the Individual, upon the Individual's or DHS' request, any and all written materials in alternate, if appropriate, formats as required by DHS' administrative rules or by DHS' written policies made available to County.
- b. Make available to an Individual, without charge to the Individual, upon the Individual's or DHS' request, any and all written materials in the prevalent non-English languages in the Program Area served by County's CDDP.
- c. Make available to an Individual, without charge to the Individual, upon the Individual's or DHS' request, oral interpretation services in all non-English languages in the Program Area served by County's CDDP.
- d. Make available to Individuals with hearing impairment, without charge to the Individual, upon the Individual's or DHS' request, sign language interpretation services and telephone communications access services.

For purposes of the foregoing, "written materials" includes, without limitation, all written materials created or delivered in connection with the DD Services related to this Agreement. Each party shall be responsible to provide to the other party for distribution to Individuals any written material in alternative formats and translations if the written material was created or originated by that party.

9. Nothing in this Agreement shall cause or require County or DHS to act in violation of state or federal constitutions, statutes, regulations or rules. The parties intend this limitation to apply in addition to any other limitation in this Agreement, including limitations in Section 1 of this Exhibit D.

**INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING OF  
COMMUNITY  
DEVELOPMENTAL DISABILITY SERVICES**

**EXHIBIT E  
STANDARD TERMS AND CONDITIONS**

- 1. Governing Law, 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 law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. **THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS.** Except as provided in this section, neither party waives 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. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
- 2. Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, Services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and DHS, that employ subject workers who provide Services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126(2). County shall require all of its Subcontractors to comply with, and shall ensure that each of its Subcontractors complies with, these requirements. Nothing in this Agreement shall require County or DHS to act in violation of state or federal law or the Constitution of the State of Oregon.
- 3. Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that County is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
- 4. Representations and Warranties.**

  - a. County represents and warrants as follows:

- (1) Organization and Authority. County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
- (2) Due Authorization. The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.
- (3) Binding Obligation. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession.
- (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
- (6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- (7) Services. To the extent DD Services are performed by County, the delivery of each DD Service will comply with the terms and conditions of this Agreement and meet the standards for such DD Service as set forth herein, including but not limited to, any terms, conditions, standards and requirements set forth in the Service Element Standards and Procedures.

**b. DHS represents and warrants as follows:**

- (1) Organization and Authority. DHS has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
- (2) Due Authorization. The making and performance by DHS of this Agreement (a) have been duly authorized by all necessary action by DHS and (b) do not and will not violate any provision of any applicable law,



rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which DHS is a party or by which DHS may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by DHS of this Agreement, other than approval by the Department of Justice if required by law.

(3) **Binding Obligation.** This Agreement has been duly executed and delivered by DHS and constitutes a legal, valid and binding obligation of DHS, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

## **5. Funds Available and Authorized.**

a. The State of Oregon's payment obligations under this Agreement are conditioned upon DHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow DHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than DHS. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. DHS represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.

b. **Payment Method.** Payments under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Agreement. County shall provide this designation and information on a form provided by DHS. In the event that EFT information changes or County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, County shall provide the changed information or designation to DHS on a DHS-approved form. DHS is not required to make any

payment under this Agreement until receipt of the correct EFT designation and payment information from County.

**6. Reserved.**

**7. Ownership of Intellectual Property.**

- a. Definitions. As used in this Section 7 and elsewhere in this Agreement, the following terms have the meanings set forth below:
  - (1) "County Intellectual Property" means any intellectual property owned by County and developed independently from the Work.
  - (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than DHS or County.
- b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, DHS will not own the right, title and interest in any intellectual property created or delivered by County or a Subcontractor in connection with the Work. With respect to that portion of the intellectual property that County owns, County grants to DHS a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 7.b.(1) on DHS' behalf, and (3) sublicense to third parties the rights set forth in Section 7.b.(1).
- c. If state or federal law requires that DHS or County grant to the United States a license to any intellectual property, or if state or federal law requires that DHS or the United States own the intellectual property, then County shall execute such further documents and instruments as DHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or DHS. To the extent that DHS becomes the owner of any intellectual property created or delivered by County in connection with the Work, DHS will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to County to use, copy, distribute, display, build upon and improve the intellectual property.
- d. County shall include in its Subcontracts terms and conditions necessary to require that Subcontractors execute such further documents and instruments as DHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

**8. County Default.**

County shall be in default under this Agreement upon the occurrence of any of the following events:

- a. County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;

- b. Any representation, warranty or statement made by County herein or in any documents or reports relied upon by DHS to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;
- c. County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all or substantially all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect), or (8) takes any action for the purpose of effecting any of the foregoing; or
- d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive calendar days, or an order for relief against County is entered in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect).

**9. DHS Default.**

DHS shall be in default under this Agreement upon the occurrence of any of the following events:

- a. DHS fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or
- b. Any representation, warranty or statement made by DHS herein is untrue in any material respect when made.

**10. Termination.**

- a. County Termination. County may terminate this Agreement:
  - (1) For its convenience, upon at least 30 calendar days advance written notice to DHS;
  - (2) Upon 45 calendar days advance written notice to DHS, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to

permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;

- (3) Upon 30 calendar days advance written notice to DHS, if DHS is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as County may specify in the notice; or
- (4) Immediately upon written notice to DHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

**b. DHS Termination. DHS may terminate this Agreement:**

- (1) For its convenience, upon at least 30 calendar days advance written notice to County;
- (2) Upon 45 calendar days advance written notice to County, if DHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of DHS under this Agreement, as determined by DHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, DHS may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces DHS' legislative authorization for expenditure of funds to such a degree that DHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by DHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 calendar days from the date the action is taken;
- (3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that DHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
- (4) Upon 30 calendar days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 calendar day period or such longer period, if any, as DHS may specify in the notice;
- (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a Subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a Subcontractor no

longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or

(6) Immediately upon written notice to County, if DHS determines that County or any of its Subcontractors have endangered or are endangering the health or safety of a Client or others in performing work covered by this Agreement.

c. Mutual Termination. The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

**11. Effect of Termination.**

a. Entire Agreement.

(1) Upon termination of this Agreement, DHS shall have no further obligation to pay County under this Agreement.

(2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.

b. Obligations and Liabilities. Notwithstanding subsection a. above, any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

**12. Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS. THIS LIMITATION OF LIABILITY IS PROVIDED TO THE EXTENT ANY RESULTING CONTINGENT REPAYMENT LIABILITY IS PERMITTED BY ARTICLE XI, SECTIONS 7 AND 10 OF THE OREGON CONSTITUTION AND THE OREGON TOR CLAIMS ACT, ORS 30.260 AND 30.300.

**13. Insurance.** County shall require Subcontractors to maintain insurance as set forth in Exhibit G, Part 2 which is attached hereto.

**14. Records Maintenance; Access and Confidentiality.**

a. Access to Records and Facilities. DHS, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers and records of County that are directly related to this Agreement, the funding provided hereunder, or any Service for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, County shall permit authorized representatives of DHS to perform site reviews of all Services delivered by County.

b. Retention of Records. County shall retain an Individual's records in accordance with OAR 166-005-0000 through 166-150-0215 (State Archivist). Unless OAR 166-005-0000 through 166-150-0215 requires a longer retention period, Client Records must

be retained for a minimum of six years from termination or expiration of this Agreement.

- c. Expenditure Records. County shall document the use and expenditure of all funds paid by DHS under this Agreement. Unless applicable federal law requires County to utilize a different accounting system, County shall create and maintain all use and expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit DHS to verify how the funds paid by DHS under this Agreement were used or expended.
- d. Client Records. If County delivers a DD Service directly, County shall create and maintain an Individual record (“Client Record”) for each Individual who receives that DD Service, unless the Service Element Standards and Procedures precludes delivery of the DD Service on an Individual Client basis and reporting of Service commencement and termination information is not required by the Service Element Standards and Procedures. The Client Record shall contain:
  - (1) Individual’s identification;
  - (2) Assessments with problems;
  - (3) Treatment, training, and care plan, as applicable;
  - (4) Medical information when appropriate; and
  - (5) Progress notes including Service termination summary and current assessment or evaluation instrument as designated by DHS in administrative rules.

**15. Information Privacy/Security/Access.** If the Work performed under this Agreement requires County or its Subcontractor(s) to have access to or use of any DHS computer system or other DHS Information Asset for which DHS imposes security requirements, and DHS grants County or its Subcontractor(s) access to such DHS Information Assets or Network and Information Systems, County shall comply and require all Subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, “Information Asset” and “Network and Information System” have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time. This subsection only applies to information obtained from DHS systems or other DHS information assets, and does not apply to information collected by CDDPs from other sources.

**16. Force Majeure.** Neither DHS nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, war or other cause which is beyond the reasonable control of DHS or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. DHS may terminate this Agreement upon written notice to County after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.

17. **Assignment of Agreement, Successors in Interest.**
- a. County shall not assign or transfer its interest in this Agreement without prior written approval of DHS. Any assignment or transfer in violation of this Agreement shall be null and void. Any such assignment or transfer, if approved, is subject to such conditions and provisions as DHS may deem necessary. No approval by DHS of any assignment or transfer of interest shall be deemed to create any obligation of DHS in addition to those set forth in the Agreement.
  - b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
18. **Alternative Dispute Resolution.** The parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the 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.
19. **Subcontracts.** County shall not enter into any Subcontracts for any of the Work required by this Agreement without DHS' prior written consent. In addition to any other provisions DHS may require, County shall include in any permitted Subcontract under this Agreement provisions to require that DHS will receive the benefit of Subcontractor performance as if the Subcontractor were County with respect to Sections 1, 2, 3, 4, 7, 14, 15, 17, 20, 22 and 30 of this Exhibit E. DHS' consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.
20. **No Third Party Beneficiaries.** DHS and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that County's performance under this Agreement is solely for the benefit of DHS to assist and enable DHS to accomplish its statutory mission. 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 any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
21. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and, when required, the Department of Justice. Such amendment, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.
22. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be 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.
23. **Survival.** Sections 1, 4, 5, 7, 11, 12, 13, 14, 15, 18, 20, 21, 22, 23, 24, 25, 27, 29, and 30 of this Exhibit E shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their terms are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

24. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or DHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five calendar days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day if transmission was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

**DHS:** Office of Contracts & Procurement  
250 Winter St NE, Room 306  
Salem, OR 97301  
Telephone: 503-945-5818  
Facsimile: 503-378-4324

**COUNTY:** Clatsop  
Cameron Moore  
800 Exchange Street Suite 400  
Astoria, OR 97103  
Telephone: 503-325-1000  
Facsimile: 503-325-8325

25. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

26. **Counterparts.** This Agreement and any subsequent amendments 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 and any amendments so executed shall constitute an original.

27. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.

28. **Reserved.**

29. **Contribution.** 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 a party (the "Notified Party") with respect to which the other party ("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. Either 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 the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with County (or would be if joined in the Third Party Claim ), the State 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 County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of County 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 the State on the one hand and of County 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. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which County is jointly liable with the State (or would be if joined in the Third Party Claim), County 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 the State in such proportion as is appropriate to reflect the relative fault of County on the one hand and of the State 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 County on the one hand and of the State 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. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

- 30. Indemnification by Subcontractors.** County shall take all reasonable steps to cause its 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 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 County's Subcontractor or any of the officers, agents, employees or subcontractors of the Subcontractor ("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 the Subcontractor from and against any and all Claims.
- 31. Stop-Work Order.** DHS may, at any time, by written notice to County, require County to stop all, or any part of the Work required by this Agreement for a period of up to 90

calendar days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the Work affected by the stop work order notice. Within a period of 90 calendar days after issuance of the written notice, or within any extension of that period to which the parties have agreed, DHS shall either:

- a. Cancel or modify the stop work order by a supplementary written notice; or
- b. Terminate the Work as permitted by either the Default or the Convenience provisions of Section 10. Termination.

If the Stop Work Order is canceled, DHS may, after receiving and evaluating a request by County, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

### **32. Purchase and Disposition of Equipment.**

- a. For purposes of this section, "Equipment" means tangible, non-expendable personal property having a useful life of more than one year and a net acquisition cost of more than \$5,000 per unit. However, for purposes of information technology equipment, the monetary threshold does not apply (except as provided below for software and storage devices). Information technology equipment shall be tracked for the mandatory line categories listed below:

Network

Personal Computer

Printer/Plotter

Server

Storage devices that will contain Client information.

Storage devices that will not contain Client information, when the acquisition cost is \$100 or more.

Software when the acquisition cost is \$100 or more.

- b. For any Equipment authorized by DHS for purchase with funds from this Agreement, ownership shall be in the name of County and County is required to accurately maintain the following Equipment inventory records:
  - (1) description of the Equipment;
  - (2) serial number;
  - (3) where Equipment was purchased;
  - (4) acquisition cost and date; and
  - (5) location, use and condition of the Equipment.
- c. Upon termination of this Agreement, or any Service thereof, for any reason whatsoever, County shall, upon request by DHS, immediately, or at such later date specified by DHS, tender to DHS any and all Equipment purchased with funds under this Agreement as DHS may require to be returned to the State. At DHS' direction, County may be required to deliver said Equipment to a subsequent contractor for that contractor's use in the delivery of Services

formerly provided by County. Upon mutual agreement, in lieu of requiring County to tender the Equipment to DHS or to a subsequent contractor, DHS may require County to pay to DHS the current value of the Equipment. Equipment value will be determined as of the date of Agreement or Service termination.

- d. If funds from this Agreement are authorized by DHS to be used as a portion of the purchase price of Equipment, requirements relating to title, maintenance, Equipment inventory reporting and residual value shall be negotiated and the agreement reflected in a special condition authorizing the purchase.
- e. Notwithstanding anything herein to the contrary, County shall comply with 45 CFR 75.352, which, generally, describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal grant funds.

**INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING  
OF COMMUNITY  
DEVELOPMENTAL DISABILITY SERVICES**

**EXHIBIT F  
REQUIRED FEDERAL TERMS AND CONDITIONS**

**General Applicability and Compliance.** Unless exempt under 45 C.F.R. Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, County shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to County, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** County shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, County expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No Federal Funds may be used to provide Work in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then County shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then County shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use

under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to DHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. County shall include and require all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.

4. **Energy Efficiency.** County shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, County certifies, to the best of County's knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
  - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c. County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
  - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
  - e. No part of any Federal Funds paid to County under this Agreement shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f. No part of any Federal Funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
  - g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
  - h. No part of any Federal Funds paid to County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
6. **Resource Conservation and Recovery.** County shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
7. **Audits.**
- a. County shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
  - b. If Recipient expends \$500,000 or more in Federal Funds (from all sources) in its fiscal year beginning prior to December 26, 2014, Recipient shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Recipient expends \$750,000 or more in Federal Funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Recipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 C.F.R. Subtitle B, with guidance at 2 C.F.R. part 200. Copies of all audits must be submitted to DHS within 30 calendar days of completion. If Recipient expends less than \$500,000 in Federal Funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, Recipient is exempt from federal audit requirements for that year. Records must

be available as provided in Exhibit E, Section 14 "Records Maintenance; Access and Confidentiality".

8. **Debarment and Suspension.** County shall not permit any person or entity to be a Subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension" (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
9. **Drug-Free Workplace.** County shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) County certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in County's workplace or while providing services to DHS Clients. County's notice shall specify the actions that will be taken by County against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, County's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction; (v) Notify DHS within ten calendar days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither County, or any of County's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe County or County's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs County or County's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to DHS Clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or

mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Agreement.

10. **Pro-Children Act.** County shall comply and require all Subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
11. **Medicaid Services.** County shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. §1396 et. seq., including without limitation:
  - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. §1396 a(a)(27); 42 CFR Part 431.107(b)(1) & (2).
  - b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
  - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. §1396 (a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 Subpart I.
  - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. County shall acknowledge County's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
  - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. §1396a (a)(68).
12. **Agency-based Voter Registration.** If applicable, County shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
13. **Disclosure.**
  - a. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a



corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b. 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Title XXI program in the last 10 years.
- d. County shall make the disclosures required by this Section 13 to DHS. DHS reserves the right to take such action required by law, or where DHS has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

14. **Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. County agrees that it has been provided the following notice:

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for federal government purposes with respect to:
  - (1) The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
  - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
  - c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or agreement under a grant or subgrant.
15. **Super Circular Requirements.** 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, including but not limited to the following:
- a. **Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.
  - b. **Procurement Standards.** When procuring goods or services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C or 2 CFR §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
  - c. **Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of Recipient, and Recipient shall also include these contract provisions in its contracts with non-Federal entities.
  - d. **Information Required by 2 CFR 200.331(a)(1).** All required data elements in accordance with 2 CFR 200.311(a)(1) are available at [www.dhs.state.or.us/spd/tools/dd/cm/](http://www.dhs.state.or.us/spd/tools/dd/cm/)

**INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING OF  
COMMUNITYDEVELOPMENTAL DISABILITY SERVICES**

**EXHIBIT G PART 1  
REQUIRED SUBCONTRACT PROVISIONS**

For purposes of this Exhibit G, Contractor means the individual or entity that is subcontracting directly with County for Services under this Agreement.

**1. Expenditure of Funds.**

Contractor may expend the funds paid to Contractor under this Contract solely on the delivery of \_\_\_\_\_, subject to the following limitations (in addition to any other restrictions or limitations imposed by this Contract):

- a. Contractor may not expend on the delivery of \_\_\_\_\_ any funds paid to Contractor under this Contract in excess of the amount reasonable and necessary to provide quality delivery of \_\_\_\_\_.
- b. If this Contract requires Contractor to deliver more than one Service, Contractor may not expend funds paid to Contractor under this Contract for a particular Service on the delivery of any other Service.
- c. Contractor may expend funds paid to Contractor under this Contract only in accordance with the provisions of 2 C.F.R. Subtitle B, with guidance at 2 C.F.R. part 200, as those provisions are applicable on allowable costs.

**2. Records Maintenance, Access and Confidentiality.**

- a. Access to Records and Facilities. County, the State of Oregon, Department of Human Services (DHS), the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers and records of Contractor that are directly related to this Contract, the funds paid to Contractor hereunder, or any Services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, Contractor shall permit authorized representatives of County and DHS to perform site reviews of all Services delivered by Contractor hereunder.
- b. Retention of Records. Contractor shall retain and keep accessible all books, documents, papers, and records, that are directly related to this Contract, the funds paid to Contractor hereunder or to any Services delivered hereunder, for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the expiration or termination of this Contract. If there are unresolved audit or other questions at the end of the six-year period, Contractor shall retain the records until the questions are resolved.
- c. Expenditure Records. Contractor shall document the expenditure of all funds paid to Contractor under this Contract. Unless applicable federal law requires

Contractor to utilize a different accounting system, Contractor shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit County and DHS to verify how the funds paid to Contractor under this Contract were expended.

- d. Background Check Records. Contractor must make available to County and DHS records demonstrating that Contractor and Contractor's employees working with clients referred by County have passed a criminal history check per ORS 181.533.
- e. Client Records. Unless otherwise specified in this Contract, Contractor shall create and maintain a client record for each client who receives Services under this Contract. The client record must contain:
  - (1) Client identification;
  - (2) Treatment, training and care plan, as applicable;
  - (3) Medical information when appropriate; and
  - (4) Progress notes including Service termination summary and current assessment or evaluation instrument as designated by DHS in administrative rules.

Contractor shall retain client records in accordance with OAR 166-005-0000 through 166-150-0215 (State Archivist). Unless OAR 166-005-0000 through 166-150-0215 requires a longer retention period, client records must be retained for a minimum of seven years from termination of this contract.

- f. Safeguarding of Client Information. Contractor shall maintain the confidentiality of Client records as required by applicable state and federal law, including without limitation, ORS 179.495 to 179.507, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by the Oregon Department of Human Services (DHS) implementing the foregoing laws, and any written policies made available to Contractor by County or by DHS. Contractor shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to County and DHS for review and inspection as reasonably requested by County or DHS.

### **3. Alternative Formats of Written Materials.**

In connection with the delivery of Services, Contractor shall:

- a. Make available to a Client, without charge to the Client, upon the Client's, County's or DHS' request, any and all written materials in alternate, if appropriate, formats as required by DHS administrative rules or by DHS written policies made available to Contractor.
- b. Make available to a Client, without charge to the Client, upon the Client's, County's or DHS' request, any and all written materials in the prevalent non-English languages in the area served by Contractor.
- c. Make available to a Client, without charge to the Client, upon the Client's, County's or DHS' request, oral interpretation services in all non-English languages in the area served by Contractor.

- d. Make available to a Client with hearing impairments, without charge to the Client, upon the Client's, County's or DHS' request, sign language interpretation services and telephone communications access services.

For purposes of the foregoing, "written materials" includes, without limitation, all written materials created or delivered in connection with the DD Services related to this Agreement. Each party shall be responsible to provide to the other party for distribution to Individuals any written material in alternative formats and translations if the written material was created or originated by that party.

**4. Reporting Requirements.**

Contractor shall prepare and furnish the following information to County and DHS when a Service is delivered under this Contract:

- a. Client, Service and financial information as specified in the applicable Service Element Standards and Procedures.
- b. All additional information and reports that County or DHS reasonably requests.

**5. Licensing and Certification.**

Contractor shall maintain all licenses, certificates, authorizations and other approvals as identified in the applicable Service Element Standards and Procedures.

**6. Compliance with Law.**

Contractor shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Contract or to the delivery of Services hereunder. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws governing operation of community mental health programs, including without limitation, all administrative rules adopted by DHS related to community developmental disability programs; (c) all state laws requiring reporting of client abuse; (d) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, Services and training associated with the delivery of Services under this Contract. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. All employers, including Contractor, that employ subject workers who provide Services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126(2). Contractor shall require all of its subcontractors to comply with, and shall ensure that each of its subcontractors complies with, these requirements. For purposes of this Contract, all references in this Contract to federal and state laws are references to federal and state laws as they may be amended from time to time.

**7. Independent Contractor Status.**

Unless Contractor is a State of Oregon governmental agency, Contractor agrees that it is an independent Contractor and not an agent of the State of Oregon, DHS or County.

**8.** Contractor understands that Contractor may be prosecuted under applicable federal and state criminal and civil laws for submitting false claims, concealing material facts, misrepresentation, falsifying data system input, other acts of misrepresentation, or conspiracy to engage therein.

**9.** Under this Contract, Contractor shall only conduct transactions that involve County funds directly related to this Contract and that are authorized by County under this Contract.

**10.** If Contractor is not a unit of local government as defined in ORS 190.003, Contractor shall obtain, at Contractor's expense, and maintain in effect with respect to all occurrences taking place during the term of the Contract, insurance requirements as specified in Exhibit G, Part 2, "Subcontractor Insurance Requirements" of the certain Intergovernmental Agreement for the Financing of Community Developmental Disabilities Services between County and the Department of Human Services dated as of \_\_\_\_\_, which Exhibit is incorporated herein by this reference.

**11.** If Contractor is not a unit of local government as defined in ORS 190.003, Contractor 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 Contractor or any of the officers, agents, employees or subcontractors of the Contractor ("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 the Contractor from and against any and all Claims.

**12. Permitted Subcontracts.**

County shall include Sections 1 through 11, in substantially the form set forth above, in all permitted Contracts under this Agreement.

**INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING OF  
COMMUNITY  
DEVELOPMENTAL DISABILITY SERVICES**

**EXHIBIT G PART 2  
SUBCONTRACTOR INSURANCE REQUIREMENTS**

County shall require its first tier Subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance as specified under Section 1 and meeting all the requirements under Sections 2, 3, 4, 5, and 6 of this Exhibit G Part 2 before the Subcontractors perform under Subcontracts between County and the Subcontractors, and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to DHS. County shall not authorize Subcontractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce Subcontractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Subcontractor to work under a Subcontract when County is aware that the Subcontractor is not in compliance with the insurance requirements. As used in this section, a "first tier" Subcontractor is a contractor with whom County directly enters into a Subcontract. It does not include a subcontractor with whom the Subcontractor enters into a contract.

**1. Types and Amounts.**

- a. **Workers' Compensation.** Insurance must be 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 with coverage limits of not less than \$500,000.
- b. **Professional Liability.** Professional liability covers any damages caused by an error, omission or negligent act related to the Services to be provided under the Subcontract, with limits not less than the following, as determined by DHS, or such lesser amount as DHS approves in writing:

Per occurrence for all claimants for claims arising out of a single accident or occurrence:

Subcontract not-to-exceed amount:	Required Insurance Amount:
Not over \$1,000,000.	\$1,000,000.
Over \$1,000,000, but not over \$2,000,000.	\$2,000,000.
Over \$2,000,000 but not over \$3,000,000.	\$3,000,000.
Over \$3,000,000.	\$4,000,000.

Professional liability insurance is required for professionals or entities that provide professional Services for which professional liability insurance is available for the profession.

- c. **Commercial General Liability.** Commercial general liability insurance covers bodily injury, death, and property damage in a form and with coverage that is satisfactory to DHS. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by DHS, or such lesser amount as DHS approves in writing.

Bodily Injury, Death and Property Damage:

Per occurrence for all claimants for claims arising out of a single accident or occurrence:

Subcontract not-to-exceed amount:	Required Insurance Amount:
Not over \$1,000,000.	\$1,000,000.
Over \$1,000,000, but not over \$2,000,000.	\$2,000,000.
Over \$2,000,000, but not over \$3,000,000.	\$3,000,000.
Over \$3,000,000.	\$4,000,000.

- d. **Automobile Liability.** Automobile liability insurance is required for first tier Subcontractors when the scope of work includes transportation. Automobile liability insurance covers all owned, non-owned, and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance with separate limits for "Commercial General Liability" and "Automobile Liability". Automobile Liability Insurance must be in not less than the following amounts as determined by DHS, or such lesser amount as DHS approves in writing:

Bodily Injury, Death and Property Damage:

Per occurrence for all claimants for claims arising out of a single accident or occurrence:

Subcontract not-to-exceed amount:	Required Insurance Amount:
Not over \$1,000,000.	\$1,000,000.
Over \$1,000,000, but not over \$2,000,000.	\$2,000,000.
Over \$2,000,000, but not over \$3,000,000.	\$3,000,000.
Over \$3,000,000.	\$4,000,000.

**2. Additional Insured.**

The Commercial General Liability insurance and Automobile Liability insurance must include the State of Oregon, its officers, employees and agents as Additional Insured but only with respect to the Subcontractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.



**3. "Tail" Coverage.**

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Subcontractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of : (i) the Subcontractor's completion and County 's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the Subcontractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Subcontractor may request and DHS may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If DHS approval is granted, the Subcontractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

**4. Notice of Cancellation or Change.**

The Subcontractor or its insurer must provide 30 calendar days' written notice to County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**5. Certificate(s) of Insurance.**

County shall obtain from the Subcontractor a certificate(s) of insurance for all required insurance before the Subcontractor performs under the Subcontract. The certificate(s), or an attached endorsement, must specify: (i) all entities and individuals who are endorsed on the policy as Additional Insured; and (ii) for insurance on "claims made" basis, the extended reporting period applicable to "tail" or continuous claims made coverage.

**INTERGOVERNMENTAL GRANT AGREEMENT  
FOR THE FINANCING OF  
COMMUNITY  
DEVELOPMENTAL DISABILITY SERVICES**

**EXHIBIT H  
RESERVED**

**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**October 11, 2017**

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**Issue/Agenda Title:** Wetland Credit Purchase for Bugle Road Project

**Category:** Business Agenda

**Prepared By:** Michael Summers, Public Works Director

**Presented By:** Michael Summers, Public Works Director

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**Issue before the Commission:** Consider the purchase of 0.79 acres of wetland mitigation bank credits from the Claremont Road Wetland Mitigation Bank

**Informational Summary:** Clatsop County Public Works staff continues to pursue further development of the North Coast Business Park. The construction of Bugle Road, which would extend a three-lane roadway from Ensign Lane South to SE 19<sup>th</sup> Street, has been programmed for the fiscal year 17/18. The project is at the 90% design stage, where the design engineers and county staff are working to secure necessary permits to begin construction of the project. A joint wetland fill/removal permit via the US Army Corps of Engineers and Oregon Department of State Lands is one several necessary permits.

In order to complete the construction activities for the roadway, a minor impact to onsite wetlands is necessary. Providing compensatory mitigation for the onsite wetland impacts is required prior to construction. The project proposes to remove or fill 0.79 acres of onsite wetlands within the proposed roadway limits. County staff recommends the purchase of 0.79 credits of fee in-lieu wetland mitigation from the Claremont Road Wetland Mitigation Bank, which is located in Clatsop County.

**Fiscal Impact:** The wetland credits are budgeted within the County's Industrial Revolving Fund as this roadway project is within the Clatsop County North Coast Business Park. The credit cost is \$100,000.

**Options to Consider:**

1. Approve the purchase of wetland mitigation credits in order to construct the project
2. Direct staff to consider other sources or options of wetland mitigation credits

**Staff Recommendation:** Option #1

**Recommended Motion:** *“I move to approve the purchase of 0.79 acres of wetland mitigation credits from the Claremont Road Wetland Mitigation Bank for the construction of Bugle Road and authorize the County Manager to sign the Bill of Sale.”*

**Attachment List:**

- A. Bill of Sale for Claremont Road Mitigation Bank Wetland Credit Purchase

## BILL OF SALE

That in consideration of the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), WARRENTON FIBER COMPANY (hereinafter called Seller), hereby grants, bargains, sells, transfers and delivers unto Clatsop County (hereinafter called Buyer), the following described property:

0.79 Wetland Mitigation Credits from the Claremont Road Wetland Mitigation Bank

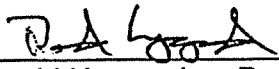
Upon receipt of payment, Seller will provide Buyer with a Wetland Credit Receipt of 0.79 Wetland Mitigation Credits for Buyer's Oregon DSL Removal Fill Permit application RF-60450. Buyer agrees to pay Seller in full by October 31, 2017.

Please reference the Claremont Road Mitigation Bank, Oregon DSL Permit #48279 as the source for these 0.79 Wetland Mitigation Credits for Seller's project.

BUYER: Clatsop County

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

SELLER: Warrenton Fiber Company

  
By: David Nygaard as President of Warrenton Fiber Company



**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**October 11, 2017**

**Issue/Agenda Title:** Holiday Schedule for November and December Meetings

**Category:** Business Agenda

**Prepared By:** Theresa Dursse, Executive Assistant - Clerk of the Board

**Presented By:** Cameron Moore, County Manager

**Issue before the Commission:** Consider setting November and December meetings.

**Informational Summary:** Due to deadlines for posting Public Hearings and notices, staff is presenting for your consideration the following dates for your November and December meetings. Our Charter states that the Board will generally meet twice monthly in regular session at a public place with at least one of those meetings held in the evening hours. Under normal circumstances, the Board Meetings would fall on Nov. 8 and Nov. 22 and Dec. 13 and Dec. 27. However, in years past, the Board has designated different meeting dates during these months to accommodate commissioner availability. Note: AOC Annual Conference is Nov. 14-16.

To accommodate the various holidays, the following meeting dates and times have been suggested:

- Wednesday, Nov. 8 at 6 p.m.
- Wednesday, Dec. 13 at 6 p.m.

NOVEMBER						
Sun	Mon	Tues	Wed	Thurs	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

DECEMBER						
Sun	Mon	Tues	Wed	Thurs	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

**Fiscal Impact:** No fiscal implications anticipated.

**Options to Consider:**

1. Approve meeting dates as suggested by staff.
2. Consider meeting dates other than Wednesdays to accommodate commissioner availability.

**Staff Recommendation:** Option #1

**Recommended Motion:** *"I move to approve meeting dates as suggested by staff."*

**Attachment List:** None



**Board of Commissioners  
Clatsop County**

**AGENDA ITEM SUMMARY**

**October 11, 2017**

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**Issue/Agenda Title:** Appointment of Columbia River Fisheries Transition Program Advisory Committee

**Category:** Business Agenda

**Prepared By:** Cameron Moore, County Manager

**Presented By:** Cameron Moore, County Manager

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**Issue before the Commission:** Appointment of Columbia River Fisheries Transition Program Advisory Committee in preparation for applying for Transition Program funding from the Oregon Department of Fish & Wildlife

**Informational Summary:** In July 2013 Senate Bill 830 was signed into law to aid with implementation of Columbia River Fish Management and Reform rules adopted by the Oregon Fish and Wildlife Commission. Specifically SB 830 appropriated \$500,000 for distribution to Oregon permit holders by an Oregon County. Funds are available for three purposes: 1) Compensate individuals for economic harm due to restrictions related to the policy; 2) Financial assistance to offset the cost of required gear changes as a result of the policy and 3) Reimbursement to counties for costs necessary to implement the program ODF&W is aware that Clatsop County intends to apply for these funds. One of the requirements to receive the funds is the establishment of a local County Advisory Committee.

**Fiscal Impact:** None as we can use these grant funds to pay the costs to implement this program.

**Options to Consider:**

1. Appoint Steve Fick, Kevin Leahy, Lisa Clement, Jim Wells & Joe Schulte to the Columbia River Fisheries Transition Advisory Committee
2. Appoint different members to the Columbia River Fisheries Transition Advisory Committee
3. Table this agenda item

**Staff Recommendation:** Option #1

**Recommended Motion:** *"I move to appoint Lisa Clement, Joe Schulte, Jim Wells, Kevin Leahy and Steve Fick to the Columbia River Fisheries Transition Program Advisory Committee"*