



OREGON

*"Delivering Excellence Everyday"*

## MARION COUNTY BOARD OF COMMISSIONERS

Wednesday, September 17, 2025  
Board Session 9:00 a.m.

Senator Hearing Room  
555 Court Street NE, Salem

### PUBLIC COMMENT

### PROCLAMATION

#### BOARD OF COMMISSIONERS

**1.** Consider approval of a proclamation designating the week of September 17-23, 2025, as Constitution Week in Marion County. –Day Westine, National Society Daughters of the American Revolution (NSDAR), Chemeketa Chapter

### CONSENT

#### BOARD OF COMMISSIONERS

**2.** OLCC Application – Recommended Approval

Xinery, LLC, dba, Nagoya Japanese Steak House and Sushi – Salem, Oregon.

#### HEALTH AND HUMAN SERVICES

**3.** Approve Amendment #1 to the incoming funds Intergovernmental Agreement (IGA) with the Oregon Health Authority to add \$104,840.82 for Program Elements PE01-12, ACDP Infection Prevention Training, and PE43-01, Public Health Practice (PHP) – Immunization Services, for a new IGA total of \$5,970,243.62 through June 30, 2027.

**4.** Approve the incoming funds Intergovernmental Agreement (IGA) with the Oregon Department of Human Services (ODHS) in the amount of \$41,570,102 in which the county acting as the Administrator for the Community Developmental Disabilities Program (CDDP) will oversee and deliver developmental disability services to eligible individuals retroactive to July 1, 2025, through June 30, 2027.

#### PUBLIC WORKS

**5.** Schedule final consideration to adopt an administrative ordinance on September 24, 2025, for Zone Change/Comprehensive Plan Change/Administrative Review (ZC/CP/AR) Case #25-001/Jerome P. Lackner.

6. Schedule final consideration to adopt an administrative ordinance on September 24, 2025, for Zone Change (ZC) Case #25-003/LuckyJun, LLC.

7. Schedule final consideration to adopt an administrative ordinance on September 24, 2025, for Comprehensive Plan Change/Zone Change/Partition (CP/ZC/P) Case #19-005/ Lois M. Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust.

#### TAX OFFICE

8. Approve an order for a property tax refund for Ripe, LLC, account 512162, in the amount of \$56,506.77.

#### TREASURER'S OFFICE

9. Approve an order to establish a petty cash fund within the Marion County Human Resources Department in the amount of \$100 to reimburse parking fees for county employees attending meetings at Courthouse Square.

### **ACTION**

#### SHERIFF'S OFFICE

10. Consider approval of the Intergovernmental Agreement between the Marion County Sheriff's Office (MCSO) and Marion County Fire District No. 1 (MCFD1) to establish the terms and conditions under which MCFD1 will provide certified paramedics to train with, and act on call as members of the Special Weapons And Tactics (SWAT) Team through December 31, 2029. –Sheriff Nick Hunter and Fire Chief Kyle McMann

11. Consider approval of the Purchase Order with Henry Schein, Inc., that utilizes Criminal Justice Commission (CJC) Jail-based Medications for Opioid Use Disorder (JMOUD) grant funding in the amount of \$153,720 for the one-time purchase of Brixadi subcutaneous injection medication to provide treatment to individuals in custody with an opioid disorder through December 31, 2025. –Commander Jacob Ramsey

#### COMMUNITY SERVICE

12. Consider approval of the Grant Agreement with The 4th Dimension Recovery Center to utilize opioid settlement funds in the amount of \$175,399.30 for the Salem Teen and Family Recovery Program launch to support a comprehensive adolescent and family addiction treatment program with an ending term date of one year from execution. –Kelli Weese

## INFORMATION TECHNOLOGY

**13.** Consider approval of the Contract for Services with Carahsoft Technology Corporation in the not-to-exceed amount of \$163,369.34 for implementation of the Splunk Cloud Services for the Marion County Enterprise Resource Planning (ERP) Project through December 31, 2025. –Gary Christofferson

*(Revised 9/17/2025: Motion made and approved to move this item to the Consent Agenda)*

## **PUBLIC HEARINGS** **Starting no earlier than 9:30 a.m.**

None.

Members of the public may submit written testimony by email to [PublicHearings@co.marion.or.us](mailto:PublicHearings@co.marion.or.us) For agenda items where in-person testimony is allowed, the public may sign up to provide testimony by telephone by emailing [PublicHearings@co.marion.or.us](mailto:PublicHearings@co.marion.or.us) at least 24 hours before the meeting. The email must specify the meeting date/time and agenda topic for which testimony is being submitted. For telephone testimony requests, the email must also include your name and the phone number that staff should use to call you at the appropriate time.

If you require interpreter assistance, an assistive listening device, large print material or other accommodations, call 503-588-5212 at least 48 hours in advance of the meeting. TTY 503-588-5168 Si necesita servicios de interprete, equipo auditivo, material copiado en letra grande, o culaquier otra acomodacion, por favor llame al 503-588-5212 por lo menos 48 horas con anticipacion a la reunion. TTY 503-588-5168 Marion County is on the Internet at: [www.co.marion.or.us](http://www.co.marion.or.us)



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 17, 2025

Department: Board of Commissioners

Title: Proclamation designating September 17-23, 2025, as Constitution Week in Marion County.

Management Update/Work Session Date: September 2, 2025 Audio/Visual aids [ ]

Time Required: 15 min. Contact: Brenda Koenig Phone: (503) 589-3236

Requested Action: Consider a proclamation designating September 17-23, 2025, as Constitution Week in Marion County.

Issue, Description & Background: Constitution Week is observed nationally the week of September 17-23. In honor of this historic event the Marion County Board of Commissioners will issue a proclamation to the National Society Daughters of the American Revolution (NSDAR), Chemeketa Chapter. The United States Constitution was signed on September 17, 1787. In 1956, the United States Congress requested that the President proclaim the week of September 17-23 each year as Constitution Week to join in the observance of this historic occasion.

Financial Impacts: None.

Impacts to Department & External Agencies: None.

List of attachments: Proclamation

Presenter: Day Westine, Daughters of the American Revolution, Chemeketa Chapter

Department Head Signature: [Handwritten Signature]



**BEFORE THE BOARD OF COMMISSIONERS  
FOR MARION COUNTY, OREGON**

In the matter of observing September 17-23, 2025, as Constitution Week in Marion County

**PROCLAMATION**

This matter came before the Marion County Board of Commissioners at its regularly scheduled public meeting on Wednesday, September 17, 2025.

**WHEREAS:** The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and

**WHEREAS:** We celebrate our heritage as a country bound together by fidelity to a set of ideas and a system of governance first laid out in America's Constitution. The product of fierce debate and enduring compromise, our Nation's Constitution has guided our progress from 13 to 50 United States that stretch from sea to shining sea; and

**WHEREAS:** September 17, 2025, marks the two hundred thirty-eighth anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention; and

**WHEREAS:** This week, we reflect on the basic rights and responsibilities of citizenship, the founding documents from which they were drawn, and the extraordinary legacy of progress they have enabled. Let us forever uphold the ideals the Framers enshrined in our Constitution, and let us never cease in our pursuit of the more perfect Union they imagined so many years ago; and

**NOW, THEREFORE,** by virtue of the authority vested in us as Commissioners for Marion County, we do hereby proclaim the week of September 17th through 23rd as **CONSTITUTION WEEK.**

DATED this 17th day of September 2025.

**MARION COUNTY BOARD OF COMMISSIONERS**

**Chairperson** \_\_\_\_\_

**Commissioner** \_\_\_\_\_

**Commissioner** \_\_\_\_\_

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF MARION COUNTY, STATE OF OREGON

NO. 20163

In the Matter of the Application of

For a recommendation regarding the  
application to the Oregon Liquor  
Control Commission for

RECOMMENDATION

This matter coming before the Board of County Commissioners on the application of

Xineng LLC / Nagoya Japanese Steak House & sushi for a recommendation to the Oregon  
Liquor Control Commission under the provisions of ORS 471.166; and the Board having referred  
said application to the Sheriff of Marion County, Oregon, and having the report of said Sheriff that  
the applicant has not been convicted of a crime involving a violation of the liquor control laws, or  
the gambling laws, or of crimes involving moral turpitude, and that the applicant is of good moral  
character, a citizen of the United States of America, and otherwise qualified to be licensed under  
the Oregon Liquor Control Act;

IT IS, THEREFORE RECOMMENDED TO THE OREGON LIQUOR CONTROL COMMISSION  
that the application of the above be refused \_\_\_\_\_ granted \_\_\_\_\_.

Dated at Salem, Marion County, Oregon this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ County Commissioner

\_\_\_\_\_ County Commissioner

\_\_\_\_\_ County Commissioner

Approved by

  
County Sheriff

9/8/25



# Local Government Recommendation – Liquor License

### Section 1 Continued – Submission - To be completed by Applicant:

Legal Entity/Individual Applicant Name(s): Xinery LLC

Proposed Trade Name: Nagoya Japanese Steak House & SuShi

**IMPORTANT:** You MUST submit this form to the local government PRIOR to submitting to OLCC.  
Section 2 must be completed **by the local government** for this form to be accepted with your CAMP application.

### Section 2 – Acceptance - To be completed by Local Government:

#### Local Government Recommendation Proof of Acceptance

After accepting this form, please return a copy to the applicant with received and accepted information

City or County Name: *Marion County*

Optional Date Received Stamp

Date Application Received: *September 2, 2025*

Received by: *Madison Duarte*

2025  
AUG 33 P 2 :23  
MARION COUNTY CLERK

RECEIVED

### Section 3 – Recommendation - To be completed by Local Government:

- Recommend this license be granted
- Recommend this license be denied (Please include documentation that meets [OAR 845-005-0308](#))
- No Recommendation/Neutral

Name of Reviewing Official: *Jordan Santillan*

Title: *SST*

Date: *9/4/25*

Signature: *Jordan Santillan*

After providing your recommendation and signature, please return this form to the applicant.



# Local Government Recommendation – Liquor License

Annual Liquor License Types	
Off-Premises Sales	Brewery-Public House
Limited On-Premises Sales	Brewery
Full On-Premises, Caterer	Distillery
Full On-Premises, Commercial	Grower Sales Privilege
Full On-Premises, For Profit Private Club	Winery
Full On-Premises, Non Profit Private Club	Wholesale Malt Beverage & Wine
Full On-Premises, Other Public Location	Warehouse
Full On-Premises, Public Passenger Carrier	

## Section 1 – Submission – To be completed by Applicant:

### License Information

Legal Entity/Individual Applicant Name(s): Xinery LLC

Proposed Trade Name: Nagoya Japanese Steak House & SuShi

Premises Address: 3760 center st ne

Unit:

City: salem

County: marion

Zip: 97301

Application Type:  New License Application  Change of Ownership  Change of Location

License Type: Full On-Premises, Commercial  Additional Location for an Existing License

### Application Contact Information

Contact Name: XIN LIN

Phone: 5039838725

Mailing Address: 3760 center st ne

City: salem

State: oregon

Zip: 97301

Email Address: Xinery.llc@gmail.com

### Business Details

Please check all that apply to your proposed business operations at this location:

Manufacturing/Production

Retail Off-Premises Sales

Retail On-Premises Sales & Consumption

If there will be On-Premises Consumption at this location:

Indoor Consumption

Outdoor Consumption

Proposing to Allow Minors

### Section 1 continued on next page



OREGON LIQUOR & CANNABIS COMMISSION  
**BUSINESS INFORMATION – LIQUOR LICENSE**

Applicant Name	XINERY, LLC
Trade Name	Nigoya Japanese Steak House & Sushi
Premises Street Address	3760 CENTER ST NE SAULTON OR 97301
License Type	Full on-Premises

Business Contact	[Redacted]
Mailing Address	3760 Center St NE SAULTON OR 97301
Phone Number	[Redacted]
Email Address	xinery.llc@gmail.com

Commercial

**Operating Hours**

Day of Week	Open Time	Closed Time	Seasonal Variation	Explanation
Monday	11:30	9:30	Yes <input type="checkbox"/>	
Tuesday	11:30	9:30		
Wednesday	11:30	9:30		
Thursday	11:30	9:30	<input type="checkbox"/>	Not open to the public or by appointment only
Friday	11:30	10:00		
Saturday	12:00	10:00		
Sunday	12:00	9:00		

**Seating Count**

Restaurant Seating #: 150      Outdoor Seating #: X      Other Seating #: X

No On-Premises Consumption

**ENTERTAINMENT**

Check all that apply:

- Live Music
- Recorded Music
- DJ Music
- Dancing
- Karaoke
- Coin-Operated Games
- Pool Tables
- Social Gaming (ex: gambling)  
[As defined in ORS 167.117(21)]  
A game, other than a lottery, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.
- Video Lottery Machines
- Nude Dancing
- Live Entertainment
- Minor Entertainers
- Minor Entertainers in an Area Prohibited to Minors  
\*\*Need prior OLCC approval
- Other:

MARION COUNTY  
BILL BURGESS  
MARION COUNTY CLERK

Receipt #: 69514

Receipt Date: 09/02/2025 02:23 PM

Station: 1

Cashier: MD1

Receipt Name: XINERY LLC

Comments: 3760 CENTER ST NE SALEM, OR 97301

Thank You!  
BILL BURGESS, MARION COUNTY CLERK

Please retain this receipt for your records.

Documents are recorded as submitted. The Marion County Clerk's Office assumes no liability for sufficiency, validity, or accuracy.

Miscellaneous Fees		
LIQUOR LICENSE FEE	YES	\$25.00

**Receipt Total** **\$25.00**

CASH \$25.00



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 9/2/25

Department: Health & Human Services

Title: Public Health OHA IGA #185823 Amendment 1

Management Update/Work Session Date: 9/17/25 Audio/Visual aids

Time Required: 10 min Contact: Kristina Ballow Phone: 503-588-5409

Requested Action: Seeking Approval of Amendment 1 to the contract with OHA for the Public Health OHA IGA#185823.

Issue, Description & Background: Intergovernmental Agreement: Oregon Health Authority Biennium 2025-2027 IGA #185823 and Marion County Health and Human Services to provide and operate contracts for Public Health Services. Amend 1- adds funds of \$104,840.82 to PE01-12 ACDP Infection Prevention Training, PE43-01 Public Health Practice (PHP) - Immunization Services.

Financial Impacts: Total contract amount \$5,970,243.62.

Impacts to Department & External Agencies: Health and Human Services anticipates no financial impact to other departments.

List of attachments: Original, amendment 1

Presenter: Wendy Zieker

Department Head Signature: Ryan Matthews



**OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](mailto:dhs-oha.publicationrequest@state.or.us) or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

**Agreement #185823**

**AMENDMENT TO OREGON HEALTH AUTHORITY  
2025-2027 INTERGOVERNMENTAL AGREEMENT FOR THE  
FINANCING OF PUBLIC HEALTH SERVICES**

This First Amendment to Oregon Health Authority 2025-2027 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2025, (as amended the “Agreement”), is between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and Marion County, (“LPHA”), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Marion County. OHA and LPHA are each a “Party” and together the “Parties” to the Agreement.

**RECITALS**

WHEREAS, OHA and LPHA wish to modify the set of Program Element Descriptions set forth in Exhibit B of the Agreement

WHEREAS, OHA and LPHA wish to modify the Financial Assistance Award set forth in Exhibit C of the Agreement.

WHEREAS, OHA and LPHA wish to modify information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200 as set forth in Exhibit J of the Agreement;

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. This Amendment is effective on **July 15, 2025**, regardless of the date this amendment has been fully executed with signatures by every Party and when required, approved by the Department of Justice. However, payments may not be disbursed until the Amendment is fully executed.

**OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES**

2. The Agreement is hereby amended as follows:

a. Exhibit A “Definitions”, Section 18 “Program Element” is amended to replace the information for PE01 and add the information for PE43, titles and funding source identifiers as follows:

<b>PE NUMBER AND TITLE</b> • SUB-ELEMENT(S)	<b>FUND TYPE</b>	<b>FEDERAL AGENCY/ GRANT TITLE</b>	<b>CFDA#</b>	<b>HIPAA RELATED (Y/N)</b>	<b>SUB-RECIPIENT (Y/N)</b>
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**PE01 State Support for Public Health**

<b>PE 01-01</b> State Support for Public Health (SSPH)	GF	N/A	N/A	N	N
<b>PE01-12</b> ACDP Infection Prevention Training	FF	Oregon 2020 Epidemiology & Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC)	93.323	N	Y

**PE43 Immunization Services**

<b>PE 43-01</b> Immunization Services	FF	CDC/Immunization Cooperative Agreements	93.268	N	Y
<b>PE 43-02</b> Wallowa County and School Law	GF	N/A	N/A	N	N
<b>PE43-05</b> OIP Bridge COVID	FF	Immunization Cooperative Agreements	93.268	N	Y
<b>PE 43-06</b> CARES Flu	FF	CDC/Immunization and Vaccines for Children	93.268	N	Y
<b>PE 43-07</b> School Law	GF	N/A	N/A	N	N

- b. Exhibit B Program Element #43 “Immunization Services” is hereby added by Attachment A attached hereto and incorporated herein by this reference.
- c. Exhibit C, Section 1 of the Agreement, entitled “Financial Assistance Award” is hereby superseded and replaced in its entirety by Attachment B, entitled “Financial Assistance Award”, attached hereto and incorporated herein by this reference. Attachment B must be read in conjunction with Section 2 of Exhibit C.
- d. Exhibit J of the Agreement entitled “Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200” is amended to add to the federal award information datasheet as set forth in Attachment C, attached hereto and incorporated herein by this reference.

- 3. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 4 of Exhibit F of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
- 4. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
- 5. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
- 6. This Amendment may be executed in any number of 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 Amendment so executed shall constitute an original.

**OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES**

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

**7. Signatures.**

**STATE OF OREGON, ACTING BY AND THROUGH ITS OREGON HEALTH AUTHORITY**

Approved by: \_\_\_\_\_

Name: /for/ Nadia A. Davidson

Title: Director of Finance

Date: \_\_\_\_\_

**MARION COUNTY LOCAL PUBLIC HEALTH AUTHORITY**

Approved by: See County Signature Page

Printed Name: Ryan Matthews

Title: HHS Administrator

Date: \_\_\_\_\_

**DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY**

*Agreement form group-approved by Devon Thorson, Senior Assistant Attorney General, Tax and Finance Section, General Counsel Division, Oregon Department of Justice by email on August 11, 2025, copy of email approval in Agreement file.*

**REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION**

Reviewed by: \_\_\_\_\_

Name: Rolonda Widenmeyer (or designee)

Title: Program Support Manager

Date: \_\_\_\_\_

**SIGNATURE PAGE FOR  
PUBLIC HEALTH OHA IGA#185823 - HE-6717-25  
between  
MARION COUNTY and OREGON HEALTH AUTHORITY**

**MARION COUNTY SIGNATURES  
BOARD OF COMMISSIONERS:**

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Chair	Date
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Commissioner	Date
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Commissioner	Date
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Authorized Signature:	<div style="display: flex; align-items: center;"><div style="margin-right: 5px;"><small>DocuSigned by:</small></div><div style="font-family: cursive; font-size: 1.2em; margin-right: 5px;">Ryan Matthews</div><div style="margin-left: 5px;"><small>7D28A787656F458...</small></div></div>	8/25/2025
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Department Director or designee	Date
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Authorized Signature:	<div style="display: flex; align-items: center;"><div style="margin-right: 5px;"><small>DocuSigned by:</small></div><div style="font-family: cursive; font-size: 1.2em; margin-right: 5px;">Jan Fritz</div><div style="margin-left: 5px;"><small>DC16351248DE4EC...</small></div></div>	9/3/2025
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Chief Administrative Officer	Date
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Reviewed by Signature:	<div style="display: flex; align-items: center;"><div style="margin-right: 5px;"><small>Signed by:</small></div><div style="font-family: cursive; font-size: 1.2em; margin-right: 5px;">Scott Norris</div><div style="margin-left: 5px;"><small>60C98A6F708240B...</small></div></div>	8/26/2025
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Marion County Legal Counsel	Date
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Reviewed by Signature:	<div style="display: flex; align-items: center;"><div style="margin-right: 5px;"><small>DocuSigned by:</small></div><div style="font-family: cursive; font-size: 1.2em; margin-right: 5px;">Sandra L. Lippert</div><div style="margin-left: 5px;"><small>C5E72231E6E54E3...</small></div></div>	8/25/2025
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Marion County Contracts & Procurement	Date
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**Attachment A**  
**Exhibit B - Program Element Descriptions**

**Program Element #43: Public Health Practice (PHP) Immunization Services**

**OHA Program Responsible for Program Element:**

Public Health Division/Center for Public Health Practice, Immunization Section

**1. Description.**

Funds provided under this Agreement for this Program Element may only be used in accordance with, and subject to, the requirements and limitations set forth below, to deliver Immunization Services.

Routine immunization services are provided in the community to prevent and mitigate vaccine-preventable diseases for all people by reaching and maintaining high lifetime immunization rates. Immunization services funded under this Agreement include population-based services including public education, enforcement of school immunization requirements, and technical assistance for healthcare providers that provide vaccines to their client populations; as well as vaccine administration to underserved populations that lack access to vaccination with an emphasis on ensuring equity in service delivery.

This Program Element and all changes to this Program Element are effective the first day of the month noted in the Issue Date of Exhibit C Financial Assistance Award unless otherwise noted in Exhibit C of the Financial Assistance Award.

**2. Definitions Specific to Immunization Services.**

- a. **ALERT IIS:** OHA's statewide immunization information system.
- b. **Billable Doses:** Vaccine doses given to individuals who opt to pay out of pocket or are insured for vaccines.
- c. **Case Management:** An individualized plan for securing, coordinating, and monitoring disease-appropriate treatment interventions.
- d. **Centers for Disease Control and Prevention or CDC:** Federal Centers for Disease Control and Prevention.
- e. **Electronic Health Record (EHR) or Electronic Medical Record (EMR):** a digital version of a patient's paper medical chart.
- f. **Exclusion Orders:** Legal notification to a parent or guardian of their child's noncompliance with the School/Facility Immunization Law.
- g. **Forecasting:** Determining vaccines due for an individual, based on immunization history and age.
- h. **HBsAg Screening:** Testing to determine presence of Hepatitis B surface antigen, indicating the individual carries the disease.
- i. **IQIP, Immunization Quality Improvement for Providers:** A continuous quality improvement process developed by CDC to improve clinic immunization rates and practices.
- j. **IRIS System:** An electronic system developed and maintained by OHA used by LPHAs to issue exclusion orders and report school- and child care site-specific data.
- k. **Oregon Vaccine Stewardship Statute:** State law requiring all state supplied vaccine providers to:
  - (1) Submit all vaccine administration data, including dose level eligibility codes, to ALERT IIS;

## OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES

- (2) Use ALERT IIS ordering and inventory modules; and
- (3) Verify that at least two employees have current training and certification in vaccine storage, handling, and administration, unless exempt under statute.

- l. **Orpheus:** An electronic communicable disease database and surveillance system intended for local and state public health epidemiologists and disease investigators to manage communicable disease reporting.
- m. **Public Provider Agreement and Profile:** Signed agreement a between OHA and LPHA that receives State-Supplied Vaccine/IG. Agreement includes clinic demographic details, program requirements and the number of patients vaccinated.
- n. **Section 317:** Funding that provides no cost vaccine to individuals who meet eligibility requirements based on insurance status, age, risk factors, and disease exposure.
- o. **Service Area:** Geographic areas in Oregon served by immunization providers.
- p. **Vaccine Access Program (VAP):** Vaccine or Immune Globulin provided by the OHA procured with federal and state funds.
- q. **Surveillance:** The routine collection, analysis and dissemination of data that describe the occurrence and distribution of disease, events or conditions.
- r. **Vaccine Adverse Events Reporting System or VAERS:** Federal system for reporting adverse events following vaccine administration.
- s. **Vaccine Eligibility:** An individual's eligibility for vaccine/IG based on insurance coverage for immunization.
- t. **Vaccines for Children (VFC) Program:** A Federal entitlement program providing no-cost vaccines to children 0 through 18 years who are:
  - (1) American Indian/Alaskan Native; or,
  - (2) Uninsured; or,
  - (3) Medicaid-enrolled; or,
  - (4) Underinsured and are served in Federally Qualified Health Centers (FQHC) or Rural Health Centers (RHC); or,
  - (5) Underinsured and served by LPHAs.
- u. **Vaccine Site Visit:** An on-site visit conducted at least every two years to ensure compliance with state and federal immunization requirements.
- v. **Vaccine Information Statement or VIS:** Federally-required patient handouts produced by CDC with information about the risks and benefits of each vaccine.

### 3. Alignment with Modernization Foundational Programs and Foundational Capabilities.

The activities and services that the LPHA has agreed to deliver under this Program Element align with Foundational Programs and Foundational Capabilities and the public health accountability metrics (if applicable), as follows (see Public Health Modernization Manual at: [http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public\\_health\\_modernization\\_manual.pdf](http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public_health_modernization_manual.pdf)):

**OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES**

**a. Foundational Programs and Capabilities (As specified in Public Health Modernization Manual)**

Program Components	Foundational Program					Foundational Capabilities						
	CD Control	Prevention and health promotion	Environmental health	Population Health	Access to clinical preventive services Direct services	Leadership and organizational competencies	Health equity and cultural responsiveness	Community Partnership Development	Assessment and Epidemiology	Policy & Planning	Communications	Emergency Preparedness and Response
<i>Asterisk (*) = Primary foundational program that aligns with each component</i>						<i>X = Foundational capabilities that align with each component</i>						
<i>X = Other applicable foundational programs</i>												
<b>Vaccines for Children Program Enrollment</b>					*		<b>X</b>					<b>X</b>
<b>Oregon Vaccine Stewardship Statute</b>					*	<b>X</b>						
<b>Vaccine Management</b>					*							<b>X</b>
<b>Billable Vaccine/IG</b>					*		<b>X</b>					
<b>Vaccine Administration</b>					*							<b>X</b>
<b>Immunization Rates, Outreach and Education</b>				*			<b>X</b>					
<b>Tracking and Recall</b>				*					<b>X</b>			
<b>Surveillance of Vaccine-Preventable Diseases</b>	*								<b>X</b>			
<b>Adverse Events Following Immunizations</b>					*							
<b>Perinatal Hepatitis B Prevention, Screening and Documentation</b>	*								<b>X</b>			
<b>School/Facility Immunization Law</b>				*					<b>X</b>			

**b. The work in this Program Element helps Oregon’s governmental public health system achieve the following Public Health Accountability Metrics, Health Outcome Indicators:**

- Two-year-old vaccination rates
- Adult influenza vaccination rates for ages 65+

- c. **The work in this Program Element helps Oregon's governmental public health system achieve the following Public Health Accountability Metrics, LPHA Process Measures:**
- Demonstrated use of data to identify population(s) of focus.
  - Demonstrated actions to improve access to influenza vaccination for residents of long-term care facilities (LTCFs).
  - Demonstrated actions with health care providers or pharmacists to improve access to vaccination.
  - Increase in the percent of health care providers participating in the Immunization Quality Improvement Program (IQIP).
  - Demonstrated outreach and educational activities conducted with community partners.

#### 4. **Procedural and Operational Requirements.**

By accepting and using the Financial Assistance awarded under this Agreement and for this Program Element, LPHA agrees to conduct activities in accordance with the following requirements:

- a. **Vaccine Access Program OR Vaccines for Children Program Enrollment.** LPHA must maintain enrollment as an active VAP provider or VFC Provider to assure access to clinical immunization services in the jurisdiction.
- If LPHA contracts out for clinical services, LPHA must ensure that Subcontractor maintains enrollment as an active VFC Provider or Vaccine Access Provider. All subcontracts must include assurance of vaccine access to persons who are unable to receive needed vaccines in a timely manner.
- b. **Oregon Vaccine Stewardship Statute.** LPHA must comply with all sections of the Oregon Vaccine Stewardship Statute.
- c. **Vaccine Management.**
- (1) LPHA must conduct a monthly, physical inventory of all vaccine storage units and must reconcile their inventory in ALERT IIS. Inventory files must be kept for a minimum of three years.
  - (2) LPHA must submit vaccine orders according to the tier assigned by the OHA's Immunization Program.
- d. **Billable Vaccine/IG.**
- (1) OHA will bill LPHA quarterly for Billable Doses of vaccine.
  - (2) OHA will bill the published price in effect at the time the vaccine dose is administered.
  - (3) LPHA may not charge or bill a patient more for the vaccine than the published price.
  - (4) Payment is due 30 days after the invoice date.
- e. **Vaccine Administration.**
- (1) Section 317 vaccines may only be administered to recipients determined to be eligible according to the most current vaccine eligibility chart, available at <https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/VACCINESIMMUNIZATION/IMMUNIZATIONPROVIDERRESOURCES/Documents/317chart.pdf>.

**OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES**

- (2)** In connection with the administration of a vaccine, LPHA must:
  - (a)** Confirm that a recipient, parent, or legal representative has read, or has had read to them, the VIS and has had their questions answered prior to the administration of the vaccine.
  - (b)** Make the VIS available in other languages or formats when needed (e.g., when English is not a patient's primary language or for those needing the VIS in braille.)
  - (c)** Provide to the recipient, parent or legal representative, documentation of vaccines received at visit. LPHA may provide a new immunization record or update the recipient's existing handheld record.
  - (d)** Screen for contraindications and precautions prior to administering vaccine and document that screening has occurred.
  - (e)** Document administration of an immunization using a vaccine administration record or electronic equivalent, including all federally-required charting elements. (Note- ALERT IIS does not record all federally-required elements and cannot be used as a replacement for this requirement.)
  - (f)** If LPHA documents vaccine administration electronically, LPHA must demonstrate the ability to override a VIS date in their EHR system to record the actual publication date.
  - (g)** Comply with state and federal statutory and regulatory retention schedules, available for review at <https://sos.oregon.gov/archives/Documents/recordsmgmt/sched/schedule-health-public.pdf>, or OHA's office located at 800 NE Oregon St, Suite 370, Portland, OR 97232.
  - (h)** Comply with Vaccine Billing Standards. See Attachment 1 to this Program Element, incorporated herein by this reference.

**f. Immunization Rates, Outreach and Education.**

- (1)** OHA will provide annually to LPHA their IQIP rates and other population-based county rates.
- (2)** By June 30 of every year, using a template provided by OHA and agreed upon by CLHO, LPHA will complete an annual outreach workplan by selecting from OHA-suggested activities or creating their own. and submit to OHA:
  - (a)** LPHA must, during the state fiscal year, design and implement two educational or outreach activities in their Service Area (either singly or in collaboration with other community and service provider organizations) designed to increase access to clinical immunization services.
  - (b)** Activities should be designed to serve communities with limited access to immunization services or groups placed at increased risk of severe disease outcomes.

**g. Tracking and Recall.**

- (1)** LPHA must Forecast immunizations due for clients requiring Immunization Services using the ALERT IIS electronic Forecasting system or equivalent system compliant with the Clinical Decision Support for Immunization standards published by the CDC.

**OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES**

- (2) LPHA must cooperate with OHA to recall a client if a dose administered by LPHA to such client is found by LPHA or OHA to have been mishandled and/or administered incorrectly, thus rendering such dose invalid.

- h. Surveillance of Vaccine-Preventable Diseases.** LPHA must conduct Surveillance within its Service Area in accordance with the Communicable Disease Administrative Rules, the Investigation Guidelines for Notifiable Diseases, the Public Health Laboratory User's Manual, and the Model Standing Orders for Vaccine, available for review at:

<http://public.health.oregon.gov/DiseasesConditions/CommunicableDisease>

<http://public.health.oregon.gov/LaboratoryServices><http://public.health.oregon.gov/PreventionWellness/VaccinesImmunization/ImmunizationProviderResources/Pages/provresources.aspx>

- i. Adverse Events Following Immunizations.**

LPHA must complete and electronically file a VAERS form if:

- (1) An adverse event following immunization administration occurs, as listed in "Reportable Events Following Immunization", available for review at <http://vaers.hhs.gov/professionals/index#Guidance1>
- (2) An event occurs that the package insert lists as a contraindication to additional vaccine doses.
- (3) OHA requests a follow-up report to an earlier reported adverse event; or
- (4) Any other event LPHA believes to be related directly or indirectly to the receipt of any vaccine administered by LPHA or others occurs within 30 days of vaccine administration and results in either the death of the person or the need for the person to visit a licensed health care provider or hospital.

- j. Perinatal Hepatitis B Prevention, Screening and Documentation**

- (1) LPHA must provide Case Management services to all confirmed or suspect HBsAg-positive mother-infant pairs identified by LPHA or OHA in LPHA's Service Area.
- (2) Case Management will be performed in accordance with the Perinatal Hepatitis B Prevention Program Guidelines posted on the OHA website at <https://public.health.oregon.gov/DiseasesConditions/CommunicableDisease/ReportingCommunicableDisease/ReportingGuidelines/Documents/hepbperi.pdf> and must include, at a minimum:
  - (a) Screen for HBsAg status or refer to a health care provider for screening of HBsAg status, all pregnant women receiving prenatal care from public prenatal programs.
  - (b) Work with birthing hospitals within LPHA's Service Area when maternal screening and documentation of hepatitis B serostatus in the Electronic Birth Registration System drops below 95%.
  - (c) Work with birthing hospitals within LPHA's Service Area when administration of the birth dose of hepatitis B vaccine drops below 80% as reported in the Electronic Birth Registration System.
  - (d) Ensure that laboratories and health care providers promptly report HBsAg-positive pregnant women to LPHA.
  - (e) Provide Case Management services to HBsAg-positive mother-infant pairs to track administration of hepatitis B immune globulin, hepatitis B vaccine doses and post-vaccination serology.

**OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES**

- (f) Provide HBsAg-positive mothers with initial education and referral of all susceptible contacts for hepatitis B vaccination.

**k. School/Facility Immunization Law**

- (1) LPHA must comply with the Oregon School Immunization Law, [Oregon Revised Statutes 433.235 - 433.284](#), and [Oregon Administrative Rules 333-050-0140](#)
- (2) LPHA must take orders for and deliver Certificate of Immunization Status (CIS) forms to schools and children’s facilities located in their jurisdiction. Bulk orders of CIS forms will be provided to the LPHA by the state.
- (3) LPHA must cover the cost of mailing/shipping all Exclusion Orders to parents and to schools, school-facility packets which are materials for completing the annual school/facility exclusion process as required by the Oregon School Immunization Law, [Oregon Revised Statutes 433.235 - 433.284](#) and the administrative rules promulgated pursuant thereto, [Oregon Administrative Rules 333-050-0140](#).
- (4) LPHA may use electronic mail as an alternative or an addition to mailing/shipping if the LPHA has complete electronic contact information for all schools and children’s facilities and can confirm receipt of materials
- (5) LPHA must complete an annual Immunization Status Report that contains the immunization levels for attendees of: certified childcare facilities; preschools; Head Start facilities; and all schools within LPHA’s Service Area. LPHA must submit this report to OHA no later than 23 days after the third Wednesday of February of each year in which LPHA receives funding for Immunization Services under this Agreement. Completion of Primary and Follow Up Tab data entry for all sites in the LPHA Service Area fulfills this requirement.

**l. Affordable Care Act Grants/Prevention and Public Health Project Grants**

- (1) If one-time only funding becomes available, LPHA may opt in by submitting an application outlining activities and timelines. The application is subject to approval by the OHA Immunization Program.

**5. General Revenue and Expense Reporting.**

LPHA must complete an “Oregon Health Authority Public Health Division Expenditure and Revenue Report” located in Exhibit C of the Agreement. A separate report must be filed for each applicable Program Element and any sub-elements. These reports must be submitted to OHA each quarter on the following schedule:

<b>Fiscal Quarter</b>	<b>Due Date</b>
First: July 1 – September 30	October 30
Second: October 1 – December 31	January 30
Third: January 1 – March 31	April 30
Fourth: April 1 – June 30	August 20

**6. Program Reporting Requirements.**

- a. LPHA must submit vaccine orders according to the ordering tier assigned by OHA.
- b. If LPHA is submitting vaccine administration data electronically to ALERT IIS, LPHA must electronically flag clients who are deceased or have moved out of the Service Area or the LPHA jurisdiction.
- c. LPHA must complete and submit an Immunization Status Report as required in Section 4.1.(4) of this Program Element.
- d. LPHA must submit a written corrective action plan to address any compliance issues identified at the triennial review site visit.

**7. Performance Measures.**

- a. If LPHA provides Case Management to 5 births or more to HBsAg-positive mothers annually LPHA must ensure that 90% of babies receive post-vaccination serology by 15 months of age. If LPHA's post-vaccination serology rate is lower than 90% LPHA must increase the percentage of babies receiving post-vaccination serology by at least one percentage point.
- b. LPHA must achieve VFC vaccine accounting excellence in all LPHA-operated clinics in the most recent quarter. Clinics achieve vaccine accounting excellence by:
  - (1) Accounting for 95% of all vaccine inventory in ALERT IIS.
  - (2) Reporting fewer than 5% of accounted for doses as expired, spoiled or wasted during the quarter.
  - (3) Recording the receipt of vaccine inventory in ALERT IIS.
- c. LPHA must complete data entry into the IRIS system of 95% of Primary Review Summary follow-up reports (Sections E-H) from schools and children's facilities within 21 days of the annual exclusion day and of exclusion orders 14 days prior to the exclusion day (excluding exclusion orders generated through a system other than IRIS). LPHA must follow the noncompliance steps outlined in OAR 333-050-0095 with any school or facility that does not submit a Primary Review Summary report.

**Attachment 1**

**OREGON'S IMMUNIZATION BILLING STANDARDS**

**Standards for providing and billing for immunization services in Oregon's Local Public Health Authorities (LPHAs)**

**Purpose: To standardize and assist in improving immunization billing practice**

Guiding Principles

A modern LPHA understands their actual costs of doing business and dedicates resources to assuring continued financially viable operations. As such:

1. LPHAs should continually assess immunization coverage in their respective communities, assure that vaccine is accessible to all across the lifespan, and bill appropriately for services provided by the LPHA.
2. LPHAs who serve insured individuals should work to develop and continuously improve immunization billing capacity that covers the cost of providing services to those clients (e.g., develop agreements or contracts with health plans, set up procedures to screen clients appropriately, and bill vaccine administration fees that reflect the actual cost of services).
3. Public and private health plans should reimburse LPHAs for the covered services of their members, with vaccine serum and administration fees reimbursed at 100% of actual costs.
4. Each LPHA is uniquely positioned to assess the appropriate implementation of these standards. For example, Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) are obligated to follow a certain set of rules that may differ from these standards.
5. LPHAs that contract out some or all clinical immunization services should consider including these standards in their contracts as expectations of the contracted service provider.

Standards require that an LPHA that provides immunization services:

- Identify staff responsible for billing and contracting activities, dedicating at least a portion of one or more full-time equivalent (FTEs) positions to meet agency billing needs
- Determine vaccine administration fees based on the actual cost of service and document how fees were determined. For a fee calculator, see <https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/VACCINESIMMUNIZATION/IMMUNIZATIONPROVIDERRESOURCES/VFC/Documents/BillVacAdminCostFull.xlsm>.
- Charge the actual costs for vaccine administration fees for all clients and discount the fee(s) as needed by contract, rule, or internal policy approved by OIP
- Develop immunization billing policies and procedures that address:
  - Strategies to manage clients who require vaccines by state law, are not eligible for VFC or 317 and are unable to meet the cost of immunizations provided (out of network or unaffordable cost sharing)
  - The purchasing of privately owned vaccine and how fees are set for vaccine charges to the client
  - The appropriate charge for vaccine purchased from OIP, by including a statement that says, "We will not charge more than the OIP-published price for billable vaccine."
  - Billing processes based on payor type (Medicaid/CCOs, private insurance, etc.), patient age, and vaccine eligibility
- With certain limited exceptions as published in vaccine eligibility charts, use no federally funded vaccine on insured clients, including adult Medicaid and all Medicare clients
- Identify and develop contracts or other appropriate agreements with relevant payors – including Coordinated Care Organizations (CCOs) to assure access to immunization services for insured members of the community
- Bill private and public health plans directly for immunization services, when feasible, rather than collecting fees from the client and having them submit for reimbursement
- Conduct regular quality assurance measures to ensure costs related to LPHA's immunization services are being covered
- Work to assure access to immunizations for Medicare-eligible members of the community and, if access is poor, provide Medicare Part B and/or Part D vaccines, as needed, and bill appropriately to cover the cost

OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES

**Attachment B  
Exhibit C - Financial Assistance Award**

<b>State of Oregon Oregon Health Authority Public Health Division</b>		
<b>1) Grantee</b> Name: Marion County  Street: 3180 Center St. NE, Suite 2100 City: Salem State: OR Zip: 97301-4532	<b>2) Issue Date</b> Tuesday, July 15, 2025	<b>This Action</b> Amendment
	<b>3) Award Period</b> From July 1, 2025 through June 30, 2026	

<b>4) OHA Public Health Funds Approved</b>				
<b>Number</b>	<b>Program</b>	<b>Previous Award Balance</b>	<b>Increase / Decrease</b>	<b>Current Award Balance</b>
PE01-01	State Support for Public Health	\$103,614.00	\$0.00	\$103,614.00
PE01-12	ACDP Infection Prevention Training	\$0.00	\$1,517.82	\$1,517.82
PE03	Tuberculosis Case Management	\$45,600.00	\$0.00	\$45,600.00
PE12-01	Public Health Emergency Preparedness and Response (PHEP)	\$129,816.00	\$0.00	\$129,816.00
PE13	Tobacco Prevention and Education Program (TPEP)	\$425,000.00	\$0.00	\$425,000.00
PE36	Alcohol & Drug Prevention Education Program (ADPEP)	\$292,382.00	\$0.00	\$292,382.00
PE36-01	OSPTR Board Primary Prevention Funding	\$447,046.00	\$0.00	\$447,046.00
PE40-01	WIC NSA: July - September	\$321,380.00	\$0.00	\$321,380.00
PE40-02	WIC NSA: October - June	\$964,139.00	\$0.00	\$964,139.00
PE40-05	Farmer's Market	\$7,301.00	\$0.00	\$7,301.00
PE42-03	MCAH Perinatal General Funds & Title XIX	\$33,678.00	\$0.00	\$33,678.00
PE42-04	MCAH Babies First! General Funds	\$37,436.00	\$0.00	\$37,436.00
PE42-11	MCAH Title V	\$126,159.00	\$0.00	\$126,159.00
PE42-12	MCAH Oregon Mothers Care Title V	\$3,156.00	\$0.00	\$3,156.00
PE43-01	Public Health Practice (PHP) - Immunization Services	\$0.00	\$103,323.00	\$103,323.00
PE50	Safe Drinking Water (SDW) Program (Vendors)	\$156,487.80	\$0.00	\$156,487.80
PE51-01	LPHA Leadership, Governance and Program Implementation	\$1,997,162.00	\$0.00	\$1,997,162.00
PE81-01	HIV/STI Statewide Services (HSSS) Federal Funds	\$132,533.00	\$0.00	\$132,533.00

**OHA - 2025-2027 INTERGOVERNMENTAL AGREEMENT - FOR THE FINANCING OF PUBLIC HEALTH SERVICES**

<b>4) OHA Public Health Funds Approved</b>				
<b>Number</b>	<b>Program</b>	<b>Previous Award Balance</b>	<b>Increase / Decrease</b>	<b>Current Award Balance</b>
PE81-02	HIV/STI Statewide Services (HSSS) Program Income	\$642,513.00	\$0.00	\$642,513.00
		\$5,865,402.80	\$104,840.82	\$5,970,243.62

<b>5) Foot Notes:</b>	
PE01-01	07/2025: funding available 7/1/25-9/30/25 only.
PE42-11	07/2025: Indirect rate caps at 10%.
PE42-12	07/2025: Indirect rate caps at 10%.
PE40-02	07/2025: funds available 10/1/25-6/30/26 only
PE40-01	07/2025: funds available 7/1/25-9/30/2025 only

<b>6) Comments:</b>	
PE36	07/2025: \$73,095.50 available 7/1/25 - 9/30/25 only.
PE36-01	07/2025: rollover unspent SFY25 funds of \$447,046
PE81-01	07/2025: \$121,489 available 7/1/25-5/31/26 only; \$11,044 available 6/1/26-6/30/26 only

<b>7) Capital outlay Requested in this action:</b>			
Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year.			
<b>Program</b>	<b>Item Description</b>	<b>Cost</b>	<b>PROG APPROV</b>

*Federal Reporting Information on following pages.*

**Attachment C**

**Exhibit J - Information required by CFR Subtitle B with guidance at 2 CFR Part 200**

**PE01-12 ACDP Infection Prevention Training**

Federal Award Identification Number:	NU50CK000541
Federal Award Date:	10/13/23
Budget Performance Period:	08/1/2023-07/31/2026
Awarding Agency:	CDC
CFDA Number:	93.323
CFDA Name:	Epidemiology & Laboratory Capacity for Infectious Diseases (ELC)
Total Federal Award:	2,486,047
Project Description:	Oregon 2020 Epidemiology & Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC)
Awarding Official:	Zoe Kaplan
Indirect Cost Rate:	17.79%
Research and Development (T/F):	FALSE
HIPPA	No

Agency	UEI	Amount	Grand Total:
Marion	DEC6M6WK8J17	\$1,517.82	\$1,517.82

**PE43-01 Public Health Practice (PHP) - Immunization Services**

Federal Award Identification Number:	NH23IP922673
Federal Award Date:	06/26/25
Budget Performance Period:	7/1/2025-6/30/26
Awarding Agency:	Centers for Disease Control and Prevention
CFDA Number:	93.268
CFDA Name:	Immunization Cooperative Agreements
Total Federal Award:	5,365,942
Project Description:	Strengthening Vaccine-Preventable Disease Prevention and Response - 2025
Awarding Official:	Ms. Randi Tolstyk
Indirect Cost Rate:	16.69
Research and Development (T/F):	FALSE
HIPPA	No

Agency	UEI	Amount	Grand Total:
Marion	DEC6M6WK8J17	\$103,323.00	\$103,323.00



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 9/17/25

Department: Health & Human Services

Title: ODHS Intellectual & Developmental Disabilities IGA #157834

Management Update/Work Session Date: 9/2/25 Audio/Visual aids

Time Required: 10 min Contact: Kristina Ballow Phone: 503-588-5409

Requested Action: Approval of the contract between Marion County Health and Human Services (MCHHS) and the Oregon Department of Human Services (ODHS) for the term of July 1, 2025, through June 30, 2027, in the amount of \$41,570,102.00.

Issue, Description & Background: The Oregon Department of Human Services (ODHS) has issued Intergovernmental Grant Agreement (IGA) #157834 PO-10000-00047145 for Fiscal Years 2025–2027 to the County, which will act as the Administrator for the Community Developmental Disabilities Program (CDDP). Under this agreement, the County is responsible for overseeing and delivering developmental disability services to eligible individuals within Marion County Health and Human Services.

Financial Impacts: Total contract value \$41,570,102.00

Impacts to Department & External Agencies: Health and Human Services anticipates no financial impact to other departments.

List of attachments: Original Agreement

Presenter: Karin Perkins

Department Head Signature: Ryan Matthews

# Contract Review Sheet

Intergovernmental Agreement

**HE-6775-25**

Title: **ODHS Intellectual & Developmental Disabilities IGA #157834**

Contractor's Name: **Oregon Department of Human Services**

Department: **Health and Human Services**

Contact: **Kristina Ballow**

Analyst: **Chalyce MacDonald**

Phone #: **(503) 588-5409**

Term - Date From: **July 1, 2025**

Expires: **June 30, 2027**

Original Contract Amount: **\$ 41,570,102.00**

Previous Amendments Amount: **\$ -**

Current Amendment: **\$ -**

New Contract Total: **\$ 41,570,102.00**

Amd% **0%**

**Incoming Funds**  Federal Funds  Reinstatement  Retroactive  Amendment greater than 25%

Source Selection Method: **50-0010 General Exemptions (IGAs Grants QRFs)**

Description of Services or Grant Award

The Oregon Department of Human Services (ODHS) has issued Intergovernmental Grant Agreement (IGA) #157834 PO-10000-00047145 for Fiscal Years 2025–2027 to the County, which will act as the Administrator for the Community Developmental Disabilities Program (CDDP). Under this agreement, the County is responsible for overseeing and delivering developmental disability services to eligible individuals within Marion County Health and Human Services.

Desired BOC Session Date: **9/17/2025**

Contract should be in DocuSign by: **8/27/2025**

Agenda Planning Date: **9/4/2025**

Printed packets due in Finance: **9/2/2025**

Management Update: **9/2/2025**

BOC upload / Board Session email: **9/3/2025**

BOC Session Presenter(s) **Karin Perkins**

Code: **Y**

**REQUIRED APPROVALS**

DocuSigned by:  
  
 C5F72231E6F54E3... 8/21/2025  
 Finance - Contracts Date

Signed by:  
  
 A38C58E8078E42B 8/26/2025  
 Contract Specialist Date

Signed by:  
  
 60C98A6F708240B... 8/25/2025  
 Legal Counsel Date

DocuSigned by:  
  
 DC16351248DE4EC... 8/26/2025  
 Chief Administrative Officer Date

## **REQUEST FOR AUTHORIZATION OF CONTRACT HE-6775-25**

**Date:** August 19, 2025  
**To:** Chief Administrative Officer  
**Cc:** Contract File  
**From:** Kristina Ballow

### **I. Subject: Retroactive**

The Marion County Health and Human Services (MCHHS) is requesting approval of a retroactive contract as described in Section 10-0580 of the Marion County Public Contracting Rules. The contract is with Oregon Department of Human Services (ODHS) for ODHS Intellectual & Developmental Disabilities IGA #157834 with a value of \$41,570,102.00 and will be effectively retroactive to 7/1/2025 upon approval.

#### **A. BACKGROUND**

This is incoming funds through an Intergovernmental Agreement from ODHS to MCHHS to who will act as the administrator for the Community Development Disabilities Program (CDDP). This Agreement shall become effective on July 1, 2025.

#### **B. As required in Section 10-0580(2)(a), Department staff will provide an explanation of why the contract was not submitted before performance began:**

On June 18, 2025, MCHHS received an Intergovernmental Agreement from ODHS. Upon receipt, the Contracts Department began reviewing the agreement and associated statements of work to ensure alignment with program requirements.

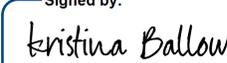
As part of standard procedure, the contracts process involves multiple departments to ensure compliance with internal policies and state requirements. Due to the time required for this multi-step review, the agreement will be processed retroactively to reflect the intended start date and maintain continuity of services.

The contract was pulled from the Board of Commissioners session via the recommendation of ODHS to fix errors. Received updated IGA on August 19, 2025, and reviewed prior to placing it into compliance for review.

#### **C. As required in Section 10-0580(2)(b), Department staff will provide a description of the steps being taken to prevent similar occurrences in the future:**

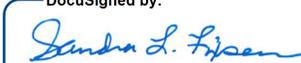
MCHHS is committed to coordinating with all relevant departments and contractors throughout the contract review and drafting process. We will continue to collaborate with ODHS to ensure that agreements are received by the County with adequate lead time for processing, thereby avoiding the need for retroactive implementation.

Submitted by:

Signed by:  
  
A38C58F8078F42B

Kristina Ballow  
Health and Human Services

Reviewed by:

DocuSigned by:  
  
C5F72231E6E54E3

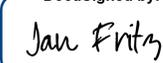
Contracts & Procurement

Acknowledged by:

DocuSigned by:  
  
7D28A787656F458

Department Head

Acknowledged by:

DocuSigned by:  
  
DC16351248DE4EC

Jan Fritz, CAO



**Grant Agreement Number PO-10000-00047145**  
**eXPRS Number 157834**

**STATE OF OREGON**  
**INTERGOVERNMENTAL GRANT AGREEMENT**

You can get this document in other languages, large print, braille, or a format you prefer free of charge. Contact the Agreement Administrator at the contact information found below. We accept all relay calls.

This Agreement is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “ODHS,” and

**Marion County**  
**3180 Center St. Ne Suite 3360**  
**Salem, OR, 97301**  
**Attention: Ryan Matthews**  
**Telephone: (503) 361-26870**  
**E-mail address: rmatthews@co.marion.or.us**

hereinafter referred to as “**Recipient**”, “**County**” or “**CDDP**”

The program to be supported under this Agreement relates principally to the ODHS’

**Office of Developmental Disabilities Services**  
**500 Summer Street NE, E09**  
**Salem, Oregon 97301**  
**Agreement Administrator: Heather Smith or delegate**  
**Telephone: (503)877-0635**  
**E-mail address: heather.m.smith@odhs.oregon.gov**

**1. Effective Date and Duration.**

This Agreement shall become effective on the last date all required signatures have been obtained. County's performance of the program described in Exhibit B may start on **July 1, 2025**, shall be governed by the terms and conditions herein, and for such expenses incurred by County may be reimbursed once the Agreement is effective in accordance with the schedule of payments in Exhibit B. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2027**. Agreement termination shall not extinguish or prejudice ODHS' right to enforce this Agreement with respect to any default by County that has not been cured.

**2. Agreement Documents.**

**a.** This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A: Definitions
- (2) Exhibit B, Part 1: Operations and Administration Terms and Conditions
- (3) Exhibit B, Part 2: Service Element Standards and Procedures
- (4) Exhibit B, Part 3: Financial Terms and Conditions
- (5) Exhibit C: Special Terms and Conditions
- (6) Exhibit D: General Terms and Conditions
- (7) Exhibit E: Standard Terms and Conditions
- (8) Exhibit F: Federal Terms and Conditions
- (9) Exhibit G, Part 1: Required Subcontractor Provisions
- (10) Exhibit G, Part 2: Subtractor Insurance
- (11) Exhibit H, Part 1: Privacy and Security Agreement
- (12) Exhibit H, Part 2: Third Party Information System Access Request
- (13) Attachment #1: Days and Hours of Operation
- (14) Attachment #2: Disclosures Report
- (15) Attachment #3: ODDS Case Management Entity FTE Survey

There are no other Agreement documents unless specifically referenced and incorporated into this Agreement.

- b.** This Agreement and the documents listed in Section 2., “Agreement Documents”, Subsection a. above, shall be in the following descending order of precedence:
  - (1) This Agreement without Exhibits
  - (2) Exhibit F: Federal Terms and Conditions
  - (3) Exhibit H, Part 1: Privacy and Security Agreement
  - (4) Exhibit H, Part 2: Third Party Information System Access Request
  - (5) Exhibit E: Standard Terms and Conditions
  - (6) Exhibit A: Definitions
  - (7) Exhibit B, Part 1: Operations and Administration Terms and Conditions
  - (8) Exhibit B, Part 2: Service Element Standards and Procedures
  - (9) Exhibit B, Part 3: Financial Terms and Conditions
  - (10) Exhibit C: Special Terms and Conditions
  - (11) Exhibit D: General Terms and Conditions
  - (12) Exhibit G, Part 1: Required Subcontractor Provisions
  - (13) Exhibit G, Part 2: Subtractor Insurance

**3. Grant Disbursement Generally.**

- a.** Payments to County shall be subject to ORS 293.462 and shall be made in accordance with the payment schedule and requirements in Exhibit B Part 3, “Financial Terms and Conditions.”
- b.** All funds paid to County under this Agreement are subject to recovery as set forth in Exhibit B, Part 3.

**4. Subrecipient Determination.** In accordance with the State Controller’s Oregon Accounting Manual, policy 30.40.00.104, ODHS’ determination is that:

- County is a subrecipient                       Not applicable

Assistance Listings number(s) of federal funds to be paid through this Agreement: 93.778

**5. County Information and Certification.**

**a. County Information.** County shall provide the information set forth below.

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

**County Name (exactly as filed with the IRS):** Marion County, Oregon

Street address: PO Box 14500

City, state, zip code: Salem, OR 97309

Email address: rmatthews@co.marion.or.us

Telephone: ( 503 ) 361-2670 Fax: ( )

**County Proof of Insurance.** County shall provide the following information upon submission of the signed Agreement. All insurance listed herein must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: County self-insured

Policy #: N/A Expiration Date: N/A

**b. Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, the undersigned hereby certifies under penalty of perjury that:

- (1) County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the grant activities are being performed. County certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. The Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County, in addition to any remedies that may be available to ODHS under this Agreement;
- (2) The information shown in Section 5.a. "County Information", is County's true, accurate and correct information;
- (3) To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (4) County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;

- (5) County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at: <https://www.sam.gov/SAM>;
- (6) County is not subject to backup withholding because:
  - (a) County is exempt from backup withholding;
  - (b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (c) The IRS has notified County that County is no longer subject to backup withholding.
- (7) County's Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided to ODHS is true and accurate. If this information changes, County is required to provide ODHS with the new FEIN or SSN within 10 days.

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

**6. Signatures.** 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 the Agreement and any amendments so executed shall constitute an original.

**Marion County**

**By:**

See County signatures on following page  
\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
HHS Administrator  
Title

Ryan Matthews  
\_\_\_\_\_  
Printed Name  
\_\_\_\_\_  
Date

**State of Oregon, acting by and through its Oregon Department of Human Services**

**By:**

\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed Name  
\_\_\_\_\_  
Date

**Approved for Legal Sufficiency:**

Approved via email by \_\_\_\_\_ Devon Thorson \_\_\_\_\_ 08/14/2025  
Oregon Department of Justice \_\_\_\_\_ Date

**SIGNATURE PAGE FOR  
INTELLECTUAL & DEVELOPMENTAL DISABILITIES IGA #157834  
COUNTY NO. HE-6775-25  
between  
MARION COUNTY and OREGON DEPARTMENT OF HUMAN SERVICES**

**MARION COUNTY SIGNATURES  
BOARD OF COMMISSIONERS:**

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Chair	Date
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Commissioner	Date
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Commissioner	Date
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Authorized Signature:	<div style="border: 1px solid black; padding: 2px;"><small>DocuSigned by:</small> <i>Ryan Matthews</i> <small>7D28A787656E458</small></div> <hr/> <p>Department Director or designee</p>	8/21/2025 <hr/> Date
-----------------------	--	-------------------------

Authorized Signature:	<div style="border: 1px solid black; padding: 2px;"><small>DocuSigned by:</small> <i>Jan Fritz</i> <small>DC16351248DE4EC...</small></div> <hr/> <p>Chief Administrative Officer</p>	8/26/2025 <hr/> Date
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Reviewed by Signature:	<div style="border: 1px solid black; padding: 2px;"><small>Signed by:</small> <i>Scott Norris</i> <small>60C98A6F708240B</small></div> <hr/> <p>Marion County Legal Counsel</p>	8/25/2025 <hr/> Date
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Reviewed by Signature:	<div style="border: 1px solid black; padding: 2px;"><small>DocuSigned by:</small> <i>Jandra L. Fisen</i> <small>C5E72231E6E54E3</small></div> <hr/> <p>Marion County Contracts &amp; Procurement</p>	8/21/2025 <hr/> Date
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## 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, in the special conditions of the Service Element Prior Authorization (SEPA), and in the Exhibit H, Part 1 “Privacy and Security Agreement”. 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 ODHS or State Data, Network and Information Systems, and Information Assets.
2. **“Allowable Costs”** means the costs determined in accordance with the provisions of 2 CFR., Subtitle B, with guidance at 2 CFR, Part 200, except to the extent such costs are limited or excluded by other provisions of this Agreement, whether in the applicable Service Element Standards and Procedures, or special conditions identified in the Service Element Prior Authorization.
3. **“Audit”** means an inspection completed by a Certified Public Accountant using standards and accepted practices of accounting activities to ensure that all state and Federal Funds are expended for the purpose the funds were contracted and intended for without fraudulent activity.
4. **“Career Development Plan”** or **“CDP”** has the meaning set forth in OAR 411-317-0000.
5. **“Carryover”** means funds received by CDDP for eligibility, Special Projects Licensing and Abuse Investigations staff that remain available at the close of a State fiscal year or a biennium.
6. **“Case Management Entity”** or **“CME”** has the meaning set forth in OAR 411-317-0000.
7. **“Case Management Services”** has the meaning as set forth in OAR 411-317-0000.
8. **“CDDP Administrator”** has the meaning set forth in Exhibit C, Section 3 “Appointment of CDDP Administrator” of this Agreement.
9. **“Child Welfare”** means the Oregon Department of Human Services (ODHS), Child Welfare Division.
10. **“Claim”** has the meaning set forth in OAR 411-370-0010.
11. **“Client”** has the same meaning as Individual or Recipient, for purposes of this Agreement.
12. **“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

ODHS. The CPA is submitted by CDDP 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.
  - d. the rate for the Service.
13. **“Client Record(s)”** means any client, applicant, or participant information regardless of the media or source, collected by CDDP in the course of completing the Work, provided through the Network and Information Systems to CDDP, or otherwise exchanged between the parties.
  14. **“Centers for Medicare and Medicaid Services”** or **“CMS”** means the federal agency within the Department of Health and Human Services that administers Medicare and works in partnership with all fifty states to administer Medicaid.
  15. **“Common Law Employer”** or **“CLE”** means the employer referred to in OAR 411-375-0010.
  16. **“Community Developmental Disabilities Program”** or **“CDDP”** has the meaning as set forth in OAR 411-317-0000.
  17. **“Community Engagement”** means a collective process by which people address shared concerns and propose solutions to shared problems. It results in equitable and positive social change.
  18. **“Community First Choice K Plan”** or **“K Plan”** has the meaning as set forth in OAR 411-317-0000.
  19. **“Community Partners”** means an Individual or organization invested or involved in either an Individual with I/DD or the provision of services to Individuals with I/DD. Examples of a Community Partner may include, but is not limited to, a self-advocate, family member, Provider, Brokerage, CDDP, Service Coordinator, Personal Agent, agency board member, ODHS/OHA representative, Tribal member, and or consultant.
  20. **“Data Analysis and Collection”** means the process for gathering and synthesizing of data that can be used for making informed decisions.
  21. **“Developmental Disability”** or **“DD”** has the meaning as set forth in OAR 411-320-0020.
  22. **“Developmental Disabilities Services”** or **“DD Services”** has the meaning as set forth in OAR 411-317-0000.
  23. **“Disbursement Claim”** means a document executed and delivered to ODHS by a Provider or CDDP, either electronically in eXPRS or in hard copy, with respect to a DD Service authorized in a CPA and PPA, or POC, certifying that a unit of that DD Service was delivered by a Provider identified in the CPA and PPA, or POC, to the Individual identified in the CPA or POC, during the period specified in the CPA or POC; and requesting disbursement of funds for that unit of DD Service.
  24. **“Employer”** has the meaning as set forth in OAR 411-317-0000.

25. **“Employer Resource Connections”** or **“ERC”** means the voluntary training program provided by the Oregon Home Care Commission and offered to all Individuals receiving in-home Services. ERC meets the K Plan 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 Personal Support Workers.
26. **“Express Payment and Reporting System”** or **“eXPRS”** means an information system for managing the disbursement and tracking of ODHS payments for the Developmental Disabilities Programs.
27. **“Federal Funds”** means all funds paid to CDDP under this Agreement that ODHS receives from an agency, instrumentality, or program of the federal government of the United States.
28. **“Fraud”** means an intentional deception or misrepresentation made by an individual with the knowledge that the deception may result in some unauthorized benefit to the individual or some other person. It includes any act that constitutes fraud under applicable federal or state law.
29. **“Full-time Equivalent”** or **“FTE”** means a unit of measure equivalent to one person working full-time. An FTE is calculated based on the CME’s work hours of a regular work week. Employees who work fewer hours than a regular work week have their hours divided by the regular full-time work week hours. An FTE of 1.0 is equivalent to full-time; an FTE of 0.5 is half of a full-time equivalent.
30. **“Functional Needs Assessment”** or **“FNA”** has the meaning as set forth in OAR 411-317-0000.
31. **“Geographical Information Systems”** or **“GIS”** means the tracking system the State uses to track when an emergency occurs in the area Individuals reside.
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 a group of people that include the Individual, the Services Coordinator or Personal Agent, when applicable the Individual’s designated representative and or others chosen by the Individual to participate in service planning, as described in OAR 411-415-0070.
35. **“Information Asset(s)”** refers to all information provided through ODHS, regardless of the source, which requires measures for security and privacy.
36. **“Intellectual Disability”** or **“ID”** has the meaning as set forth in OAR 411-320-0020.
37. **“Intellectual or Developmental Disability”** or **“I/DD”** has the meaning as described in OAR 411-320-0020.
38. **“Language Access”** means the full accessibility of information through languages and terminology.

39. **“Late Fees”** means a payment made to a Personal Support Worker (PSW) when their services and timesheet are submitted on time, but their payment is issued after the scheduled pay processing date due to administrative error.
40. **“Level of Care”** or **“LOC”** has the meaning as described in OAR 411-317-0000.
41. **“Local Match”** means the opportunity for Local Government Entities, including Transit Districts, to request additional Federal Funds to recoup costs for Intellectual and Developmental Disabilities program expenditures, exceeding allotted state funds, in the following services: Local Match Transportation and Case Management Operations. The Local Government Entity is responsible for the local fund portion and providing the necessary documentation to ODHS for approval. If approved, the local funds will be submitted for federal match.
42. **“Medicaid”** means Federal Funds received by ODHS under Title XIX and Section 1115 of the Social Security Act and the Children’s Health Insurance Program (CHIP) Title XXI administered jointly with Title XIX funds as part of state medical assistance programs by ODHS.
43. **“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.
44. **“Misexpenditure”** means money, other than Overexpenditure, disbursed to CDDP by ODHS under this Agreement and expended by CDDP that:
  - a. is identified by the federal government as expended contrary to applicable statutes, rules, the provisions of 2 CFR, Subtitle B, with guidance at 2 CFR, 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 CDDP, 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 Service Element Standards and Procedures of this Agreement with respect to that DD Service.
45. **“Network and Information System(s)”** means the ODHS and State of Oregon’s computer infrastructure which provides personal communications; Data such as Client Records; Access to other Information Assets, regional, wide area and local networks, and the internetworking of various types of networks.
46. **“ODDS”** has the meaning set forth in OAR 411-317-0000.
47. **“Office of Training, Investigation and Safety”** or **“OTIS”** means the ODHS office responsible for rule, policy and practice oversight of adult abuse investigations conducted by CDDPs and for conducting ODDS child abuse investigations in non-familial settings.

48. **“Oregon Health Authority” or “OHA”** means the agency established in ORS Chapter 413 that administers the funds for Titles XIX and XXI of the Social Security Act. It is the single state agency for the administration of the medical assistance program under ORS Chapter 414. For purposes of these rules, the agencies under the authority of the Oregon Health Authority are the Public Health Division, Health Systems Division, External Relations, Health Policy and Analytics, Fiscal and Operations, Health System Division, Office of Equity and Inclusion, and the Oregon State Hospital.
49. **“Oregon Needs Assessment” or “ONA”** has the meaning set forth in OAR 411-317-0000.
50. **“Overexpenditure”** means money disbursed by ODHS under this Agreement and expended by CDDP that is in excess of the amount CDDP is entitled to expend as determined in accordance with the funding calculation methodologies set forth in the applicable Service Element Standards and Procedures.
51. **“Personal Agent”** shall have the meaning set forth in OAR 411-317-0000.
52. **“Personal Support Worker” or “PSW”** has the meaning as set forth in OAR 411-317-0000.
53. **“Plan of Care” or “POC”** means a service authorization feature in eXPRS that is a collection of individual Provider service authorizations for an Individual with I/DD. These Service Authorizations in accepted status are required to enable the Provider of the authorized Service to successfully submit Claims for payment.
54. **“Program Area”** means the geographic area within the State of Oregon where CDDP is contracted to provide DD Services. The Program Area for this Agreement are the counties of: Marion.
55. **“Provider”** has the meaning as set forth in OAR 411-317-0000.
56. **“Provider Enrollment Application and Agreement” or “PEAA”** has the meaning set forth in OAR 411-370-0030.
57. **“Provider Prior Authorization” or “PPA”** means an authorization, either through eXPRS or by submission to ODHS of a document acceptable to ODHS, 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 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.

58. **“Rationed Fee for Services”** or **“RFFS”** means the Case Management Entity billings paid up to the maximum monthly amount of the PPA. All Case Management Entity billings entered that meet the criteria for a successful claim, yet exceed the maximum monthly amount of the PPA, will suspend to be utilized for future payments up to the amount outlined in the Biennial Legislatively Approved Budget.
59. **“Recipient”** has the meaning as set forth in OAR 411-370-0010.
60. **“SEPA Adjustment”** means a document, acceptable to ODHS, that may be presented and executed in hard copy, or electronically in eXPRS, by CDDP, that amends the SEPA, with respect to one or more DD Services, to reflect the new maximum amount of funding that ODHS 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.
61. **“SEPA 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 CDDP.
62. **“Service”** means any one of the DD Services for Individuals listed in Exhibit B, Part 2 “Service Element Standards and Procedures” of this Agreement provided directly by County or authorized by County or Subcontractor pursuant to this Agreement.
63. **“Service Access”** means the intentional removal of barriers to ODHS services.
64. **“Service Authorization”** means an authorization by CDDP of the DD Services that CDDP is responsible to authorize according to Exhibit B, Part 2 “Service Elements and Procedures”, Section 3 “Service Element Standards and Procedures Review Process,” as identified in an Individual’s ISP, and entered for billing purposes into eXPRS via POC or a CPA.
65. **“Service(s) Coordinator”** has the meaning as set forth in OAR 411-317-0000.
66. **“Service Element”** has the meaning as set forth in OAR 411-317-0000.
67. **“Service Element Prior Authorization”** or **“SEPA”** means the maximum amount of Service Element funding that ODHS will provide to CDDP 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.
68. **“Service Element Standards and Procedures”** has the meaning set forth in OAR 411-370-0010.
69. **“Service Integrity for All”** means promoting health, safety, belonging and independence for all Individuals by adapting services and policy to eliminate discrimination and disparities in the delivery of human services.
70. **“Settlement”** means the process through which ODDS determines Underexpenditures and Overexpenditures, and resolves Misexpenditures, at the end of each Agreement period, upon Agreement termination or on an interim basis, if necessary, during the term of this Agreement.
71. **“Subcontract”** means a contract between the CDDP and a third party to perform one or more of the direct Service(s) required under this Agreement. Subcontract does not include contracts for CDDP ancillary services.

72. **“Subcontractor”** means a third-party contractor that contracts with the CDDP to perform one or more Service(s) under this Agreement and may include all CDDP functions that the CDDP is required to perform under this Agreement.
73. **“Systemic Disproportionally”** means how Service Access across various institutions work together, intentionally or not, to disenfranchise and create different outcomes.
74. **“Transmittals”** means communications that request action from, or provide policy, program, training, and other information to CDDP. Transmittals take the form of Action Requests (AR), Information Memoranda (IM), or Policy Transmittals (PT).
75. **“Underexpenditure”** means money disbursed by ODHS under this Agreement and not expended by CDDP that is less than the amount CDDP is entitled to expend as determined in accordance with the funding calculation methodologies set forth in the applicable Service Element Standards and Procedures.
76. **“User”** means any individual authorized by ODHS to access Network and Information Systems and who has an assigned unique log-on identifier.
77. **“Waivers”** mean the 1915(c) Home and Community Based Services Waivers and 1915(b)(4) Fee-for-Service Selective Contracting Program.
78. **“Written Materials”** means documents and forms created by CDDP or ODDS, in connection with Services being provided to the Individual.
79. **“Workforce Representation”** means the range of human differences in the workforce that recognizes all Individuals served in the Program Area.
80. **“Workload Model”** or **“WLM”** means the computation of FTE based on the data collection conducted by ODHS and fixed percentages based on caseloads.

## EXHIBIT B

### Part 1

#### Operations and Administration Terms and Conditions

#### 1. CDDP Administrative Responsibilities.

In performing the Work under this Agreement:

- a. CDDP shall adhere to all applicable Oregon Administrative Rules (OAR), Oregon Revised Statutes (ORS) and federal CFRs pursuant to this Agreement. CDDP shall comply with all language and requirements outlined in the Community First Choice K Plan option and Medicaid Waivers when applicable, including updates and amendments, or as instructed by ODDS through Transmittals. In general, Transmittals are written to provide clarification or guidance of an existing rule, statute, or CFR.

Outside of natural disasters, pandemics or circumstances that would put Individuals in service at risk, any policy and Transmittal that is written by ODDS that requires new work for a Case Management Entity (CME) will necessitate ODDS to give the CME an opportunity to provide input within specified timelines. ODDS will analyze the input for impact to workloads, making adjustments where appropriate, prior to issuing the Action Request (AR) or Policy Transmittal (PT). This excludes policies resulting from a rule change that is required by a federal or state directive, as rules and rule amendments require a fiscal analysis and are provided to the Rule Advisory Committee.

- b. CDDP shall participate in person, by phone, or video conference, in CDDP program manager meetings monthly or at a frequency designated by ODDS. Meetings will be scheduled by ODDS with representatives designated by ODDS to review, clarify, and further plan the Work performed under this Agreement. These ODDS and CDDP meetings shall be scheduled at a time mutually acceptable to both parties. CDDP will ensure a representative will participate in 80% of CDDP program manager meetings for the term of this Agreement.
- c. CDDP shall participate in person, by phone, or video conference in other required, scheduled meetings. ODDS shall make reasonable effort to schedule meetings at a time and place conducive to the greatest number of participants.
- d. CDDP management is responsible for ensuring all information provided by ODHS is communicated effectively and timely with all applicable CDDP staff.
- e. CDDP must comply with ODDS designated IT systems upon implementation and training. These systems will be designated as the state systems of record for the applicable information.
- f. **Career Development Plan.** 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.

- (1) CDDP shall submit copies of the CDP documents to ODHS upon request or cooperate with ODDS field review to verify compliance with timely development of CDPs.
- (2) 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 ODHS, or the CDDP self identifies the absence of a required CDP. The CDP 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.
- (3) If CDDP fails to respond or follow the directives as lined out in a. and b. above, a financial penalty not to exceed \$150 per identified CDP may be assessed.

**g. Emergency Plan.** CDDP must maintain at all times an emergency plan, policies, and procedures in accordance with OAR 411-320-0040(10).

- (1) Emergency plans must address, but are not limited to responses to any natural disasters, pandemics, or other times when the CDDP may have to react to reducing office hours and or building closures; and that ensure continuity of care to Individuals.
- (2) CDDP must submit their emergency plan upon request for review by the ODDS Case Management Support Services Unit.
- (3) ODDS will presume CDDP Program Director is emergency contact unless otherwise provided a minimum of one (1) dedicated employee who is the emergency contact after-hours.
- (4) CDDP must have a minimum of one (1) employee who has access to the ODHS Geographic Information System (GIS) or other ODDS approved data system and will pull data as needed based on local community need.

**h. Service Integrity for All.**

- (1) CDDP will conduct an assessment and will reassess every two years from the first submission, unless approved by ODDS in writing; an email will suffice. CDDP will submit their assessment updates to ODDS Partnership and Accessibility staff and or other staff identified by ODDS. Assessments must address at a minimum the following priority area:
  - (a) Systemic Disproportionality.
  - (b) Language Access.
  - (c) Workforce Representation.
  - (d) Data Analysis and Collection.
  - (e) Service Access.
  - (f) Community Engagement.

- (g) Identification and development of staff skills, awareness and or practices using an accessibility lens when providing Services.
  - (2) Action Plan. CDDP will develop and maintain an action plan that outlines goals and strategies to be worked on between reassessment timelines. Plans must address at minimum one of the following priority areas:
    - (a) Systemic Disproportionality.
    - (b) Language access.
    - (c) Workforce Representation.
    - (d) Data analysis and collection.
    - (e) Service access.
    - (f) Community engagement.
    - (g) Identification and development of staff skills, awareness and or practices using an accessibility lens when providing Services.
  - (3) CDDP assessment and action plan may be developed in any format. ODDS will not require a specific format.
  - (4) CDDP will maintain assessment and action plan and will review them periodically, but not less frequently than every two years unless otherwise approved in writing by ODDS prior to deadline, an email will suffice. CDDP will submit their assessment and plan updates to ODDS Partnership and Accessibility staff and or other staff identified by ODDS. This section shall not be construed to require the CDDP to engage in any illegal discrimination or unequal treatment based on protected class, nor shall the CDDP be required to undertake any illegal discriminatory or unequal treatment based on protected class based on any findings in the assessment or action plan.
- i. CDDP will measure progress dependent on the priority area and outcomes identified from the CDDP assessment. Progress and additional action items based on progress will be reported annually, no later than June 30<sup>th</sup> to ODDS Partnership and Accessibility staff and or other staff identified by ODDS with an understanding that many goals will have long-term progress timeline.
- j. ODDS will support systemic transformation in Service Integrity for All by:
  - (1) Identifying shared areas for learning, technical assistance, and improvement.
  - (2) Developing training opportunities for the CDDP based upon system wide trends and improvement areas and offering those trainings to CDDP staff.
  - (3) Extracting and sharing best practice ideas and methods from the CDDP submitted plans.
  - (4) Providing technical assistance to CDDP when requested that may include:
    - (a) Action plan templates.

- (b) Limited trainings for CDDPs staff.
  - (c) Providing data.
- k.** CDDP will work in conjunction with ODHS to engage and connect staff to learning opportunities specific to Tribal Engagement that will be provided or attended annually that is focused on the Nine Federally Recognized Tribes and Urban Indian Health Centers in Oregon. Opportunities can include, but aren't limited to, online training courses, in-person events, and or Tribal community events. CDDP will commit to engagement with ODDS staff to support in identifying barriers and successes as well as ways that ODDS or ODHS can provide technical assistance for improvement. CDDP staff will participate in trainings provided by ODHS to understand Tribal Consultation and Tribal Engagement that is focused on building culturally responsive government-to-government relationships that uphold and recognize Tribal sovereignty.

**l. FTE Survey.**

CDDP must complete and submit FTE Survey to [ODDS.Contracts@odhsosha.oregon.gov](mailto:ODDS.Contracts@odhsosha.oregon.gov) no later than February 28, 2026. Failure of the CDDP to submit the completed survey may result in a reduction of funding.

**m. Workload Model.**

- (1) CDDP will participate in maintaining the Workload Model (WLM) for the computation of FTE.
- (2) ODHS Office of Forecasting, Research and Analysis (OFRA) will calculate the official forecasted caseload of eligible Individuals the CDDP may serve during the biennium, which will inform the biennial Workload Model maintained by the ODHS Office of Reporting Research, Analytics and Implementation (ORRAI). The most recent Workload Model is attached to the SEPA for the period for the Services. Funding for CDDP FTEs is allocated within the Workload Model.
- (3) CDDP will nominate participants to a steering committee to review WLM calculations. ODDS will facilitate conversations with ORRAI to provide a 2-week window, when possible, for CDDP and the steering committee to review and provide feedback of WLM on the calculations prior to those numbers being finalized and submitted to the ODHS Budget Office.

**2. CDDP Assistance with Provider and Employer Enrollment, Credentials, and Payments.**

- a.** CDDP shall assist any Individual who wishes to hire a Personal Support Worker (PSW) with the following:
  - (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, CDDP will:

- (a) Initiate enrollment of the CLE into the Fiscal Management Agent Services (FMAS) vendor’s web portal (currently referred to as “BetterOnline”).
    - (b) Refer Individuals to the Employer Resource Connection contractor serving in the Program Area. If the CDDP identifies a need for ERC program services and resources, the CDDP shall refer the CLE to the ERC contractor.
  - (2) CDDPs must comply with requests from the Oregon Home Care Commission (OHCC) and its Customer Relations and Workers’ Compensation Units for information regarding workers’ compensation claims, PSW safety complaints, Americans with Disabilities Act (ADA) accommodation requests, unemployment claims related to an individual who is the employer of PSWs, PSW late payment complaints, and PSW complaints and grievances.
  - (3) Assist the Individual in the enrollment process for PSWs by:
    - (a) Providing PSWs with a Provider Enrollment Application and Agreement (PEAA) and initiating a Criminal History Check (CHC).
    - (b) Initiating the PSW enrollment in the FMAS vendor’s web portal. For each new PSW, CDDP will provide the required information to successfully enroll the PSW.
  - b.** CDDP shall assist Individuals by verifying that certifications, licenses, CHCs, driver’s licenses, and auto insurance are valid prior to Services being authorized for PSW Providers.
  - c.** CDDP must review and approve or reject the PSW time sheet, progress note, and mileage log. CDDP must review and approve or reject PSW submitted Services Delivered billing entries accordingly. CDDPs will work with PSWs or direct PSWs to work with their CLE for suspended payment claims that are unrelated to an eligibility issue.
  - d.** CDDP is required to submit an Out of Cycle (OOC) request for payment for PSWs, if the PSW turned in a properly completed timesheet within the dates as outlined on the approved PSW payment calendar, and the timesheet was not approved due to an administrative error on the part of the CDDP. The OOC request for payment must be submitted within one business day of the CDDP verifying that an error occurred and that it was due to an administrative error. CDDP will be invoiced for all fees incurred for OOC requests due to administrative error, including but not limited to, no more than a \$125 fee per day for initiating an OOC. ODDS will calculate the \$125 fee per day based on number of requests received for the day and invoice CDDP quarterly.
- CDDP will also be invoiced for any approved PSW Late Fees generated due to CDDP error at a rate of \$20 per day as determined through the OHCC late and partial payment process. CDDP must respond timely to any request for additional information from OHCC or ODDS. The number of days for the PSW Late Fee

will be calculated as follows: the Provider will receive \$20 per day beginning on the day the Provider submits the OHCC Late Pay Penalty form and ending on the actual date processing of the late or partial payment occurred. All Providers will be eligible for late or partial payment fees of twenty dollars (\$20) per day for three (3) days, no matter their overall gross payment. Besides the minimum late payment, PSW Late Fees will only match, not exceed the overall gross payment that is delayed. This cap on PSW Late Fees will not apply when a PSW experiences an additional payment occurrence within one calendar year or the verification of the late payment takes longer than 60 days from form submission. In the event that CDDP is at fault for the initial late payment, but resolution is delayed due to issues outside of CDDP control, CDDP will not be responsible for late fees over and above the time taken for CDDP to act to resolve the matter.

- e. In the event that CDDP has a reasonable cause to believe that a CLE or PSW is committing Medicaid Fraud, CDDP will notify the ODDS Provider Administration Manager and the Medicaid Fraud Unit immediately.

### **3. Days and Hours of Operation; Notifications to ODDS.**

- a. CDDP must provide the days and hours it will be open to the public by submitting a completed Attachment #1 to ODDS when the Agreement is signed by the CDDP. Failure by CDDP to provide this information will prevent Agreement execution by ODHS and distribution of the signed Agreement. CDDP must report any changes to the days and hours of operation to [ODDS.contracts@odhsoha.oregon.gov](mailto:ODDS.contracts@odhsoha.oregon.gov) within 24 hours of the decision.
- b. If CDDP must close or reduce its hours of operation as described in Attachment #1 for any reason, including but not limited to a loss of utilities, a pandemic, or a natural disaster, CDDP must notify ODDS' Agreement Administrator by email or telephone within 24 hours of the reduction or closure. If CDDP cannot meet the deadlines to approve PSW timesheets, CDDP will notify ODDS' Provider Administration Manager immediately by email or telephone.
- c. CDDP will nominate participants for a workgroup that will explore and identify the data needed to be collected for ongoing support of Individuals in Case Management Services that is requested or is necessary. Discussion will include but is not limited to the following scenarios:
  - (1) Hospitalization, discharges, emergency room visits with requests for involvement.
  - (2) Child Welfare calls for children in hospitals or emergency rooms when Child Welfare determines no abuse or neglect and child needs additional support.
  - (3) Providers needing ISP amendments prior to the next business day.
  - (4) Providers identifying additional supports are needed for an Individual.
  - (5) Individuals needing immediate new placements as a result of Providers delivering immediate exit notices.
  - (6) Protective service needs as the result of abuse and neglect allegations.

- (7) Providers needing to move Individuals out of a setting due to an emergency (i.e. fire, flood, loss of power, staffing).
- (8) Death of an Individual.
- d. CDDP will collect data identified from after hours workgroup for Individuals enrolled in Case Management Services as described in 3.c. above. ODDS will provide a template for tracking and reporting. CDDP will submit data reports using the ODDS provided template no later than December 31, 2025 and June 30, 2026, unless an alternative reporting scheduled is mutually agreed upon by both parties in writing prior to deadline, email communication will suffice.
- e. ODDS reserves the right to reduce funding if CDDP's days or hours of operation are reduced from those identified in Attachment #1 unless the reduction in operations is the result of an overall statewide fiscal reduction due to a legislative action.

#### **4. ODDS Administrative Responsibilities.**

- a. ODDS will publish Action Requests and Policy Transmittals that have an impact on the day-to-day processes and operation of a CDDP to the Innovation and Engagement website prior to publication. Website comments will be reviewed and responses to those comments posted at the time of publication of the Transmittal. ODDS reserves the right to not respond to all individual website comments.
- b. ODDS will publish Transmittals prior to the effective date of the Transmittal, when possible. There may be times due to states of emergency, pandemics, and or natural disasters that Transmittals may not be published timely and may be retroactive.
- c. ODDS will provide training to CDDP's staff prior to implementing new IT systems. Training may be in multiple formats including, but not limited to, in person, webinars, the ODHS approved learning management system, and other media sources. In person trainings will be conducted, at a minimum, in four areas of the State.
- d. ODDS will respond to fiscal inquiries from CDDP within five (5) business days of receipt of a written inquiry. Fiscal inquiries must be submitted to [cau.invoice@odhsoha.oregon.gov](mailto:cau.invoice@odhsoha.oregon.gov).
- e. ODDS will only post results from final quality assurance reports on the ODHS website. ODDS will analyze statewide finding and trends and will share those findings periodically in meeting with CMEs as identified and determined by ODDS prior to posting on the website for strategic messaging.
- f. If a CDDP refuses to follow the rules identified in all applicable ODHS and OHA CFRs, OARs or ORSs that require the CDDP to take action necessary to assure the health and safety of Individuals enrolled in or applying for DD Services under this Agreement ODDS will notify the CDDP in writing that ODDS intends to perform the functions necessary for the health and safety of the Individuals.

ODHS may reduce the funding received by the CDDP to cover the costs of ODDS fulfilling the roles necessary for the needed actions.

**5. Quality Assurance.**

- a.** ODHS' quality assurance activities include, but is not limited to:
  - (1) Review of Case Management Services.
  - (2) Review of assessments, ISPs, and LOCs.
  - (3) Review of CDDP's Provider monitoring, complaints, and other contracted obligations.
  - (4) Review application and eligibility documentation.
  - (5) Review of approved Case Management claims.
- b.** CDDP shall:
  - (1) Comply with all ODHS quality assurance reviews, plans, and processes designed to monitor and ensure CDDP's timely and accurate CMS compliance.
  - (2) Follow all undisputed remediation instructions, including timelines, resulting from the quality assurance review findings.
  - (3) Make available to ODHS' quality assurance staff, upon request, access, including a login and password, to any electronic systems and or provide any physical documentation that contains information related to the Services provided to Individuals enrolled in Case Management Services and or maintain the health and safety of Individuals.
- c.** ODHS shall:
  - (1) Notify CDDP in advance of a ODHS quality assurance review.
  - (2) Provide timely feedback to CDDP of quality assurance review findings and an opportunity for CDDP to dispute those findings prior to the final report.
  - (3) Provide technical assistance and training to CDDP in the areas identified as needing improvement by the quality assurance review. Technical assistance and training provided by ODHS will not negate necessary remediation activities by CDDP.

**EXHIBIT B**

**Part 2**

**Service Element Standards and Procedures**

**1. Provision of Services.**

- a.** The DD Services listed in this Section 1 and described in this Exhibit B Part 2 must be provided as described in the appropriate federal regulations, Oregon Revised Statutes, Oregon Administrative Rules, most current ODDS expenditure guidelines, and Service Element Standards and Procedures for the DD Services. Requirements for Service Elements may be found in the OARs listed below. Any additional requirements may be found in this Exhibit B Part 2. Only the DD Services listed are subject to this Agreement.
- b.** Upon acceptance of the Service Element Prior Authorization (SEPA) in eXPRS, CDDP agrees to directly provide or subcontract for the DD Services. The DD Services provided by CDDPs whose costs are covered in whole or in part with the SEPA are:

	<b>Service Name</b>	<b>References</b>
(1)	Eligibility and Licensing	Chapter 411, Division 320, Service Element Standards and Procedures
(2)	Case Management Operations	Chapter 411, Divisions 415 and 320; Service Element Standards and Procedures
(3)	Abuse Investigation Services	Chapter 411, Division 320; Service Element Standards and Procedures

- c.** CDDP will provide Licensing Services as defined in Exhibit B, Part 2, Section 9 until December 31, 2025, except as provided in this section. Licensing Services will transition to ODDS effective January 1, 2026, unless an earlier date of transition is mutually agreed upon and accepted between both parties in writing, email communications will suffice. CDDP must submit a variance request to [odds.variances@odhsoha.oregon.gov](mailto:odds.variances@odhsoha.oregon.gov) to request early transition.

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

ODHS shall update this Exhibit B, Part 2 as follows:

- a.** ODDS will engage with a standing group of Community Partners to review and, if needed, modify this Exhibit B, Part 2. Community Partners shall include CDDP staff, designated representatives, ODDS staff, and other parties identified by ODDS.
- b.** Upon determining that an update is necessary, a draft of the document changes will be sent to the Community Partner group via e-mail for review and comment. The ODDS e-mail shall include a time, date, and conference line number or virtual meeting information for a discussion between ODHS and CDDP’s

regarding the draft Service Element Standards and Procedures being reviewed. ODHS will accept comments via e-mail for 15 business days after the date of the ODDS e-mail with the changes.

- c. After the discussion and the deadline for receipt of any e-mail review and comments from CDDP staff, ODHS will consider any information from CDDP's when determining the final changes to this Exhibit B, Part 2.
- d. Upon completion of the review process, ODHS shall follow the amendment process as outlined in Exhibit E Section 28 "Amendments; Waiver; Consent" of this Agreement to update this Exhibit B Part 2.

**3. Service Authorization.**

CDDP must authorize Services as outlined below:

- a. All Services, regardless of service setting or unless otherwise noted, must be authorized in eXPRS or MMIS for Long-Term Community Care Nursing (LTCCN), in a manner consistent with rule, by the County in which the Individual is enrolled and is receiving Case Management Services and found eligible for I/DD Services as outlined in OAR Chapter 411 Division 320. This authorization must be obtained and documented in accordance with OARs and ODHS policies and procedures.
- b. All Services must be authorized at the appropriate rates, when applicable, for the service setting. All services included in the expenditure guidelines must be entered using the rates detailed in the expenditure guidelines. Rates are subject to change upon notice from ODHS.

**4. Ancillary Services.**

Rates for Services as defined in OAR 411-435 are set using the most recent ODDS expenditure guidelines. Exceptions to the published rate(s) may be allowed with prior approval by ODHS. ODDS will issue a final funding memo to CDDP when the payment of invoice is approved. ODDS will process payment within 45 days in accordance with ORS 293.462.

**5. Supported Living.**

Upon implementation of the rate table, the ODHS budget tool will no longer be needed for Individuals receiving Supported Living Services.

**6. Transportation Services.**

- a. Transportation Service rates are set using the expenditure guidelines or the transit providers published rate.
- b. Individuals enrolled in Transportation Local Match Services for going to or from employment services, including day support activities, are not eligible for other Transportation Services for transportation to or from employment services, including day support activities without an exception.
- c. CDDP must maintain Transportation Local Match rosters and report changes regarding Individuals eligible for Transportation Local Match to transit districts as

outlined in transportation worker's guide. CDDP's failure to report these changes to the transit district will result in CDDP paying for rides provided to Individuals ineligible for Transportation Local Match.

**7. Special Projects.**

- a.** Special Projects are a mechanism for special payments as a pass-through payment to the CDDP.
- b.** All requests for Special Projects funding must be submitted to [ODDS.FundingReview@odhsoha.oregon.gov](mailto:ODDS.FundingReview@odhsoha.oregon.gov) prior to authorization by ODDS.
- c.** Performance requirements for Special Projects not otherwise defined in this Agreement are described below:
  - (1) Any Special Project must be authorized in advance by ODDS, and the Special Project must be performed prior to ODDS releasing funding, unless otherwise approved by ODDS in writing.
  - (2) Funding for Special Projects will be paid to the CDDP through eXPRS.
  - (3) Terms and conditions of each Special Project will be defined in cooperation with the CDDP.
- d.** All Special Project funds are subject to Settlement to confirm and reconcile any discrepancies that may have occurred between actual ODHS disbursements of funding, and the amount actually delivered and invoiced at the end of the Agreement period or biennium in which they are authorized, whichever comes first.

**8. Room and Board General Fund (R&B GF).**

- a.** Services for R&B GF are limited to those Individuals with I/DD who are not Medicaid eligible due to the Individuals' immigration status being undocumented but are working towards United States citizenship. CDDP will assist Individuals that are undocumented in applying for Healthier Oregon Program (HOP). R&B GF Services assist these Individuals with room and board (R&B), personal incidental items, and as necessary, allowable medical expenditures.
- b. Authorizing R&B GF Services.**
  - (1) Individuals must be 18 or older and concurrently receiving Residential Services or Adult Foster Home Services.
  - (2) Services must be approved in advance by ODHS. CDDP must submit the following documentation when requesting R&B GF Services:
    - (a) Individual's name;
    - (b) Individual's prime number;
    - (c) Effective date of requested R&B GF Services;
    - (d) Amount of monthly funds requested;
    - (e) Steps Individual has taken to date in obtaining citizenship;

- (f) Steps to be taken by the Individual to obtain citizenship during the time frame requested for R&B GF Services;
  - (g) A copy of the Individual’s most current Individual Support Plan (ISP), if funding for medical expenditures is requested;
  - (h) A methodology for calculating the funds for medical expenditures, if applicable;
  - (i) Documentation that the Individual has been denied Oregon Health Plan (OHP) insurance coverage.
- (3) An Individual cannot receive R&B GF medical expenditure funding if the Individual is receiving OHP.
  - (4) If the Individual has been approved to receive R&B GF medical expenditure funding and has been approved for OHP, OHP must be used for all medical expenditures..
  - (5) R&B GF 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 Exhibit B Part 2, an emergency situation 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.
  - (6) The following medical services are not authorized under R&B GF 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. Rate Setting for R&B GF Services.**

- (1) The funds awarded for R&B GF Services for R&B and personal incidentals are equivalent to the anticipated federal Supplemental Security Income (SSI) as defined in 420 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 ODHS approved adjustments. These monthly rate changes do not require a request by CDDP and approval from ODHS. Any monthly rate adjustments resulting from these changes will be added by ODHS to awards ODHS authorized for Individuals receiving R&B GF Services.
- (2) R&B GF funds must be used for “current maintenance” costs incurred by an Individual receiving R&B GF Services, as defined in the above-

referenced CFRs, the OSIP Manual, and as outlined in this Exhibit B Part 2. Current maintenance includes the room and board fees charged by the Provider to the Individual and costs incurred for clothing, medical care authorized by ODHS, and personal comfort care for the Individual, whether provided directly by, or facilitated by, the Provider of the R&B GF Services.

- (3) R&B GF funds used for an Individual’s medical expenses must only be for necessary medical expenditures for the Individual up to the amount authorized by ODHS. If the Individual is enrolled in HOP medical expenses must be processed through HOP.

**d. Disbursement of R&B GF Service Funds.**

- (1) A SEPA will be created for the total amount of the R&B GF Service allowed for the Individual prior to Services being rendered.
- (2) R&B GF funds are disbursed through a PPA in eXPRS to the CDDP.
- (3) R&B and personal incidental funds are disbursed at the beginning of each Service month through a ODHS created 12-month PPA. CDDP must remit payment to the Provider after receiving disbursement.
- (4) Medical Expenditures are disbursed at the beginning of a service period through an ODHS created three-month PPA. CDDP must remit payment to the Provider after receiving disbursement. If ODHS has paid to CDDP, through the release of the PPA funding, more R&B GF medical expenditure funds than reported by the Provider and submitted by CDDP, ODHS will stop releasing funds for R&B GF medical expenditures until the balance due CDDP for R&B GF 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 ODHS authorized funding, then ODHS will release the additional funding up to, but not to exceed, the SEPA amount.

**e. Special Provisions of R&B GF Services.**

- (1) Medical expenditure funding for an Individual for R&B GF Services paid to a Provider via CDDP may only be carried over into future months within the same biennium. When medical expenditure funding carry-over occurs, the next monthly payment to CDDP for the Individual will be reduced by ODHS by the amount carried over from the previous months. CDDP may not carry over funding of R&B GF Services for medical expenditures into the next biennium. The medical expenditure funding must be returned to ODHS immediately upon request by ODHS, or within 45 calendar days of the end of the biennium in which the funds were paid, whichever date is sooner.

- (2) CDDP shall notify ODHS within 14 calendar days if the Individual's circumstances change and the Individual is no longer eligible for R&B GF Services.
- (3) ODHS may request at any time other information regarding the use of R&B GF Services or the justification of such Services. CDDP must respond to any request within 10 business days.
- (4) CDDP must submit to ODHS quarterly, paid Provider invoices for R&B and personal incidental expenditures. Provider invoices must reflect that the Individual received the R&B GF Services during the time period covered by the invoices. If paid Provider invoices are not received by ODHS, the R&B and personal incidental funds paid to Provider, and not supported by paid Provider invoices, must be recovered by CDDP and CDDP must then return this R&B GF funding to ODHS.
- (5) For Medical Expenditures:
  - (a) Providers shall report to CDDP the allowable medical expenditures each month on a ODHS prescribed form. This monthly report will serve as the Provider invoice for medical expenditures for R&B GF Services. This monthly medical expenditure report must include the following, at minimum:
    - i. Individual's name;
    - ii. Individual's prime number;
    - iii. Month or timeframe for the reported R&B GF Services;
    - iv. Provider's name and eXPRS Provider number;
    - v. Description of each medical expenditure listed separately;
    - vi. Amount of each medical expenditure;
    - vii. Name of entity providing the R&B GF Service, such as the name of pharmacy, doctor, or therapist; and
    - viii. Actual date of R&B GF Service, not the date the Service was paid for by the Provider.
  - (b) Provider must submit a monthly medical expenditure report to the CDDP within 14 calendar days of the end of each month R&B GF Services were provided. The Provider medical expenditure report for the last month in the biennium must be submitted to CDDP within 14 calendar days of the end of each biennium.
  - (c) CDDP shall submit for payment the Provider's monthly medical expenditure report on a form prescribed by ODHS no later than 45 calendar days from the end of the month in which R&B GF Services were provided. ODHS will review this report for accuracy and adherence to this Exhibit B Part 2. CDDP will be notified of any non-allowable expense and will be required to

recoup the funding from the Provider. CDDP will remit to ODHS the recouped funding within 45 calendar days of recoupment.

- f. ODHS reserves the right to end R&B GF Services with proper notice to the Individual, Provider and CDDP.
- g. All R&B GF funds are subject to Settlement to confirm and reconcile any discrepancies that may have occurred between actual ODHS disbursements of funding and the amount actually delivered and invoiced at the end of the Agreement period or biennium in which they are authorized, whichever comes first.
- h. All invoices must be submitted to [cau.invoice@odhsoha.oregon.gov](mailto:cau.invoice@odhsoha.oregon.gov).

**9. Eligibility and Licensing.**

a. Eligibility and Licensing encompasses the activities related to determination of eligibility of Individuals under OAR Chapter 411, Division 320 and 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.

**b. Standards and Procedures not identified in rule.**

- (1) Special Reporting Requirements
  - (a) Upon ODHS’ written request, CDDP will provide data and information relative to the implementation of Eligibility and Licensing Services within the time specified by ODHS in its request to CDDP.
  - (b) CDDP must ensure applications, determinations and reason for decision is documented in eXPRS as outlined in OAR 411-320-0080.
- (2) Billing and Payment Procedures
  - (a) ODHS will provide CDDP with funding for Eligibility and Licensing 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.
  - (b) ODHS will disburse funding for Eligibility and Licensing 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 “Financial Terms and Conditions” of this Agreement.
- (3) CDDP, as a Provider of Eligibility and Licensing Services that are funded by ODHS, must:

- (a) Employ an identified individual as an Eligibility Specialist, as defined in OAR 411-320-0020 (15), and meet qualifications outlined in OAR 411-320-0030 (5)(d), to perform the duties outlined in OAR 411-320-0030 (9)(b) and OAR 411-415-0050; or have an agreement with another CDDP to perform eligibility determination for the CDDP receiving the Eligibility and Licensing funding. If there is an agreement with another CDDP to perform eligibility determinations, the agreement must include the provision of Eligibility and Licensing Services in that CDDP's Program Area.
- (b) Employ an identified individual as a Licensor who meets qualifications indicated in OAR 411-320-0030 (5)(g) and performs the duties outlined in OAR 411-320-0030 (9)(e); or have an agreement with another CDDP to perform foster care licensing and certification for the CDDP receiving the Eligibility and Licensing funding. If there is an agreement with another CDDP to perform foster care licensing and certification, the agreement must include the provision of Eligibility and Licensing Services in that CDDP's Program Area.
- (c) Employ sufficient staff as described in the WLM and under Exhibit D, Section 2. "Usage of Funds" to perform the eligibility determinations and licensing duties within required timelines set forth in OAR 411-415-0030, OAR 411-320-0080 and in accordance with Medicaid and if applicable, require the CDDP with whom it is subcontracting to comply with this requirement if performing these duties for another CDDP.
- (d) Use ODHS approved systems, forms, and procedures for eligibility determination services.
- (e) Inform ODHS' ODDS of the name(s) of the CDDP's designated Eligibility Specialist(s) and notify ODDS if the CDDP assigns a new Eligibility Specialist.
- (f) Ensure that an Eligibility Specialist, or the Eligibility Specialist processor with the appropriate training and eXPRS user role, completes the appropriate eligibility paperwork and intake screens in eXPRS.
- (g) Complete the eXPRS eligibility intake, determination and termination entries within ten business days of the intake, determination, redetermination, transfer and/or other termination.
- (h) Complete the supplemental LOC assessment through the Oregon Needs Assessment, in compliance with OAR 411-415-0060.
- (i) In order to ensure continuity of Eligibility and Licensing Services when an Eligibility Specialist and or Licensor is out on extended leave CDDP must identify staff that will provide ongoing

Eligibility and or Licensing Services. Coverage must include all areas of Eligibility and or Licensing including but not limited to generalized services, authorization of Services, monitoring and conducting assessments. When needed, CDDP will coordinate with ODDS to develop a plan for coverage. For Licensing Services CDDP will email [DD.Licensing@odhsoha.oregon.gov](mailto:DD.Licensing@odhsoha.oregon.gov) for Eligibility CDDP will email [DD-EligibilitySpecialists@odhsoha.oregon.gov](mailto:DD-EligibilitySpecialists@odhsoha.oregon.gov).

- (4) ODHS reserves the right to make final decisions regarding eligibility and licensing determinations.

**10. Case Management Operations.**

- a. Case Management Operations encompass the activities related to the general administration and management of a CDDP. These activities include, but are not limited to, ensuring that all CDDP staff receive necessary training, that all services offered by the CDDP are understood by staff, as well as the rules that govern those services, and that all staff comply with OAR Chapter 411, Division 320 as it describes the requirements of CDDP staff.
- b. Case Management Services are delivered to Individuals who are eligible for Intellectual and or Developmental Disabilities Services (I/DD Services) funded by ODHS in an identified Program Area.
- c. **General Performance Requirements.**
  - (1) For each eligible Individual receiving Case Management Services, the CDDP shall create and submit a Client Prior Authorization (CPA) in eXPRS for Case Management Services within five business days of the CDDP’s determination that the Individual is eligible for Case Management Services. Updates or changes to an Individual’s eligibility or service period for Case Management Services must be reflected in the Individual’s CPA within five business days of the CDDP’s receipt of notification of change. The Case Management CPAs that are submitted successfully by the CDDP and are accepted through eXPRS will serve as the CDDP enrollment roster for Case Management Services
  - (2) Each CDDP shall have a minimum of one (1) staff that is the WorkDay Affiliation Manager and create sub-affiliations to support CDDP staff learners in accessing trainings, password resets, pulling training records and provide other technical support for WorkDay. The WorkDay Affiliation Manager will work with ODDS training team to create sub-affiliations.
    - (a) ODDS will create and distribute a welcome letter to new Affiliation Managers outlining their role to support learners.
    - (b) ODDS will provide virtual meetings to answer questions for Affiliation Managers and provide assistance with Extended Enterprise Learners (EEL) learners.

- (3) Providers of Case Management Services funded by ODHS shall:
- (a) Comply with the requirements of OAR Chapter 411 Division 320 “Community Developmental Disabilities Program” and Division 415 “Case Management Services for Individuals with Intellectual or Developmental Disabilities”, as such rules may be revised from time to time.
  - (b) Complete annual plan entry into eXPRS for any Plan of Care Services under the guidelines identified in OAR 411-415-0070 “Service Planning for Developmental Disabilities Services.” Failure to follow the guidelines identified may result in payment withholding for services rendered or other actions as deemed appropriate by ODHS.
  - (c) Develop, maintain, and effectively implement systems and procedures for the timely and accurate documentation of Case Management Services.
  - (d) Comply with all ODHS requirements designed to assure the timely and accurate enrollment, service authorization, and service payment for Individuals receiving Case Management Services.
  - (e) Ensure that all Claims billed are for activities that meet ODHS guidelines for Case Management Services.
  - (f) Ensure each Individual receiving Case Management Services is 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.
  - (g) Complete and submit Case Management Service eligibility or enrollment information via established methods, and update forms following instructions and using forms(s) or method(s) designated by ODHS. Failure to submit the Case Management Service eligibility or enrollment form may delay the approval of the service authorization for Case Management Services.
  - (h) In order to ensure continuity of Case Management Services to Individuals when a Services Coordinator is out on extended leave CDDP must identify another qualified staff that will provide ongoing Case Management Services to Individuals. Coverage must include all areas of Case Management including but not limited to generalized case management, authorization of Services, monitoring and conducting assessments.
  - (i) Ensure that all Oregon Administrative Rules, ODHS policies and procedures, and Transmittals are complied and that CDDP staff provide Case Management Services in compliance with this Exhibit B, Part 2.

**d. Special Reporting Requirements.**

- (1) Upon the written request of ODHS, the CDDP shall supply data and information related to the implementation of Case Management Services within 14 business days of request, unless otherwise mutually agreed upon.
- (2) CDDP shall respond to ODHS staff inquiries or written requests 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, exception requests, and hearings.
- (3) Upon advanced notice, CDDP staff shall cooperate in any administrative hearing as a witness at any stage of the hearing or any other legal matters arising from their role including, but not limited to, eligibility or service complaints.

**e. Funding for Case Management Services.**

- (1) Case Management funding is based upon the amount of qualified billable RFFS Claims submitted by the Provider of Case Management Services, up to the monthly amount authorized by the CDDP's Case Management service authorization.
- (2) Case Management funding is paid to the CDDP after the Claims processing cycle on the 15th of the month based on Title XIX eligible Claims cleared since the first of the month. 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. General fund Claims submitted for the time period between the 1st of the month and the 15th of the month will be held until the next monthly Claims processing cycle described in this Exhibit B Part 2, 11.e.(3) below.
- (3) Case Management funding is paid to CDDP after the Claims processing cycle on the last day of the month based on:
  - (a) If any funds remain or are available in the monthly authorized amount.
  - (b) Title XIX eligible Claims cleared since the 15<sup>th</sup> will be processed and paid first.
  - (c) 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.
  - (d) 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.

- (e) 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.
- (4) ODHS is not obligated to provide funding for any Case Management Services that are not properly documented in Individual case files, or are not properly reported through eXPRS within 12 months of the Case Management Service, and by the date 60 calendar days after the termination of the Agreement; termination of ODHS’ obligation to provide funding for Case Management Services; or termination of CDDP’s obligation to include the Program Area in which Case Management Services are provided.
- (5) Provider of Case Management Services shall resolve all Provider Liability Accounts (PLA) as shown in eXPRS relating to Case Management Services, by ensuring the PLA ending balance is zero, within 60 calendar days after the earlier of expiration or termination of the Agreement with ODHS; termination of ODHS’ obligation to provide funding for Case Management Services; or termination of CDDPs obligation to include the Program Area in which the Case Management Services are provided.
- (6) Each Individual receiving Case Management Services must have an active, accepted CPA within eXPRS for the period Case Management Services are provided to the Individual in order for Provider to submit a qualifying Claim.
- (7) For each unit of Case Management Services reported in eXPRS as delivered to an Individual, a qualifying billable Case Management Service must have been delivered to the Individual and sufficiently documented in progress notes within the Individual’s file. ODHS will not provide funding for more than one billable Case Management Service or unit per Individual per day. CDDP will void or back out any submitted claims that are determined not to meet Case Management Services requirements.

**11. Abuse Investigation Services.**

- a. Abuse Investigation Services for adults include responding to abuse allegations, conducting death reviews, accessing protective services in coordination with Case Management Entities, and assuring that the abuse allegations are appropriately investigated and reported. CDDP must operate a Community Developmental Disabilities Program, or have a service agreement with another CDDP, to perform abuse investigation activities. The abuse investigator specialist serves as the “designee” of ODHS under ORS 430.731, 430.735 to 430.765.
- b. **General Performance Requirements.**
  - (1) When providing Abuse Investigation Services for ODHS, CDDP will:
    - (a) Comply with OAR Chapter 411, Division 320 “Community Developmental Disabilities Program”, as such rules may be revised from time to time.

- (b) Comply with ORS 430 and OAR Chapter 419, Division 100 “Adult Abuse Investigations in Developmental Disabilities Services” and 105 “Serious Event Assessments” provided by Office of Training, Investigations and Safety (OTIS), as such statutes and rules may be revised from time to time.
  - (c) Comply with ODHS policies and procedures and ODHS Transmittals requesting action or providing policy information.
- (2) CDDP must employ individuals as abuse investigators to perform abuse investigation activities which include the provision of Abuse Investigation Services in a Program Area and who will be referred to as the “Abuse Investigator”.
  - (3) CDDP shall employ, provide training, and require attendance to mandatory training for Abuse Investigators indicated in the Workload Model for Abuse Investigation Services within the funding allotted.
  - (4) Abuse Investigators must use a State approved information system, forms, and procedures for acting on mandatory abuse reports, assessing protective services, and conducting investigations for documentation of findings regarding abuse allegations.
  - (5) Abuse Investigators must complete the abuse investigation duties within the timelines outlined in rule. Any variance to the investigation rules in OAR Chapter 419, Division 100 and 105 must be reviewed and approved by OTIS.
  - (6) Abuse Investigators must participate in quarterly meetings held by OTIS.
  - (7) The State will provide best efforts of as much advance notice as possible and generally no less than four business days, Abuse Investigators and or CDDP must make every reasonable effort to participate in a contested case matter, including as a witness, at any stage of the hearing or any other legal matters arising from their role. CDDP will notify ODDS if an Abuse Investigator is unable to attend a hearing.
  - (8) Abuse Investigators must participate in the CDDP multidisciplinary team relative to ORS 430.739 “County multidisciplinary teams” and provide any requested data and information needed to comply with ORS 403.739 and OAR Chapter 419, Division 100.
  - (9) Per ORS 430.731(3) a person employed by a CDDP as a case manager may not serve as the lead investigator of an allegation of abuse of a person with a developmental disability.
  - (10) A CDDP may identify a back-up Abuse Investigator who is also a case manager or Services Coordinator. Back-up Abuse Investigators must complete the Investigator Core Competencies training as delivered by OTIS. A back-up Abuse Investigator may be used in a situation where the primary Abuse Investigator is absent or temporarily unavailable. If a case

manager is the back-up Abuse Investigator, the case manager cannot serve as the investigator for an allegation involving an adult they case manage.

- (11) In circumstances where a CDDP may have a potential conflict of interest, OTIS must be consulted as prescribed in OAR Chapter 419, Division 100.
  - (a) The Abuse Investigator must consult with OTIS to confirm the conflict of interest and then coordinate the out of CDDP investigation with the assigned OTIS special investigator.
  - (b) OTIS, in consultation with the Abuse Investigator, will determine if there is an actual or potential conflict of interest that cannot be remedied through assignment to another abuse investigation provider.
  - (c) OTIS will provide a written response regarding the outcome of the formal request to the original investigator within 24 hours.
- (12) OTIS reserves the right to make final decisions regarding determinations of abuse

**c. Special Reporting Requirements.**

Upon ODHS’ written request, a CDDP will provide data and information relative to the implementation of Abuse Investigation Services within the time specified by ODHS in its request to CDDP.

**d. Billing and Payment Procedures.**

- (1) ODHS will provide CDDP with funding for Abuse Investigation 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) ODHS will disburse funding for Abuse Investigation 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:
  - (a) If CDDP fails to deliver or comply with Abuse Investigation Services, the funding for Abuse Investigation Services will be reduced accordingly.
  - (b) If requested by ODHS, CDDP shall also accept an appropriate SEPA Adjustment to amend funding for Abuse Investigation Services as a result of a CDDP’s failure to deliver the Abuse Investigation Services for a full month. If all funds have been dispersed CDDP must reimburse ODHS for the Overexpenditure.

**12. Incident Management System(s) Procedures.**

CDDP must record all serious incidents, resolution of serious incidents, follow-up taken related to serious incidents, complaints of abuse, death reviews, and abuse investigations in the State approved electronic incident management system(s). When documenting incident follow up in the electronic incident management system the CDDP may reference the documentation in an Individual’s record, such as a progress note.

**a. Abuse Data Measures.**

#	Metric	Metric Explanation
(1)	Timeliness of First Contact	Abuse investigations meeting applicable response times according to OAR.
(2)	Investigation Cycle Time	Number of days from opening an investigation to the date the investigation is closed.
(3)	Screening Timelines	Allegations screened in compliance with OAR timelines.
(4)	Caseload Ratio	Number of investigations opened per abuse investigator.
(5)	Re-abuse Rates	Number of victims with multiple substantiations of abuse.
(6)	Core Competency Training	Number of new investigators who complete Core Competency Training within 6 months of hire.
(7)	Annual Training Hours	Number of abuse investigators who complete 20 hours of annual training.
(8)	Serious Incidents and Investigations	Number of investigations with related serious incidents.

**b. Serious Incident Measures.**

#	Metric	Metric Explanation
(1)	Timeliness of Serious Incidents Entered	Number of serious incidents entered that meet applicable entry timelines, compared to the number of serious incidents entered that did not meet entry timelines.
(2)	Timeliness of Serious Incidents Closed	Number of serious incidents closed that meet applicable closure timelines, compared to the number of serious incidents closed that did not meet closure timelines.

(3)	Serious Incident Recommended Actions	Number of serious incidents with recommended actions documented within the State approved system that shows resolution and/or mitigation of a serious incident.
(4)	Serious Incident Types	Number of serious incidents reported
(5)	Reoccurring Serious Incidents for Individuals	Number of Individuals who experienced more than one (1) serious incident in a specific serious incident category within a quarter. CDDP must demonstrate mitigation efforts and/or strategies where a pattern of reoccurring serious incidents is developing.

- c.** ODDS will provide technical assistance to the CDDP, offer quarterly calls, and work to create templated reports for the CDDP to access within the State approved incident management system. CDDP will follow ODDS instructions to make a request from CAM Operations and Maintenance (O&M) to create additional reports needed to meet reporting requirements.
- d.** CDDP is required to meet internally on a quarterly schedule to review their local data, develop actionable plans and respond to concerning or ongoing patterns of abuse investigations and incidents among Individuals and or Providers, also referred to as trend reports in this Agreement.
- e.** At a minimum, CDDP will submit quarterly CDDP’s trend reports for abuse investigations and incident management using the data obtained from the State approved incident management system(s) on an approved ODDS form to [IMT.Submissions@odhsohs.oregon.gov](mailto:IMT.Submissions@odhsohs.oregon.gov) and OTIS.
- f.** CDDP will meet with ODDS and OTIS when requested to review abuse investigations and incident data and reports submitted for review. Meeting will include, but is not limited to, discussing local data, developing actionable plans and responding to concerning and or ongoing patterns of incidents among Individuals and or Providers.
- g.** The CDDP will maintain quarterly data reports and the trend reports described below in their records.
- h.** ODDS will outline the reporting timelines for the CDDP.

**i. Quarterly Trend Reports.**

- (1) ODDS will provide CDDP a form for CDDP to complete an analysis of their local quarterly data for the quarter being reported on. The CDDP will complete the form in its entirety. Reports are due:
  - (a) Quarter 1: Due May 1<sup>st</sup> for the reporting period January 1<sup>st</sup> to March 31<sup>st</sup>
  - (b) Quarter 2: Due on August 1<sup>st</sup> for the reporting period April 1<sup>st</sup> to June 30<sup>th</sup>
  - (c) Quarter 3: Due on November 1<sup>st</sup> for the reporting period July 1<sup>st</sup> to September 30<sup>th</sup>
  - (d) Quarter 4: Due on February 1<sup>st</sup> for the reporting period October 1<sup>st</sup> to December 31<sup>st</sup>
- (2) The CDDP will identify actionable efforts taken in response to the quarterly data report indicating non-compliance and document mitigation and remediation strategies within the trend report. Mitigation and remediation strategies will include:
  - (a) An analysis/statement of the root causes and or reasons for not meeting compliance requirements.
  - (b) A description of how the CDDP is identifying and addressing areas of non-compliance and proposed solutions from the CDDP.
  - (c) A timeframe for implementing the solutions.

**EXHIBIT B**

**Part 3**

**Financial Terms and Conditions**

**1. Disbursement of Payments.**

**a. Disbursement Generally.** Subject to the conditions precedent to disbursement set forth below, ODHS shall disburse the payments described in the SEPA to County or Subcontractors in accordance with the procedures set forth in this Section 1 “Disbursement of Payments” and, as applicable, in Exhibit B, Part 2 “Service Element Standards and Procedures”. Disbursement procedures may vary by DD Service.

If County subcontracts any or all Service(s) covered under this Agreement, County must forward all funds related to the Services subcontracted to Subcontractor within ten business days of receipt from ODDS. If the entire CDDP program is subcontracted County cannot retain any of the funding.

**b. Disbursements Remain Subject to Recovery.** All disbursements of funds to CDDP and or Subcontractors under this Agreement remain subject to recovery from CDDP, in accordance with Section 7 “Recovery of Funding for Misexpenditure” below, as a Misexpenditure.

**c. Conditions Precedent to Disbursement.** ODHS’ obligation to disburse payments to CDDP and or Subcontractors under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- (1) No CDDP default as described in Exhibit E “Standard Terms and Conditions” has occurred.
- (2) CDDP’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.**

**a.** CDDP shall use all funds disbursed to CDDP under this Agreement solely to cover actual Allowable Costs reasonably and necessarily incurred to deliver DD Services during the term of this Agreement. Depositing these contracted funds into a single pool, making one dollar indistinguishable from another, is prohibited and subject to Audit. However, CDDP may deposit funds from different sources, including the funds from ODHS, into a single account if the different funding streams are accounted for and trackable, sometimes referred to as “braiding”.

**b.** CDDP indirect costs defined in 2 CFR 200.1 cannot exceed rate assumed in Workload Model. Costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both.

**3. Effect of Amendments Reducing Funding.**

- a.** If CDDP and ODHS amend the SEPA to reduce the amount of funding awarded for a particular DD Service, CDDP is not required by this Agreement to utilize other CDDP funds to replace the funds no longer received under this Agreement as a result of the amendment and CDDP may, from and after the date of the SEPA 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.
- b.** If a CDDP receives Local Match funding to recoup the reduced funding, DD Services may not be reduced. Nothing in the preceding sentence shall affect CDDP's obligations under this Agreement with respect to payments disbursed by ODHS under this Agreement or with respect to DD Services delivered.

**4. Audit Requirements.**

- a.** A CDDP operated by a Subcontractor, is required to submit to ODHS an Audit within 120 calendar days of the end of the previous fiscal or biennial period. Audits must:
  - (1) Cover the entire previous fiscal or biennial period and include all federal and state funds provided to CDDP as part of this Agreement.
  - (2) Must be submitted directly to [ODDS.contracts@odhsoha.oregon.gov](mailto:ODDS.contracts@odhsoha.oregon.gov) by the auditing agency or a Certified Public Accountant (CPA).
- b.** Failure to submit a proper Audit within 120 calendar days of the end of the previous fiscal or biennial period may result with ODHS withholding further funding to CDDP until Audit is submitted to ODHS. ODHS may allow for one 60-calendar day extension to this if the CDDP can document due diligence in attempting to meet the requirements of this subsection prior to the end of the 120-calendar day period.

**5. Carryover.**

Any amount of Carryover funds is to be used by County in support of DD Services provided to Individuals and may not be co-mingled with other County programs or departments.

- a.** If County is requesting local match, County must submit a report of Carryover funds retained from a previous biennium to the [cau.invoice@odhsoha.oregon.gov](mailto:cau.invoice@odhsoha.oregon.gov) email using the form provided by ODHS. The report must include the following:
  - (1) Amount of awarded funds or other compensation paid directly to the County under this Agreement.
  - (2) A written description of how the Carryover funds will be used by County to increase DD Services or cover costs of DD Services under the same Service Element for which the funds were awarded to County in the previous biennium.

## 6. Process for Settlement.

CDDP shall cooperate with ODHS during the biennial, or any interim, Settlement process for those DD Services where funds are paid directly to CDDP or as defined in Exhibit B Part 2 “Service Element Standards and Procedures” of this Agreement.

- a. ODHS will analyze the ODHS paid versus CDDP expended funds, for each DD Service funded under this Agreement directly to CDDP, for the timeframe of the Settlement process. Upon completion of the ODHS analysis, ODHS will notify CDDP via an e-mail addressed to the CDDP Administrator of the results of its Settlement process (“Settlement Notification”). The Settlement Notification will include the following:
  - (1) Settlement Cover Letter, and
  - (2) Initial Settlement Report.
- b. CDDP shall have 90 calendar days from the date of the Settlement Notification to respond with corrections, additional information, or acceptance of the Settlement amount as presented by ODHS.
- c. CDDP shall submit any additional information or corrections on the spreadsheet provided in the Initial Settlement Report per the instructions in the Settlement packet, as well as any documentation needed to support a disputed amount (the “Response File”).
- d. ODHS shall review and respond to CDDP’s Response File within 120 calendar days of receipt of the Response File. ODHS shall clearly identify in a revised Settlement Notification, emailed to the CDDP Administrator, which items ODHS has accepted or denied.
- e. Any additional backup documentation provided by CDDP 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 ODHS and CDDP continue to disagree as to the Settlement amount, the parties may agree to further appropriate dispute resolution processes, subject to Exhibit E Section 21 “Resolution of Disputes” of this Agreement.
- g. The final Settlement Notification sent by ODHS to CDDP shall indicate the amount and the expected date of payment to ODHS by way of a check from CDDP or recovery through future payments in the manner described in this Exhibit B Part 3. If funds are to be paid to CDDP, the final Settlement Notification shall indicate the amount and the expected date of payment by check from ODHS. Any disputes to the final Settlement Notification shall be resolved through the appeals processes as outlined in this Exhibit B Part 3.

**7. Recovery of Funding for Misexpenditure.**

**a.** If ODHS identifies a Misexpenditure of moneys disbursed to CDDP under this Agreement, ODHS shall provide CDDP by e-mail with written notice thereof and ODHS and CDDP shall engage in the process described in subsection 7.b. below.

**b.** From the date of the notice of Misexpenditure, CDDP 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 ODHS has to appeal a final written decision from the federal government, to either:

- (1) Make a payment to ODHS of the full amount of the noticed Misexpenditure identified by ODHS; or
- (2) Notify ODHS that CDDP wants to repay the amount of the noticed Misexpenditure from future payments pursuant to subsection 7.d. below; or
- (3) Notify ODHS that it wants to engage in the applicable appeal process set forth in subsection 7.c. below.

**c. Appeal Process for Misexpenditure.**

If CDDP notifies ODHS 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 ODHS-Identified Misexpenditure.

If ODHS’ notice of Misexpenditure is based on a Misexpenditure solely of the type described in Exhibit A “Definitions” 44 “Misexpenditure” b. or 43 “Misexpenditure” c., CDDP and ODHS shall engage in the process described in this subsection to resolve a dispute regarding the noticed Misexpenditure.

- (a) CDDP and ODHS shall engage in non-binding discussions to give CDDP 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 ODHS; and to give ODHS the opportunity to reconsider its notice of recovery.
- (b) CDDP and ODHS may negotiate an appropriate apportionment of responsibility for the recovery of a Misexpenditure. At CDDP’s request, ODHS will meet and negotiate with the CDDP in good faith concerning appropriate apportionment of responsibility for recovery of a Misexpenditure. In determining an appropriate apportionment of responsibility, CDDP and ODHS 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 ODHS and CDDP reach agreement on an amount owed to ODHS, CDDP shall, promptly repay that amount to ODHS by issuing payment to ODHS or direct ODHS to withhold future payments pursuant to subsection 7.d. below.
  - (d) If ODHS and CDDP 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 CDDP Counsel approval, binding arbitration.
- (2) Appeal from Federal-Identified Misexpenditure.
  - (a) If ODHS' notice of Misexpenditure is based on a Misexpenditure of the type described in Exhibit A "Definitions" Section 44. "Misexpenditures" a. 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 CDDP may, prior to 30 calendar days prior to the applicable federal appeals deadline, request that ODHS 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 CDDP so requests that ODHS 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 CDDP, be retained by CDDP or returned to ODHS pending the final federal decision resulting from the initial appeal.
  - (c) If CDDP does request, prior to the deadline set forth in (2) (a) above, that ODHS appeal, ODHS 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. CDDP and ODHS shall cooperate with each other in pursuing the appeal.
  - (d) If the Grant Appeals Board or its equivalent denies the appeal, then either CDDP, ODHS, 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, CDDP shall repay to ODHS the amount of the noticed Misexpenditure (reduced, if at all, as a result of the appeal) by issuing payment to ODHS or by directing ODHS to withhold future payments pursuant to subsection 7.d. below. To the extent that CDDP retained any of the amounts in controversy while the appeal was pending, CDDP shall pay to ODHS 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 CDDP does not request that ODHS pursue an appeal 30 calendar days prior to the applicable federal appeals deadline, and if ODHS 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, CDDP shall repay to ODHS the amount of the noticed Misexpenditure by issuing a payment to ODHS or by directing ODHS to withhold future payments pursuant to subsection 7.d. below.
- (f) If CDDP does not request that ODHS 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 ODHS nevertheless appeals, CDDP shall repay to ODHS 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 ODHS or by directing ODHS to withhold future payments pursuant to subsection 7.d. below.
- (g) If the Misexpenditure was expressly authorized by an ODHS rule or an ODHS writing that applied when the expenditure was made, but was prohibited by federal statutes or regulations that applied when the expenditure was made, CDDP will not be responsible for repaying the amount of the Misexpenditure to ODHS, provided that:
  - i. Where post-expenditure official reinterpretation of federal statutes or regulations results in a Misexpenditure, CDDP and ODHS 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, an ODHS writing must interpret this Agreement or an ODHS rule, and be signed

by at minimum one of the following ODHS officers concerning DD Services:

- I. Director of the Office of Developmental Disabilities Services; and/or
- II. Deputy Director of Business Operations for the Office of Developmental Disabilities Services;

ODHS shall designate alternate officers in the event the offices designated in the previous sentence are abolished. Upon CDDP request, ODHS shall notify CDDP of the names of individual officers with the above titles. ODHS shall send ODHS writings described in this paragraph to CDDP by mail and e-mail and to CDDP's directors by e-mail.

- iii. The ODHS writing must be in response to a request from the CDDP for expenditure authorization, or a statement intended to provide official guidance to the CDDP or counties generally, for making expenditures under this Agreement. The ODHS 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 ODHS writing is in response to a request from CDDP for expenditure authorization, the request must be in writing and signed by the director of a CDDP department with authority to make such a request or by CDDP 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. An ODHS writing expires on the date stated in the writing, or if no expiration date is stated, upon expiration of this Agreement. An expired ODHS writing continues to apply to CDDP expenditures that were made in compliance with the writing and during the term of the writing.
- vi. ODHS may revoke or revise an ODHS writing at any time if it determines in its sole discretion that the writing allowed expenditure in violation of this Agreement or law or any other applicable authority. However, ODHS is not responsible for a Misexpenditure that was based on an ODHS writing that was effective at the time of the Misexpenditure.
- vii. The ODHS rule or the ODHS writing does not authorize an expenditure that this Agreement prohibits.

**d. Recovery of Misexpenditure from Future Payments.**

- (1) To the extent that ODHS is entitled to recover a Misexpenditure pursuant to subsection 7.b. above, ODHS may recover the Misexpenditure by offsetting the amount thereof against future amounts owed to CDDP by ODHS, including, but not limited to, any amount owed to CDDP by ODHS under this Agreement, or any amount owed to CDDP by ODHS under any other contract or agreement between CDDP and ODHS, present or future.
- (2) ODHS shall provide the CDDP with written notice of its intent to recover the amount of the Misexpenditure as set forth in this section from amounts owed CDDP by ODHS, and ODHS shall identify the amounts owed by ODHS to CDDP which ODHS 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 ODHS wishes to deduct payments.
- (3) CDDP shall then have 14 calendar days from the date of ODHS' notice in which to request the deduction be made from other amounts owed to CDDP by ODHS and identified by CDDP. ODHS shall comply with CDDP's request for alternate offset.
- (4) In the event that ODHS and the CDDP are unable to agree on which specific amounts, owed to CDDP by ODHS, ODHS may offset in order to recover the amount of the Misexpenditure, then ODHS may select the particular contracts or agreements between ODHS and CDDP and amounts from which it will recover the amount of the Misexpenditure, after providing notice to CDDP, and within the following limitations:
  - (a) ODHS shall first look to amounts owed to CDDP (but unpaid) under this Agreement.
  - (b) If that amount is insufficient, then ODHS may look to any other amounts currently owing or owed in the future to CDDP by ODHS.
  - (c) In no case, without the prior consent of CDDP, shall ODHS deduct from any one payment due CDDP under the contract or agreement from which ODHS is offsetting funds an amount in excess of twenty-five percent (25%) of that payment.
  - (d) ODHS may look to as many future payments as necessary in order to fully recover the amount of the Misexpenditure.

**8. Additional Settlement and Misexpenditure Provisions.**

- a. CDDP shall cooperate with ODHS in the Settlement process throughout the Agreement term and with the Agreement Settlement process upon termination or expiration of the Agreement.
- b. ODHS' right to recover through Settlement and the Misexpenditure process from CDDP under this Agreement is not subject to or conditioned on CDDP's recovery of any money from any other entity.
- c. If the exercise of ODHS' right to offset under this provision requires CDDP to complete a re-budgeting process, nothing in this provision shall be construed to prevent CDDP 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 CDDP to negotiate and execute any future Agreement with ODHS.
- e. Nothing in this Section 8 shall be construed as a waiver by either party of any process or remedy that might otherwise be available.

**9. Resolution of Disputes over Additional Funds Owed CDDP After Termination or Expiration.**

If, after termination or expiration of this Agreement, CDDP believes that ODHS disbursements of funds under this Agreement for a particular DD Service are less than the amount of funds that ODHS is obligated to provide to CDDP under this Agreement for that DD Service, as determined by the Agreement Settlement, and in accordance with the applicable funding calculation methodology, CDDP shall provide ODHS with written notice thereof. ODHS shall have 90 calendar days from the effective date of CDDP's notice to pay CDDP in full or notify CDDP that it wishes to engage in a dispute resolution process.

If ODHS notifies CDDP that it wishes to engage in a dispute resolution process, CDDP and ODHS' Agreement Administrator shall engage in non-binding discussion to give ODHS an opportunity to present reasons why it believes that it does not owe CDDP any additional funds or that the amount owed is different than the amount identified by CDDP in its notices, and to give CDDP the opportunity to reconsider its notice.

If ODHS and CDDP reach agreement on the additional amount owed to CDDP, ODHS shall promptly pay that amount to CDDP. If ODHS and CDDP 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 CDDP Counsel approval, binding arbitration. Nothing in this Section 9 shall preclude CDDP from raising underpayment concerns at any time prior to termination or expiration of this Agreement.

## **EXHIBIT C**

### **Special Terms and Conditions**

**1. CDDP Authorization of Client Services.**

- a.** CDDP shall submit a service authorization for the DD Services that the CDDP is responsible to authorize that are identified in Exhibit B, Part 2, Section 1 “Provision of Services” of this Agreement.
- b.** CDDP shall upload all applicable documentation supporting the service authorization and rates within eXPRS. Supporting documentation does not include the ISP.
- c.** CDDP shall follow current Service Element Standards and Procedures as identified in Exhibit B, Part 2 of this Agreement in establishing a service authorization.
- d.** CDDP shall end all applicable service authorizations within 10 business days of the date the Individual exits a DD Service or Services.
- e.** CDDP shall not authorize a Provider to begin or continue delivery of Services if the Provider’s enrollment in eXPRS and any required credentials for the Service are incomplete or have lapsed.

**2. ODHS Approval of CDDP Authorized Services.**

- a.** ODHS may randomly review CDDP authorizations and associated documentation for DD Services. If ODHS has questions or finds errors in CDDP submitted documentation, ODHS shall work with CDDP and any other lawful parties to remedy the outstanding issues.
- b.** ODHS reserves the option, in its sole discretion, to require CDDP to terminate a plan or any element of a plan entered into POC upon determining that the DD Services were authorized outside of the requirements for the Service; or the plan procedure code was affected by statute, rules, or ODHS policies or procedures; or the Services were not authorized under this Agreement.

**3. Appointment of CDDP Administrator.**

The CDDP employee, identified by the County via e-mail to ODHS as the “CDDP Administrator,” is authorized to:

- a.** Amend the Service Element Prior Authorization (SEPA), on behalf of CDDP, and amend this Agreement by execution and delivery of amendments in the name of CDDP in hard copy, electronically, or, with respect to the SEPA only, through electronic acceptance of SEPA Adjustments in eXPRS.

- b.** Enable, on behalf of CDDP, the disbursement of funds under this Agreement that is described in the SEPA, through submission and modification of service authorizations, either electronically through eXPRS or by submission of hard copy documents to ODHS; and to authorize Providers, to submit Disbursement Claims on behalf of CDDP, either electronically through eXPRS or by submission of hard copy documents to ODHS.
- c.** Authorize others, including but not limited to CDDPs subcontracting with a CDDP, to take one or more of the foregoing actions on behalf of CDDP except for authorizing amendments to this Agreement and SEPAs.

## EXHIBIT D

### General Terms and Conditions

1. **Operation of CDDP.** CDDP shall operate or subcontract for the operation of a CDDP during the term of this Agreement. If CDDP wishes to subcontract the operation of a CDDP, the Subcontract must comply with the terms of this Agreement, including but not limited to, Exhibit E, Section 22 “Subcontracts,” Exhibit G Part 1 and Section 4 below. If CDDP subcontracts the entire CDDP duties, CDDP will be obligated to pass all funds received for the CDDP to the Subcontractor.
2. **Usage of Funds.** CDDP must hire as many FTEs as possible per the funding allocated within the Workload Model. CDDP shall employ and provide training for all employees and meet the requirements documented in this Agreement, Oregon Revised Statutes, and Oregon Administrative Rules. CDDP 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 exclusively for the purposes of conducting DD Services.
3. **Reporting Requirements.** County shall make the Disclosures required by Exhibit F “Federal Terms and Conditions” Section 12 using Attachment #2 “Disclosures Report.” The Disclosures Report shall be submitted to ODHS with County’s signed copy of the Agreement. Failure by County to provide this information will prevent Agreement execution by ODHS and distribution of the signed Agreement. County must report any changes to the Disclosures Report to [ODDS.contracts@odhsoha.oregon.gov](mailto:ODDS.contracts@odhsoha.oregon.gov).
4. **Subcontracts.**
  - a. If County chooses to subcontract any or all CDDP Services under this Agreement County must submit a Notice of Intent to Subcontract to [ODDS.contracts@odhsoha.oregon.gov](mailto:ODDS.contracts@odhsoha.oregon.gov) for review prior to subcontracting. The notice must include, but is not limited to, the name of proposed Subcontractor, qualifications, and services to be subcontracted.
  - b. County shall not permit any person or entity to be a Subcontractor unless the person or entity holds all certificates, authorizations and other approvals as identified in the applicable Service Element Standards and Procedures and OARs.
  - c. If County subcontracts a CDDP 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 Subcontractor 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 any 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 ODHS within 90 days of the execution of this Agreement, 90 days of any Amendment to this Agreement, or upon request. Subcontracts must be submitted to [ODDS.contracts@odhsoha.oregon.gov](mailto:ODDS.contracts@odhsoha.oregon.gov).

- e. In accordance with ORS § 430.670 (3), any private corporation that contracts with a County or the Oregon Department of Human Services to operate a developmental disabilities program shall provide an opportunity for competition among private care providers when awarding Subcontracts for provision of services described in ORS 430.630 (1) to (3) and 430.664.
5. **ODHS Reports.** To the extent resources are available to ODHS to prepare and deliver the information, ODHS shall, during the term of this Agreement, provide County with summary reports from Data and other individual data reported to ODHS under this Agreement.
  6. **Technical Assistance.** During the term of this Agreement, ODHS shall provide technical assistance to County in the delivery of DD Services to the extent that funding is allocated to ODHS for this purpose. If the provision of technical assistance to County concerns a Provider or Subcontractor, ODHS may require, as a condition to providing the assistance, that County take all reasonably necessary action with the Provider or Subcontractor to facilitate the technical assistance.
  7. **Amendments Proposed by ODHS.** Subject to Exhibit E Section 28 “Amendments; Waiver; Consent”, County shall review all pending Agreement amendments prepared and presented to County by ODHS 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 ODHS’ procedures for signing and returning the amendment to ODHS. If County chooses to reject an amendment, County must submit an e-mail detailing the reason for the rejection to County’s assigned ODHS Agreement Administrator.
  8. **eXPRS Administration.**
    - a. **Designation of Direct Contract Chief Security Officer.**
      - (1) The Case Management Entity Administrator may request in writing to designate to ODHS any individual(s) authorized to perform the duties of the security role, in compliance with Exhibit H, Part 1 “Privacy and Security Agreement”, currently titled Direct Contract Chief Security Officer (DCCSO) or as such role may be renamed by ODHS.
      - (2) Upon approval of the request, ODHS will send the DCCSO a UserID for accessing eXPRS. If County wishes to designate a substitute DCCSO, the CME Administrator may do so by subsequent written notice to ODHS.
      - (3) The individual designated as the DCCSO is responsible to ensure that County is in compliance with the Privacy and Security Agreement requirements described in Exhibit H, Part 1 of this Agreement.
      - (4) If the CME Administrator does not designate another County employee as the DCCSO, the CME Administrator will be designated as the DCCSO and will act as the DCCSO on behalf of County.
    - b. **Responsibilities of Direct Contract Chief Security Officer**
      - (1) The DCCSO shall assign, maintain, and revoke all eXPRS user account securities for County staff.

- (a) The DCCSO may only assign, maintain, or revoke user account securities upon receipt of the ODHS eXPRS User Enrollment Form signed by the ODHS manager.
- (b) ODHS eXPRS User Enrollment Form must be maintained by the CDDP in compliance with Exhibit E “Standard Terms and Conditions” Section 17 “Records Maintenance, Access.”
- (2) The DCCSO shall ensure County staff are in compliance with all eXPRS policies and procedures.

**c. Revocation of UserIDs and SEPA Pass Phrase by ODHS or CDDP.**

- (1) ODHS may revoke a UserID or SEPA Pass Phrase if ODHS determines that revocation is reasonably necessary for technical or security reasons.
- (2) A UserID or SEPA Pass Phrase may be revoked if ODHS or the County determines:
  - (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, disclosed, compromised, or subjected to unauthorized use.
  - (c) The County has revoked or modified the authorizations of the CME Administrator.
  - (d) County is in default under this Agreement.
- (3) If ODHS revokes a UserID or SEPA Pass Phrase under this Section 7, ODHS will notify County promptly thereafter.
- (4) ODHS may, without notice to the County, revoke all User IDs and SEPA Pass Phrases upon termination or expiration of this Agreement.

**9. Language Access, Alternative Formats and Translation of Written Materials, Interpreter Services.**

- a.** CDDP will meet all applicable ODHS policies, procedures, transmittals and worker guides regarding Auxiliary Aids, Alternate Formats and Language Access Services (AAFLAS).
- b.** In connection with the delivery of Service Element services, CDDP shall provide to Client, without charge, upon the Client’s reasonable request:
  - (1) All Written Materials related to the Services provided to the Individual in alternate formats.
  - (2) All Written Materials related to the Services provided to the Individual in the Individual’s preferred format and or language.
  - (3) Oral interpretation services related to the Services provided to the Individual in the Individual’s preferred format and or language.
  - (4) Sign language interpretation services and telephone communications access services related to the Services provided to the Individual.

- c. For purposes of the foregoing, “Written Materials” means materials created by CDDP, in connection with all Services being provided to the Individual. The CDDP may develop its own forms and materials and with such forms and materials, the CDDP shall be responsible for making them available to an Individual, without charge to the Individual, in the prevalent non-English language(s), including braille, within the CDDP’s Program Area.
- d. ODHS shall be responsible for making its forms and materials available, without charge to the Individual or CDDP, in the prevalent non-English language(s), including braille, within the CDDP’s Program Area. ODHS will provide translation of written materials and oral interpretation, including American Sign Language (ASL) for specific Services outlined in expenditure guidelines.
- e. Nothing in this Agreement shall cause or require CDDP or ODHS 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.
- f. If CDDP staff provides oral interpretation and or translation to Individuals, CDDP will have policies and procedures that address identifying language proficiency of CDDP staff.
- g. ODDS reserves the right to review CDDP’s Written Materials.

**10. Drug-Free Workplace.**

- a. CDDP 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 CDDP's workplace or while providing services to ODHS Clients. CDDP's notice shall specify the actions that will be taken by CDDP against its employees for violation of such prohibitions.
- b. Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, CDDP'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.
- c. Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in subsection a. above.
- d. Notify each employee in the statement required by subsection a. 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.
- e. Notify ODHS within ten calendar days after receiving notice under subsection d. above from an employee or otherwise receiving actual notice of such conviction.

- f.** 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.
- g.** Make a good-faith effort to continue a drug-free workplace through implementation of subsections a. through f. above.
- h.** Require any subcontractor to comply with subsections a. through g. above.
- i.** Neither CDDP, or any of CDDP'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 the observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe CDDP or CDDP's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs CDDP or CDDP's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to ODHS 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.
- j.** Violation of any provision of this subsection may result in termination of this Agreement.

**11. Confidentiality of Information.**

**a. Client Information.**

- (1) All information as to personal facts and circumstances obtained by the CDDP on the client ("Client Information") shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other forms which does not identify particular individuals.
- (2) The use or disclosure of Client Information shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- (3) If CDDP, or any of its officers, directors, employees, agents, or subcontractors receives or has access to confidential Social Security Administration (SSA), or Federal Tax Information (FTI), or Criminal Justice Information Services (CJIS) records, in the performance of Work under this Agreement, CDDP shall comply, and ensure that all of CDDP's officers, directors, employees, agents, and subcontractors comply, with the following provisions:
  - (a) With respect to SSA records:

- i. Provide a current list of employees and employees of any agent or subcontractor with access to SSA records;
  - ii. Adhere to the same security requirements as employees of ODHS;
  - iii. Abide by all relevant Federal laws, restrictions on access, use, disclosure, and the security requirements contained within ODHS' agreement with SSA;
  - iv. Provide its employees and agents the same security awareness training as ODHS employees; and
  - v. Include the provisions of this Section 1.a.(3)(a) in any subcontract.
- (b) With respect to Federal Tax Information (FTI), as defined in IRS Publication 1075:
- i. CDDP and its officers, directors and employees with access to, or who use FTI provided by ODHS must meet the background check requirements defined in IRS Publication 1075;
  - ii. Any FTI made available to CDDP shall be used only for the purpose of carrying out the provisions of this Agreement. CDDP shall treat all information contained in FTI as confidential and that information shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone other than an officer or employee of the CDDP is prohibited;
  - iii. CDDP shall account for all FTI upon receipt and shall properly store all FTI before, during, and after processing. In addition, all FTI related output and products will be given the same level of protection as required for the source material;
  - iv. No work involving FTI furnished under this Agreement will be subcontracted without prior written approval of the IRS;
  - v. Maintain a list of employees who are authorized access to FTI. Such list will be provided to ODHS and, upon request, to the IRS reviewing office; and
  - vi. Include the provisions of this Section 10.a.(3)(b) in any subcontract.

- (c) With respect to Criminal Justice Information Services (CJIS) information, CDDP shall:
  - i. Meet the same training and certification criteria required by governmental agencies performing a similar function, and shall be subject to the same extent of audit review as are local user agencies;
  - ii. Acknowledge, via signing of the attached CJIS Outsourcing Agreement, and abide by all aspects of the CJIS Outsourcing Standard approved by the Director of the FBI, acting for the U.S. Attorney General, as referenced in Title 28 CFR 20.33 (a)(7). Modifications to the CJIS Outsourcing Standard shall be enacted only by the FBI; and
  - iii. Include the provisions of this Section 10.a.(3)(c) in any subcontract.
- (d) Failure to abide by any of the requirements in this subsection could result in criminal or civil penalties and result in termination of this Agreement.
- (e) CDDP may be subjected to periodic and ongoing security reviews to ensure compliance with the requirements of Section 10.a.(3).
- (4) Except as prohibited by Section 10.a.(3) above, ODHS, County and any subcontractor will share information as necessary to effectively serve ODHS Clients continuously, especially during Case Management service transfers at time of entering and exiting services.

**b. Non-Client Information.**

- (1) Each Party acknowledges that it and any of its officers, directors, employees and agents may, in the course of performing its responsibilities under this Agreement, be exposed to or acquire information that is confidential to the other Party. To the extent permitted by law, any and all information of any form provided to a Party or its officers, directors, employees and agents in the performance of the Agreement that reasonably could at the time of its disclosure be understood to be confidential shall be deemed to be confidential information of the originating Party (“Confidential Non-Client Information”).
- (2) Confidential Non-Client Information shall be deemed not to include information that:
  - (a) Is or becomes (other than by disclosure by the Party acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure;
  - (b) Is furnished by the originating Party to others without restrictions similar to those imposed on the receiving Party under this Agreement;

- (c) Is rightfully in the receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure by the originating Party under this Agreement;
  - (d) Is obtained from a source other than the originating Party without the obligation of confidentiality;
  - (e) Is disclosed with the written consent of the originating Party; or
  - (f) Is independently developed by the receiving Party's officers, directors, employees and agents who can be shown to have had no access to the Confidential Non-Client Information.
- (3) Nondisclosure. The receiving Party shall hold all Confidential Non-Client Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; and shall not sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Non-Client Information to third parties; shall not use Confidential Non-Client Information for any purposes whatsoever other than as contemplated by this Agreement or reasonably related thereto; and shall advise any of its officers, directors, employees and agents that receive or have access to the Confidential Non-Client Information of their obligations to keep Confidential Non-Client Information confidential. These confidentiality obligations do not restrict disclosure of information otherwise qualifying as Confidential Non-Client Information if the receiving Party can show that either of the following conditions exists: (i) the information was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, in which case the receiving Party shall notify the originating Party of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given; or (ii) the disclosure was required to respond to a request for the information made under the Oregon Public Records Law, ORS 192.311 to 192.478. The receiving Party shall notify the originating Party of a public records request five days prior to the disclosure.
- c.** Upon request and pursuant to the instructions of ODHS, CDDP shall return or destroy all copies of Confidential Information, and CDDP shall certify in writing the return or destruction of all Confidential Information.
- d.** "Client" means any individual, family or provider:
  - (1) For whom ODHS must provide Services and incidental or specialized Goods, in any combination thereof ("Services and Incidental Supplies"), according to state, federal law, rule, and policy. Those Services and Incidental Supplies include but are not limited to treatment, care, protection, and support without regard to the proximity of the services being provided;

- (2) Who in fact receives and utilizes services provided by ODHS primarily for that individual's or family's benefit;
- (3) Who is under the custody, care, or both of ODHS; or
- (4) Who provides direct care or Services and is a proxy or representative of the non-provider Client.

**12. Nondiscrimination.**

- a. The CDDP must provide services to ODHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation, ethnicity, gender identity or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language, and other special needs of clients.
- b. CDDP certifies that CDDP has a written policy and practice that meets the requirements described in ORS 279A.112 for preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. CDDP agrees, as a material term of this Agreement, to maintain such policy and practice in force during the entire Agreement term.
- c. As required by ORS 279B.235, CDDP must comply with ORS 652.220 and shall not unlawfully discriminate against any of CDDP's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. CDDP's compliance with this Section constitutes a material element of this Agreement and a failure to comply constitutes a breach that entitles ODHS to terminate this Agreement for cause.
- d. CDDP may not prohibit any of CDDP's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. CDDP may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

**13. HIPAA Compliance.**

As a Business Associate of a Covered Entity, ODHS must comply with the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and ODHS must also comply with OAR 943-014-0400 through OAR 943-014-0465. CDDP is a Business Associate of ODHS and therefore must comply with OAR 943-014-0400 through OAR 943-014-0465 and the Business Associate requirements set forth in 45 CFR 164.502 and 164.504.

CDDP shall be liable to ODHS for any and all costs incurred by ODHS, including, but not limited to, costs of issuing any notices required by HIPAA, HITECH or any other applicable law and damages to third parties as a result of CDDP's Breach of Unsecured Protected Health Information.

- a. Consultation and Testing.** If CDDP reasonably believes that the CDDP's or ODHS' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, CDDP shall promptly consult the ODHS Information Security Office. CDDP or ODHS may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the ODHS testing schedule.
- b. Data Transactions Systems.** If CDDP intends to exchange electronic data transactions with ODHS or the Oregon Health Authority (OHA) in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, CDDP shall execute an Electronic Data Interchange (EDI) Trading Partner Agreement and shall comply with EDI Rules set forth in OAR 943-120-0110 through 943-120-0160.

## 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 to 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.

This Section shall survive expiration or termination of this Agreement.

- 2. Compliance with Law.** Both parties shall comply with laws, regulations, 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 CDDP and ODHS, 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). CDDP 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 CDDP or ODHS to act in violation of state or federal law or the Constitution of the State of Oregon.

This Section shall survive expiration or termination of this Agreement.

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

**4. Grant Funds; Disbursements.** Reserved.

**5. Representations and Warranties.**

**a.** CDDP represents and warrants as follows:

- (1) **Organization and Authority.** CDDP is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. CDDP 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 CDDP of this Agreement (a) have been duly authorized by all necessary action by CDDP 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 CDDP'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 CDDP is a party or by which CDDP 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 CDDP of this Agreement.
- (3) **Binding Obligation.** This Agreement has been duly executed and delivered by CDDP and constitutes a legal, valid, and binding obligation of CDDP, 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) CDDP has the skill and knowledge possessed by well-informed members of its industry, trade or profession and CDDP 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 CDDP's industry, trade or profession.
- (5) CDDP shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work.
- (6) CDDP 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 CDDP, 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.** ODHS represents and warrants as follows:

- (1) Organization and Authority. ODHS 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 ODHS of this Agreement (a) has been duly authorized by all necessary action by ODHS; (b) does 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) does 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 ODHS is a party or by which ODHS 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 ODHS 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 and constitutes a legal, valid, and binding obligation of ODHS, 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.
  - d. This Section shall survive expiration or termination of this Agreement.

**6. Funds Available and Authorized.**

- a. The State of Oregon's payment obligations under this Agreement are conditioned upon ODHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. CDDP is not entitled to receive payment under this Agreement from any part of Oregon state government other than ODHS. 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. ODHS 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, CDDP shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. CDDP must 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 disbursements under this Agreement. CDDP shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or the CDDP elects to designate a different financial institution for the receipt of any payment made using EFT procedures, CDDP will provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from CDDP.

c. This Section shall survive expiration or termination of this Agreement.

**7. Recovery of Overpayments.** Reserved.

**8. Ownership of Intellectual Property.**

a. Definitions. As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:

(1) "CDDP Intellectual Property" means any intellectual property owned by CDDP and developed independently from the Work.

(2) "Third Party Intellectual Property" means any intellectual property owned by parties other than ODHS or CDDP.

b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, ODHS will not own the right, title and interest in any intellectual property created or delivered by CDDP or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that CDDP owns, CDDP grants to ODHS 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 8., b., (1) on ODHS' behalf, and (3) sublicense to third parties the rights set forth in Section 8., b.,(1).

c. If state or federal law requires that ODHS or CDDP grant to the United States a license to any intellectual property, or if state or federal law requires that ODHS or the United States own the intellectual property, then CDDP shall execute such further documents and instruments as ODHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or ODHS. To the extent that ODHS becomes the owner of any intellectual property created or delivered by CDDP in connection with the Work, ODHS 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 CDDP to use, copy, distribute, display, build upon and improve the intellectual property.

- d. CDDP shall include in its Subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as ODHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.
- e. This Section survives the expiration or termination of this Agreement.

**9. CDDP Default.**

CDDP shall be in default under this Agreement upon occurrence of any of the following events:

- a. CDDP fails to perform, observe, or discharge any of its covenants, agreements or obligations set forth herein;
- b. Any representation, warranty or statement made by CDDP herein or in any documents or reports relied upon by ODHS to measure the delivery of Work, the expenditure of payments or the performance by CDDP is untrue in any material respect when made;
- c. CDDP (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 CDDP, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of CDDP, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of CDDP or of all or any substantial part of its assets, or (3) similar relief in respect to CDDP 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 CDDP is entered in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect).

**10. ODHS Default.**

ODHS shall be in default under this Agreement upon the occurrence of any of the following events:

- a. ODHS 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 ODHS herein is untrue in any material respect when made.

**11. Termination.**

**a. CDDP Termination.** CDDP may terminate this Agreement:

- (1) For its convenience, upon a minimum of 90 calendar days advance written notice to ODHS for caseloads below 1,000 Individuals and 180 calendar days with caseloads 1,000 or more Individuals;
- (2) Upon a minimum of 90 calendar days advance written notice to ODHS for caseloads below 1,000 Individuals and 180 calendar days with caseloads 1,000 or more Individuals, if CDDP does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to permit CDDP to satisfy its performance obligations under this Agreement, as determined by CDDP in the reasonable exercise of its administrative discretion;
- (3) Upon a minimum of 90 calendar days advance written notice to ODHS for caseloads below 1,000 Individuals and 180 calendar days with caseloads 1,000 or more Individuals, if ODHS is in default under this Agreement and such default remains uncured at the end of said period or such longer period, if any, as CDDP may specify in the notice; or
- (4) Immediately upon written notice to ODHS, 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 CDDP no longer has the authority to meet its obligations under this Agreement.

**b. ODHS Termination.** ODHS may terminate this Agreement:

- (1) For its convenience, upon a minimum of 90 calendar days advance written notice to CDDP for caseloads below 1,000 Individuals and 180 calendar days with caseloads 1,000 or more Individuals;
- (2) Upon a minimum of 90 calendar days advance written notice to CDDP for caseloads below 1,000 Individuals and 180 calendar days with caseloads of 1,000 or more Individuals, if ODHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODHS under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODHS may terminate this Agreement, immediately upon written notice to CDDP

or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces ODHS' legislative authorization for expenditure of funds to such a degree that ODHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODHS 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 CDDP 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 ODHS 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 a minimum of 90 calendar days advance written notice to CDDP, if CDDP is in default under this Agreement and such default remains uncured at the end of said period or such longer period, if any, as ODHS may specify in the notice;
- (5) Immediately upon written notice to CDDP, if any license or certificate required by law or regulation to be held by CDDP to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that CDDP 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 CDDP, if ODHS determines that CDDP has 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 other time as the parties may agree in the written consent.

**12. Effect of Termination.**

**a.** Upon termination of the entire Agreement:

- (1) ODHS shall have no further obligation to pay CDDP under this Agreement.
- (2) CDDP shall have no further obligation to perform Work under this Agreement.
- (3) CDDP shall retain all data and records in accordance with OAR 411-320-0070.

**b. Obligations and Liabilities.** Notwithstanding subsection 11., a., (2) above, any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

- c. Transition Services. CDDP shall provide original files either paper or electronic to support a responsible and secure transition of Services to another CME or ODDS.
- d. Transition Plan. Following a termination notice, CDDP and ODDS will collaborate to develop a transition plan to ensure continuity of care for Individuals.
  - (1) The parties will cooperate in good faith with each other in connection with their obligations under this section and will perform their obligations under the Transition Plan. If the Transition Period extends beyond the Agreement term, the provisions of this Agreement will remain in effect for the duration of the Transition Period.
  - (2) CDDP shall complete the transition of data from CDDP to any Providers that ODDS designates while ensuring there is an uninterrupted continuity of care of Service to Individuals.
- e. This Section survives the expiration or termination of this Agreement.

**13. 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 TORT CLAIMS ACT, ORS 30.260 AND 30.300.

**14. Contribution.**

- a. 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.
- b. With respect to a Third Party-Claim for which the State is jointly liable with CDDP (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 CDDP in such proportion as is appropriate to reflect the relative fault of the

State on the one hand and of CDDP 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 CDDP 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.

- c. With respect to a Third Party Claim for which the CDDP is jointly liable with the State (or would be if joined in the Third Party Claim), the CDDP 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 the CDDP 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 the CDDP 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 CDDP'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.
- d. This Section shall survive expiration or termination of this Agreement.

- 15. 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.

This Section shall survive expiration or termination of this Agreement.

- 16. Insurance.** County shall maintain, and shall require Subcontractors to maintain, insurance as set forth in Exhibit G, Part 2 "Subcontractor Insurance" attached hereto.

**17. Records Maintenance, Access.**

- a. Client Records.** CDDP shall create and maintain an Individual record (“Client Record”) for each Individual who receives a DD Service under this Agreement as outlined in OAR 411-415-0110 and OAR 411-320-0140
- b.** County and or their subcontractor will transfer all Client Records to new case management entity as instructed by ODDS and/or ODDS upon termination of the Agreement.
- c. Expenditure Records.** CDDP shall document the use and expenditure of all funds paid by ODHS under this Agreement. Unless applicable federal law requires CDDP to utilize a different accounting system, CDDP shall create and maintain all use and expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit ODHS to verify how the funds paid by ODHS under this Agreement were used or expended.
- d.** CDDP shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of CDDP, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document CDDP’s performance.
- e.** All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of CDDP whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as “Records.”
- f. Access to Records and Facilities.** ODHS, the Secretary of State’s Office of the State of Oregon, and the federal government and their duly authorized representatives, shall have access to all Records, paper or electronic, of CDDP that are directly related to this Agreement, the funding provided hereunder, or any Service for the purpose of making examinations, audits, excerpts, copies and transcriptions. In addition, CDDP shall permit authorized representatives of ODHS to perform site reviews, in person or electronically, of all Services delivered by CDDP. Entities with electronic records must provide at minimum guest access to said records for examination by ODHS, Secretary of State’s Office of the State of Oregon, the federal government, and their duly authorized representatives.
- g. Retention of Records.** CDDP shall retain and keep accessible all Records for the longest of:
  - (1) Six years following final payment and termination of this Agreement;
  - (2) The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166;
  - (3) Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement; or
  - (4) In accordance with OAR 411-320-0070.

- h.** This Section shall survive expiration or termination of this Agreement.
- 18. Information Privacy/Security/Access.** If this Agreement requires or allows County or, when allowed, its subcontractor(s), to access or otherwise use any ODHS Information Asset or Network and Information System in which security or privacy requirements apply, and ODHS grants County, its subcontractor(s), or both access to such ODHS Information Assets or Network and Information Systems, County shall comply and require its subcontractor(s) to which such access has been granted to comply with the terms and conditions applicable to such access or use, including 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.
- 19. Force Majeure.** Neither ODHS nor CDDP 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 ODHS or CDDP, 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. ODHS may terminate this Agreement upon written notice to CDDP after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.
- 20. Assignment of Agreement, Successors in Interest.**
- a.** County shall not assign or transfer its interest in this Agreement without prior written consent of ODHS. 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 required by ODHS. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in this Agreement.
- b.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.
- 21. Resolution of Disputes.** The parties shall 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.
- This Section shall survive expiration or termination of this Agreement.
- 22. Subcontracts.** County shall not enter into any Subcontracts for any of the Work required by this Agreement without ODHS’ prior written consent. In addition to any other provisions ODHS may require, County shall include in any permitted Subcontract under this Agreement provisions to require that ODHS will receive the benefit of Subcontractor performance as if the Subcontractor were County with respect to this Agreement. ODHS’ consent to any Subcontract shall not relieve County of any of its duties or obligations under this Agreement.

- 23. No Third Party Beneficiaries.** ODHS and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons 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.

This Section shall survive expiration or termination of this Agreement.

- 24. 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.

This Section shall survive expiration or termination of this Agreement.

- 25. 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, e-mail, or mailing the same, postage prepaid to County or ODHS 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 days after the date of mailing. Any communication or notice delivered by e-mail shall be deemed received and effective five days after the date of e-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 County, or on the next business day if transmission was outside normal business hours of the County. Notwithstanding the foregoing, 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.

**ODHS:** Office of Contracts & Procurement  
500 Summer Street NE, E-03  
Salem, OR 97301  
Telephone: 503-945-5818  
Fax: 503-378-4324

This Section shall survive expiration or termination of this Agreement.

- 26. 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.

This Section shall survive expiration or termination of this Agreement.

- 27. 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.
- 28. Amendments; Waiver; Consent.** ODHS may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in writing and signed by both parties and when required, approved by the Oregon Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision.

This Section shall survive the expiration or termination of this Agreement.

- 29. Merger Clause.** Reserved.

- 30. Stop-Work Order.**

ODHS may, at any time, by written notice to CDDP, require CDDP 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, CDDP 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, ODHS 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, ODHS may, after receiving and evaluating a request by CDDP, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

This Section shall survive expiration or termination of this Agreement.

- 31. 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 item. 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:

- (1) Network
- (2) Personal Computer

- (3) Printer/Plotter
  - (4) Server
  - (5) Storage devices that will contain Client information.
  - (6) Storage devices that will not contain Client information when the acquisition cost is \$100 or more.
  - (7) Software when the acquisition cost is \$100 or more.
- b.** For any Equipment purchased with funds from this Agreement, ownership shall be in the name of CDDP and CDDP is required to accurately maintain the following Equipment inventory records:
- (1) description of the Equipment;
  - (2) serial number;
  - (3) source of funding for the Equipment (including the Federal Award Notification Number (FAIN));
  - (4) who holds title;
  - (5) where Equipment was purchased;
  - (6) acquisition cost and date;
  - (7) percentage of federal participation in cost;
  - (8) location, use, and condition of the Equipment and
  - (9) any ultimate disposition data including the date of disposal and sale of price of the Equipment.
- c.** CDDP shall provide the Equipment inventory list to ODDS upon request. CDDP or any subcontractors shall be responsible to safeguard any Equipment and maintain the Equipment in good repair and condition while in the possessions. CDDP shall depreciate all Equipment, with a value of more than \$5,000, using the straight-line method.
- d.** Upon termination of this Agreement, or any Service thereof, for any reason whatsoever, CDDP shall, upon request by ODHS, immediately, or at such later date specified by ODHS, tender to ODHS any and all Equipment purchased with funds under this Agreement as ODHS may require to be returned to the State. At ODHS' direction, CDDP may be required to deliver said Equipment to a subsequent contractor for that contractor's use in the delivery of Services formerly provided by CDDP. Upon mutual agreement, in lieu of requiring CDDP to tender the Equipment to ODHS or to a subsequent contractor, ODHS may require CDDP to pay to ODHS the current value of the Equipment. Equipment value will be determined as of the date of Agreement or Service termination.

- e.** Funds from this Agreement 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.
- f.** Notwithstanding anything herein to the contrary, CDDP shall comply with 2 CFR Subtitle B with guidance at 2 CFR Part 200 as amended, which, generally, describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal grant funds.
- g.** Equipment provided directly by ODHS to the CDDP and/or its Subcontractor(s) to support delivery of specific program services is to be used for those program services. If the CDDP and/or its Subcontractor(s) discontinue providing the program services for which the equipment is to be used, the equipment must be returned to ODHS or transferred to a different provider at the request of ODHS.

## EXHIBIT F

### Federal Terms and Conditions

**General Applicability and Compliance.** Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, County shall comply and 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) the Health Insurance Portability and Accountability Act of 1996, as amended, (e) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (f) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (g) all regulations and administrative rules established pursuant to the foregoing laws, (h) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (i) 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.** Reserved.
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 ODHS, 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, the County certifies, to the best of the 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, the County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c.** The 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 Section 1352 Title 31 of the U.S. Code. 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 County, 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 all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
- b.** If County expends \$750,000 or more in federal funds (from all sources) in a federal fiscal year, County 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 ODHS within 30 days of completion. If County expends less than \$750,000 in a fiscal year, County is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit E, "Records Maintenance, Access". Audits must be submitted to [ODDS.contracts@odhsoha.oregon.gov](mailto:ODDS.contracts@odhsoha.oregon.gov).

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. **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. 6081 et. seq.).
10. **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. Section 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. Section 1396a (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).
11. **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.

**12. Disclosures.**

- 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.** County shall furnish to the State Medicaid agency or to the Health and Human Services (HHS) Secretary, within 35 days of the date of the request, full and complete information about the ownership of any subcontractor with whom the County has had business transactions totaling more than \$25,000 during the previous 12 month period ending on the date of the request, and any significant business transactions between the County, and any wholly owned supplier or between the County and any subcontractor, during the five year period ending on the date of the request. See, 42 CFR 455.105.
- c.** 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.
- d.** As such, County must disclose any person with a 5% or greater direct or indirect ownership interest in the County 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.

- e. County shall ensure its Subcontractors make the disclosures required by this Section 12 to ODHS. ODHS reserves the right to take such action required by law, or where ODHS has discretion, as it deems appropriate, based on the information received (or the failure to receive information) from the Provider, fiscal agent, or managed care entity.

**13. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the activities performed 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. The 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 contract 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 contract under a grant or subgrant.

**14. Super Circular Requirements.** Reserved.

**15. Federal Whistleblower Protection.** County shall comply, and ensure the compliance b subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

## **EXHIBIT G**

### **Part 1**

#### **Required Subcontractor Provisions**

For purposes of this Exhibit G Part 1, Subcontractor means the individual or entity that is contracting directly with County to provide CDDP Services under this Agreement.

1. County intending to subcontract the entire CDDP Operation shall engage in discussions with ODDS about its role in continuing to operate a CDDP and whether ODDS should contract directly with the vendor for operation of the CDDP. If the County intends to retain the Agreement and chooses to subcontract, the County understands that all funds allocated by the State are intended solely for the operation of a CDDP and its delivery of services.
2. County subcontracting the entire CDDP operation shall include in the Subcontract all language from Exhibit A, Exhibit B Part 1, Exhibit B Part 2, Exhibit B Part 3, Exhibit C, Exhibit D, Exhibit E, Exhibit F, Exhibit G Part 2, Exhibit H Part 1, Exhibit H Part 2, Attachment #1, and Attachment #2. Amended subcontracts must be forwarded to [ODDS.contracts@odhsoha.oregon.gov](mailto:ODDS.contracts@odhsoha.oregon.gov). All funding provided to County must be paid to Subcontractor within ten business days of receipt of payment. County may not retain any funds related to the operation of the CDDP covered under this Agreement.
3. County subcontracting a portion of the CDDP, must include in the subcontracts all language from Exhibit A, Exhibit B Part 1, Exhibit B Part 2 if applicable Service Element Standards and Procedures are listed in the Subcontract, Exhibit B Part 3, Exhibit C, Exhibit D, Exhibit E, Exhibit F, Exhibit G Part 2, Exhibit H Part 1, Exhibit H Part 2, Attachment #1 and Attachment #2. All funding provided to County for the specific CDDP Service that is subcontracted must be paid to Subcontractor within ten business days of receipt of payment. County cannot retain any funds related to the specific CDDP Service that is subcontracted.
4. County entity serving as the CDDP will be responsible for oversight of the Subcontractor.
5. Subcontractor must agree that it is an independent contractor and not an agent of the State of Oregon, ODHS, or County.
6. County shall review and verify Disclosures Report for Subcontractor prior to execution of subcontract.

## **EXHIBIT G**

### **Part 2 SUBCONTRACTOR INSURANCE**

County shall require its first-tier Contractor(s) (Contractor) that are not units of County as defined in ORS 190.003, if any, to:

- i) obtain the insurance specified under TYPES AND AMOUNTS and meet the requirements under ADDITIONAL INSURED, CONTINUOUS CLAIMS MADE COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the Contractor(s) perform under contracts between County and the Contractors (the "Subcontracts"), and
- ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency.

County shall not authorize Contractors 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 Contractor 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, terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event, shall County permit a Contractor to work under a Subcontract when the County is aware that the Contractor is not in compliance with the insurance requirements. As used in this section, a "first-tier" Contractor is a Contractor with which the County directly enters into a contract. It does not include a subcontractor with which the Contractor enters into a contract.

If Contractor maintains broader coverage and/or higher limits than the minimums shown in this insurance requirement exhibit, Agency requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor.

#### **INSURANCE TYPES AND AMOUNTS**

##### **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY:**

All employers, including Contractor, 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 an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain Employers' Liability Insurance coverage with limits not less than \$500,000 each accident.

If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide Workers' compensation Insurance coverage for its employees as required by applicable workers' compensation laws including Employers' Liability Insurance coverage with limits not less

than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

As applicable, Contractor shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than \$5,000,000 and/or the Longshoremen’s and Harbor Workers’ Compensation Act.

**COMMERCIAL GENERAL LIABILITY:**

Contractor shall provide Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State of Oregon. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Agreement, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$2,000,000 per occurrence and not less than \$4,000,000 annual aggregate limit.

**AUTOMOBILE LIABILITY:**

**Required**    **Not required**

Contractor shall provide Automobile Liability Insurance covering Contractor’s business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal Automobile Liability Insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

**PROFESSIONAL LIABILITY:**

**Required**    **Not required**

Contractor shall provide Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under the Contract/Subcontract by the Contractor and Contractor’s subcontractors, agents, officers or employees in an amount not less than \$2,000,000 per claim and not less than \$4,000,000 annual aggregate limit.

If coverage is provided on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability Insurance coverage, or the Contractor and subcontractors shall provide continuous claims made coverage as stated below.

**NETWORK SECURITY AND PRIVACY LIABILITY:**

**Required**    **Not required**

Contractor shall provide Network Security and Privacy Liability Insurance for the duration of the sub/contract and for the period of time in which Contractor (or its business associates or subcontractor(s)) maintains, possesses, stores or has access to agency, State of Oregon or client data, whichever is longer, with a combined single limit of no less than \$1,000,000 per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of agency or client data (which may include, but is not limited to, Personally Identifiable Information (“PII”), payment card data and Protected Health Information (“PHI”)) in any

format, including coverage for accidental loss, theft, unauthorized disclosure access or use of agency, State of Oregon data.

**DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY:**

**Required**  **Not required**

Contractor shall provide Directors, Officers and Organization Liability Insurance covering the Contractor's Organization, Directors, Officers, and Trustees actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight - including improper oversight and/or use of grant funds and donor contributions which includes state or federal funds - with a combined single limit of not less than \$1,000,000 per claim.

**PHYSICAL ABUSE AND MOLESTATION INSURANCE:**

**Required**  **Not required**

Contractor shall provide Physical Abuse and Molestation Insurance in a form and with coverage that are satisfactory to the State of Oregon covering damages arising out of actual, perceived, or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, training, investigation, reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not limited to Contractor and Contractor's employees and volunteers. Policy endorsement's definition of an insured must include the Contractor, and the Contractor's employees and volunteers. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence and not less than \$3,000,000 annual aggregate. Coverage can be provided by a separate policy or as an endorsement to the Commercial General Liability or Professional Liability policies. The limits must be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage must include the cost of defense and the cost of defense must be provided outside the coverage limit.

**EXCESS/UMBRELLA INSURANCE:**

A combination of primary and Excess/Umbrella insurance may be used to meet the required limits of insurance. When used, all of the primary and Excess or Umbrella policies must provide all of the insurance coverages required herein, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Excess or Umbrella policies must be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying insurance. No insurance policies maintained by the Additional Insureds, whether primary or Excess, and which also apply to a loss covered hereunder, are to be called upon to contribute to a loss until the Contractor's primary and Excess liability policies are exhausted.

If Excess/Umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the Excess/Umbrella insurance.

**ADDITIONAL COVERAGE REQUIREMENTS:**

Contractor's insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention (SIR), and self-insurance, if any.

**ADDITIONAL INSURED:**

All liability insurance, except for Workers' Compensation, Professional Liability, Directors and Officers Liability and Network Security and Privacy Liability (if applicable), required under the Subcontract must include an Additional Insured Endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's services to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

Regarding Additional Insured status under the General Liability policy, the State of Oregon requires Additional Insured status with respect to liability arising out of ongoing operations and completed operations. The Additional Insured Endorsement with respect to liability arising out of Contractor's ongoing operations must be on or at least as broad as ISO Form CG 20 10 and the Additional Insured endorsement with respect to completed operations must be on or at least as broad as ISO form CG 20 37.

**WAIVER OF SUBROGATION:**

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Contractor must obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency or State of Oregon has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

**CONTINUOUS CLAIMS MADE COVERAGE:**

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain Continuous Claims Made coverage, provided the effective date of the Continuous Claims Made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Contractor's completion and County's acceptance of all Services required under the Contract, or
- (ii) Agency or Contractor's termination of this Agreement, or
- (iii) The expiration of all warranty periods provided under this Agreement.

**CERTIFICATE(S) AND PROOF OF INSURANCE:**

County shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before Contractor delivers any goods and performs any Services required under this Agreement. The Certificate(s) must list the State of Oregon, its officers, employees, and agents as a certificate holder and as an endorsed Additional Insured. The Certificate(s) of Insurance must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Agreement.

If Excess/Umbrella Insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the Excess/Umbrella Insurance. As proof of insurance, Agency/County has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Agreement.

**NOTICE OF CHANGE OR CANCELLATION:**

The Contractor or its insurer must provide at least 30 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).

**INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by County under this agreement and to provide updated requirements as mutually agreed upon by Contractor and County.

**STATE ACCEPTANCE:**

All insurance providers are subject to County acceptance. If requested by County, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to County's representatives responsible for verification of the insurance coverages required under this Exhibit.

## EXHIBIT H

### Part 1

#### Privacy and Security Agreement

1. **PURPOSE.** County requires the Access described in Exhibit H Part 2 “Third Party Information System Access Request” (Form MSC 0785), which is hereby incorporated into this Exhibit H Part 1 by reference, to perform the Work. The terms and conditions of this Privacy and Security Agreement govern:
  - 1.1. County’s Use of Data;
  - 1.2. County’s Access to ODHS’ Information Assets and Systems;
  - 1.3. The periodic exchange of Data between ODHS’ and County’s systems via electronic means; and
  - 1.4. The interconnection between ODHS’ and County’s respective networks and information systems.
2. **TERM.** This Privacy and Security Agreement is effective for a period coterminous with the Agreement, subject to review at least annually by ODHS, unless terminated earlier by either party in accordance with the “Suspension or Termination” section of this Privacy and Security Agreement.
3. **DEFINITIONS.** The following definitions apply to this Privacy and Security Agreement:
  - 3.1. “Access” means the ability or the means necessary to read, communicate, or otherwise use ODHS or State Data, Network and Information Systems, and Information Assets
  - 3.2. “Breach” means the acquisition, access, exposure, use, or disclosure of Data or an Information Asset in a manner not in compliance with applicable law, rule, or policy, or Data loss, misuse, or compromise.
  - 3.3. “Client Records” includes any Client, applicant, or participant information regardless of the media or source, collected by County in the course of completing the Work, provided through the Network and Information Systems to County, or otherwise exchanged between the parties.
  - 3.4. “Data” means information created, transmitted, or stored through the Network and Information Systems, including metadata, personal information, and Client Records.
  - 3.5. “Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of any Network and Information System or Information Asset. An Incident is an observable, measurable occurrence that is a deviation from expected operations or activities. An Incident may be a Breach, failure to protect a User’s identification (ID), or theft of computer equipment that uses or stores any Information Asset.

- 3.6. “Individual Access Request (IAR)” refers to the ODHS form used to authorize a User, identify the User’s job assignment, and the required access to Network and Information System(s). It generates a unique alpha/numeric code used to access the ODHS Network and Information Systems.
- 3.7. “Information Asset(s)” refers to all information provided through ODHS, regardless of the source, which requires measures for security and privacy. Includes Data.
- 3.8. “Network and Information System(s)” means ODHS’ and the State of Oregon’s computer infrastructure which provides personal communications; Data such as Client Records; Access to other Information Assets, regional, wide area and local networks; and the internetworking of various types of networks.
- 3.9. “User” means any individual authorized to access Network and Information Systems and who has an been assigned a unique log-on identifier.

**4. CHANGES TO PRIVACY AND SECURITY AGREEMENT.** Other than as allowed under this section, County shall be requested to submit input to a revised “Third Party Information System Access Request” (Form MSC 0785), to request changes to Exhibit H Part 2. ODHS will review County’s request and, if approved in writing by ODHS, the parties will amend the Agreement in accordance with Exhibit E, Section 28 “Amendments; Waivers; Consent.”

- 4.1. **Point of Contact Changes.** Each party will provide notification to the other of any change of its respective point(s) of contact noted in Exhibit H Part 2, including any technical lead, and name an interim or replacement person in any such notice. Exhibit H Part 1 will be deemed amended to include the updated information.
- 4.2. **Administrative Changes.** County may request updates to Exhibit H that are administrative in nature and do not modify the mode of Access or type of data by submitting a written request to ODHS. Upon written acceptance by ODHS, Exhibit H will be deemed amended to include the updated information.

**5. NOTIFICATIONS.**

- 5.1. **Points of Contact.** The parties have designated their respective technical leads in Exhibit H Part 2. The parties will facilitate direct contacts between technical leads. The parties will provide notification to the other of any changes in technical point of contact information.
- 5.2. **Breach Notification.** In the event County or its subcontractors or agents discover or are notified of an Incident or a Breach, including a failure to comply with County’s confidentiality obligations under this Agreement, County shall immediately notify ODHS’ Program Sponsor identified in Section 4 of Exhibit H Part 2 (or delegate) of the Incident or Breach. If ODHS determines that an Incident or Breach requires notification of ODHS Clients, or other notification required by law, ODHS will have sole control over the notification content, timing, and method, subject to County’s obligations under applicable law.

- 5.3. **Requests for Data.** In the event County receives a third-party request for Data, including any electronic discovery, litigation hold, or discovery searches, County shall first give ODHS notice and provide such information as may be reasonably necessary to enable ODHS to protect its interests.
  - 5.4. **Changes in Law.** Each party will provide notice to the other of any change in law, or any other legal development, which may significantly affect its ability to perform its obligations.
6. **GRANT OF LICENSE.** Subject to County’s compliance with the Agreement, County is hereby granted a non-exclusive, non-transferable, and revocable authorization to Access and use Information Assets only in accordance with this Agreement and applicable laws, rules, and policies. County and its employees, contractors, and agents shall not manipulate any URL or modify, publish, transmit, reverse engineer, participate in any unauthorized transfer or sale of, create derivative works of, or in any way exploit the content or software comprising this Access, or Information Assets made available through this Access.
7. **DATA PRIVACY.** In addition to County’s obligations under Exhibit D “General Terms and Conditions”, Section 9 regarding Confidentiality of Information:
  - 7.1. **Generally.** County shall hold all Client Records, and other information as to personal facts and circumstances obtained by County on ODHS Clients, as confidential, using the highest standard of care applicable to the Client Records, and shall not divulge any Client Records without the written consent of the Client, the Client’s attorney, the responsible parent of a minor child, or the minor child’s guardian except as required by other terms of this Privacy and Security Agreement or applicable law.
  - 7.2. **Limited Purposes.** County shall limit the use or disclosure of Data concerning Clients to persons directly connected with the administration of this Privacy and Security Agreement or the Agreement. Confidentiality policies apply to all requests from outside sources.
  - 7.3. **Privacy Protections.** Data may include information, such as Client Records, subject to specified confidentiality protections under state or federal law. County shall comply with laws, regulations, and policies applicable to the information described in Exhibit H Part 2, including as specified in this Agreement.
  - 7.4. **Training.** County’s employees, subcontractors, and agents who will Access Data have received training on the privacy and security obligations relating to the Data, including Client Records. County shall provide periodic privacy and security training to its employees, subcontractors, and agents.
8. **SECURITY REQUIREMENTS.**
  - 8.1. **Compliance with Laws, Regulations, and Policies.** County and its employees, contractors, and agents shall comply with all applicable state and federal laws and regulations, and State of Oregon policies governing use and disclosure of Data (including Client Records) and Access to Information Assets, including as those laws, regulations, and policies may be updated from time to time. Applicable laws, regulations, and policies include but are not limited to:

- 8.1.1. ODHS and OHA Information Security and Privacy Policies:  
<https://www.oregon.gov/oha/FOD/OIS-ISPO/Pages/Policies.aspx>
- 8.1.2. ODHS and OHA Privacy and Confidentiality administrative rules, OAR Chapter 407, Division 14, and OAR Chapter 943, Division 14.
- 8.1.3. The Health Insurance Portability and Accountability Act (HIPAA), including as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”), and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164. County shall comply with HIPAA Compliance included in this Agreement in Exhibit D “General Terms and Conditions”, Section 17 “HIPAA Compliance” in connection with County’s Access.
- 8.1.4. The Oregon Consumer Identity Theft Protection Act, ORS 646A.600 through 646A.628, to the extent applicable.
- 8.1.5. Oregon’s Statewide Information Security Standards:  
<https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf>
- 8.2. **Responsible for Compliance.** County is responsible for the compliance of its employees, agents, and subcontractors with this Privacy and Security Agreement and with any third-party licenses to which Access is subject.
- 8.3. **Privacy and Security Measures.** County represents and warrants it has established and will maintain privacy and security measures that meet or exceed the standards set in laws, rules, and regulations applicable to the safeguarding, security and privacy of Data, including Client Records, all Information Assets, regardless of the media, and all Network and Information Systems. County shall monitor, periodically assess, and update its security controls and risk to ensure continued effectiveness of those controls.
- 8.4. **Security Risk Management Plan.** County shall ensure the level of security and privacy protection required in accordance with this Privacy and Security Agreement is documented in a security risk management plan. County shall make its security risk management plan available to ODHS for review upon request.
- 8.5. **Audit Rights and Access.** County shall maintain records in such a manner as to clearly document its compliance with and performance under this Privacy and Security Agreement, and provide ODHS, the Oregon Secretary of State, the federal government, and their duly authorized representatives access to County’s officers, agents, contractors, subcontractors, employees, facilities and records for ODHS to:
  - 8.5.1. Determine County’s compliance with this Privacy and Security Agreement,
  - 8.5.2. Validate County’s written security risk management plan, or

- 8.5.3. Gather or verify any additional information ODHS may require to meet any state or federal laws, rules, or orders regarding Information Assets.
- 8.5.4. Access to facilities, systems, and records under this section will be granted following reasonable notice to County. Records include paper or electronic form, system security logs, and related system components and tools (including hardware and software), required to perform examinations and audits, and to make excerpts and transcripts, including for data forensics.

**9. ACCESS TO ODHS SYSTEMS.**

- 9.1. **ODHS Review of User Requests.** If required for Access, ODHS will review requests, including forms such as the IAR, and will:
  - 9.1.1. Notify County of the approval or denial of its request for each User for whom Access has been requested;
  - 9.1.2. Provide any unique log-on identifier required for authorized Access;
  - 9.1.3. Provide updates to approved inquiry processes and instructions to County.
- 9.2. **County's Responsibilities for User Accounts.** County shall facilitate completion of any forms (such as the IAR) for each person for whom Access is requested.
  - 9.2.1. County is responsible for all activities that occur through its Access, including for any acts related to a lost or stolen User ID or password.
  - 9.2.2. County is responsible for ensuring information provided by its Users is accurate, complete, and up to date.
  - 9.2.3. County shall immediately notify ODHS when a User, group of Users, or County, no longer requires Access whether due to changes in duties or due to changes in County's programs related to this Agreement.
- 9.3. **Security and Disposal.** County shall maintain security of equipment, and ensure the proper handling, storage and disposal of all Information Assets accessed, obtained, or reproduced by County and its Users to prevent inadvertent destruction or loss. County shall ensure proper disposal of equipment and Information Assets when authorized use ends, consistent with County's record retention obligations and obligations regarding Information Assets under this Agreement.
- 9.4. **Prevention of Unauthorized Access.** County shall prevent any Access to State of Oregon Network and Information Systems by its Users that is not authorized in accordance with this Agreement and applicable law, and shall implement and maintain safeguards to prevent unauthorized access.
- 9.5. **Access from Outside the US and its Territories.** County Access to the state network from outside the US and its territories is prohibited unless approved by the ODHS|OHA Chief Information Risk Officer (CIRO). If approved, the County shall provide ODHS|OHA with the IP addresses, or IP address range, to be used to Access the network. Any changes to the provided IP addresses, or IP range, shall be immediately communicated to ODHS|OHA or Access could be affected.

- 9.5.1. County shall not allow use of any Information Asset in any country or territory in any manner prohibited by governing applicable law, rule, or policy.
- 9.6. **Authorized Access and Use Only.** No User may Access or use Data for any purpose other than those specifically authorized through this Agreement.
  - 9.6.1. Users shall not use Access to obtain or attempt to obtain any Data or Information Assets not authorized or intentionally made available.
  - 9.6.2. The use and disclosure of any Information Asset is strictly limited to the minimum information necessary to the exchange of Data between the parties described in Exhibit H Part 2.
  - 9.6.3. Except as otherwise specified or approved by ODHS, neither County nor its Users may modify, alter, delete, or destroy any Information Asset.
- 9.7. **Revocation or Termination of Access.** Breach, or wrongful use or disclosure of Information Assets by County or its Users, may cause the immediate revocation of the Access granted through this Privacy and Security Agreement, in the sole discretion of ODHS, or ODHS may specify a reasonable opportunity for County to cure the unauthorized use or disclosure and end the violation, and terminate the Access if County does not do so within the time specified by ODHS. Legal actions also may be taken for violations of applicable regulations and laws.
- 9.8. **No Unauthorized Distribution.** County shall not sell, make available, or provide Information Assets in any form to any other persons or organizations, and shall not use the Information Assets for any purposes other than as allowed under this Agreement and applicable law.
- 9.9. **No Impairment.** County shall not use this Access in any manner which could damage, disable, overburden, or impair Network and Information Systems or interfere with any other entity's use or benefit of Network and Information Systems.
- 9.10. **Prohibition on Data Mining.** County shall not capture, maintain, scan, index, share or use Data stored or transmitted by virtue of this interconnection, or otherwise use any data-mining technology, for any non-authorized activity. For purposes of this requirement, "non-authorized activity" means the data mining or processing of data, stored or transmitted through the Network and Information Systems, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security analysis that is not explicitly authorized in this Privacy and Security Agreement.
- 9.11. **Incidents and Breaches.** County shall comply, and shall cause its subcontractors to comply, with any requirements for identifying and addressing an Incident or Breach. This requirement applies regardless of whether the Incident or Breach was accidental or otherwise.

## 10. **SUSPENSION OR TERMINATION.**

- 10.1. This Privacy and Security Agreement may be terminated at any time by written agreement of the parties.

- 10.2. This Privacy and Security Agreement may be terminated by either party upon thirty (30) calendar days' written notice to the other party.
  - 10.3. Access and this Privacy and Security Agreement may be terminated immediately upon written notice from County if Access is no longer needed by County.
  - 10.4. ODHS may immediately revoke the Access granted County for County's failure to comply with the requirements of this Privacy and Security Agreement. In such event, ODHS will provide subsequent written notice to County's point of contact. ODHS may, to the extent it determines it is reasonable and able to do so, provide advance notice to County to cure any deficiency or breach of this Privacy and Security Agreement.
  - 10.5. Either party may terminate this Privacy and Security Agreement, and ODHS may modify Access, upon written notice if there are changes to or revised interpretations of federal or state laws, rules, or regulations, or if either party has changes in policies that require such action.
- 11. RETURN OF INFORMATION ASSETS.** Upon expiration or termination of the Agreement or this Privacy and Security Agreement for any reason whatsoever, County shall immediately deliver to ODHS all of ODHS' Information Assets, including Data and Client Records, that are in the possession or under the control of County in whatever stage and form of recordation such property is expressed or embodied at that time.
- 11.1. Except as necessary to meet obligations under Exhibit E "Standard Terms and Conditions", Section 17 "Records Maintenance, Access", County shall not retain any copies of Information Assets. County shall notify ODHS of any conditions that make returning all ODHS Information Assets not feasible. Upon ODHS' written acknowledgement that returning all Information Assets is not feasible, County shall purge or destroy retained Data in all its forms in accordance with the most current version of NIST SP 800-88 (or other agreed-upon standard) and on request provide ODHS with written certification of sanitization.
  - 11.2. County shall maintain protections required by law or the Agreement for any retained State of Oregon Information Asset for so long as County (including through any subcontractor) retains it.
- 12. INDEMNIFICATION AND INSURANCE.** Indemnification and insurance coverages provided by County under the Agreement apply to this Privacy and Security Agreement.
- 13. COSTS.** Each party will bear its own costs related to the acquisition of all equipment, software, data lines or connections necessary for Access, unless otherwise agreed to by written agreement between the parties. Each party is responsible for securing compatible hardware, equipment, and software, and network connections. Each party is responsible for complying with the licenses for third party products, including software and services that allow Access.

14. **SURVIVAL.** Access and rights to use Information Assets ceases upon termination of this Privacy and Security Agreement. Rights and obligations which expressly or by their nature survive termination do so survive, and include this section, provisions regarding warranties and liabilities, indemnification, and confidentiality and non-disclosure.
15. **INTERPRETATION.** Any ambiguity in this Privacy and Security Agreement will be resolved to permit ODHS to comply with applicable privacy and security laws and State of Oregon and ODHS policies interpreting those laws.
16. **SUBCONTRACTORS.** County shall ensure all subcontractors providing services related to this Privacy and Security Agreement are held to the same requirements as County.

## EXHIBIT H

### Part 2 Third Party Information System Access Request



**SHARED SERVICES**  
Information Security and Privacy Office



#### Third Party Information System Access Request

[Reset form](#)

An DHS or OHA program completes this form to request access for a **third-party entity\*** (*organization or individual*) to data within an DHS or OHA information system or network.

*\*Please note that each entity only needs one form.*

[i](#) Hover over **blue** text for more information.

Request type ( <i>required</i> ): New request (ISPO will add agreement number)	Agreement number: 047145
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#### Section 1. Third party information

This section defines the third party needing access to DHS/OHA network and information system(s). A third party is any individual or entity that is not part of the DHS/OHA workforce. Workforce means employees, volunteers, trainees and other individuals whose DHS or OHA work is under that agency's direct control. This applies to paid and unpaid workforce members.

#### **Third-party agreement administrator contact information**

*This individual signs the contracts for the third party. (This is NOT a DHS/OHA employee.)*

Organization/entity name: Marion County	
Contact name ( <i>first, last</i> ):	Ryan Matthews
Position/title:	Ryan: Administrator
Work street address:	3180 Center St. NE, Suite 3360,
City, State, ZIP:	Salem, OR 97301
Phone:	(503) 361-2670
Email:	rmatthews@co.marion.or.us
Website address ( <i>optional</i> ):	

#### **Additional contact for third party**

*This individual will be the contact for setting up or terminating users for the third party. (This is not a DHS/OHA employee.)*

Same contact information as above.

#### Section 2. Governing contract details

A DHS/OHA employee fills out this section. If a **governing contract** applies, please complete all applicable fields, below.

Does a governing contract establish a need for access?  Yes  No

Governing contract type	Contract number	Expiration date:
Contract:	PO-10000-00047145	6/30/2027
Data use agreement:		

Agreement #: 047145 Org name: Marion County

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Memorandum of understanding:		
Other contract (if applicable):		

**Background checks**

Please ensure all applicable required background checks are completed. DHS and OHA systems containing or accessing regulated data may require additional background check requirements beyond the pre-employment background checks. Regulated data sets requiring additional background checks include but are not limited to:

- Criminal Justice Information (CJI) in the Criminal Justice Information Services (CJIS) policy, 5.12.1 Personnel Security Policy and Procedures
- Federal tax information (FTI) as documented in Internal Revenue Service (IRS) Publication 1075, 5.1.1 Background Investigation Minimum Requirements.

Direct questions related to the background check process to [BCU.Info@state.or.us](mailto:BCU.Info@state.or.us) or 503-378-5470 or 1-888-272-5545.

**Section 3. Access description**

**Reason for access**

Describe in detail the **business need** for access:

3rd party needs to access CAM, eXPRS, MMIS, ONE and ASPEN to provide complete case management entity contract requirements. Individual access will be based on each user and their responsibilities.

Requested access start date: 07/01/2025

**Method of access**

Check all methods the third party will use to access DHS/OHA information systems.

- DHS/OHA on-site Will only use DHS/OHA supplied PC, laptop or workstation:  Yes  No
- Remote access via [VPN](#) Will only use DHS/OHA supplied PC, laptop or workstation:  Yes  No
- Remote access via [Citrix](#)
- Access to folder on [Secure File Transfer Protocol \(SFTP\) server](#)
- Other (explain below): Will only use DHS/OHA supplied PC, laptop or workstation:  Yes  No

**Access and information flow will occur from:**

DHS/OHA to third party (i.e., third party has access to DHS/OHA's information assets and systems)

**Scope of access**

List all system names the third party needs to access. (This form authorizes access for the third-party organization as a whole. A partner number [P#] and a network login are needed to access the following information systems. The system-specific [individual user access request forms](#) must be used to request access for individual third-party employees using the system.)

- Email:** DHS/OHA email account authorized. This authorizes the third party to get DHS/OHA email accounts after receiving a completed individual user access request form for each individual.
- Network:** Network login authorized. This authorizes the third party to get DHS/OHA network login IDs after receiving a completed individual user access request form for each individual.

System 1	
<b>Name of system: CAM</b>	
Type of access requested: Read/write (please describe): <input type="text"/>	
Description of access: Per the contract, must record all serious incidents, complaints of abuse, death reviews, and abuse investigations in the ODHS approved Centralized Abuse Management (CAM) System.	
Expiration date of access: 06/30/2027	
Information type	
Will information being shared or accessed be identifiable (i.e., names, DOB, address, etc.)? <input checked="" type="radio"/> Yes <input type="radio"/> No	
If yes, what protected information will be shared or accessed? (Check all that apply.)	
<input checked="" type="checkbox"/> Protected health information (PHI)	<input checked="" type="checkbox"/> Personally identifiable information (PII)
<input checked="" type="checkbox"/> Financial information	<input type="checkbox"/> Federal tax information (FTI)
<input type="checkbox"/> Criminal justice information (CJI)	<input type="checkbox"/> Payment card information (PCI)
<input type="checkbox"/> Social Security Administration (SSA data)	
<input type="checkbox"/> Other (list below):	
Information owner review (internal use only)	
Name of reviewer: Amber Padilla	Review date: 06/06/2025
Access determination:	
Role or group assigned (if applicable):	
Access is: Granted as requested <input type="text"/>	
Reason for determination:	
Need to have access to complete case management contract requirements	
Add another system	Remove this system (above)

System 2	
<b>Name of system: ASPEN</b>	
Type of access requested: Read/write (please describe): <input type="text"/>	
Description of access: To provide complete case management entity contract requirements.	
Expiration date of access: 06/30/2027	
Information type	
Will information being shared or accessed be identifiable (i.e., names, DOB, address, etc.)? <input checked="" type="radio"/> Yes <input type="radio"/> No	
If yes, what protected information will be shared or accessed? (Check all that apply.)	
<input checked="" type="checkbox"/> Protected health information (PHI)	<input checked="" type="checkbox"/> Personally identifiable information (PII)
<input checked="" type="checkbox"/> Financial information	<input checked="" type="checkbox"/> Federal tax information (FTI)
<input checked="" type="checkbox"/> Criminal justice information (CJI)	<input checked="" type="checkbox"/> Payment card information (PCI)
<input checked="" type="checkbox"/> Social Security Administration (SSA data)	
<input type="checkbox"/> Other (list below):	

Information owner review (internal use only)	
Name of reviewer: Lyssette Young	Review date: 07/01/2025
<b>Access determination:</b> Role or group assigned (if applicable): Access is: Granted as requested <input type="button" value="v"/> Reason for determination:	
Add another system	Remove this system (above)

System 3
Name of system: eXPRS
Type of access requested: Read/write (please describe): <input type="button" value="v"/>
Description of access: Per the contract, shall upload all applicable documentation supporting the service authorization and rates within eXPRS.
Expiration date of access: 06/30/2027
<b>Information type</b> Will information being shared or accessed be identifiable (i.e., names, DOB, address, etc.)? <input checked="" type="radio"/> Yes <input type="radio"/> No If yes, what protected information will be shared or accessed? (Check all that apply.) <input checked="" type="checkbox"/> Protected health information (PHI) <input checked="" type="checkbox"/> Personally identifiable information (PII) <input checked="" type="checkbox"/> Financial information <input checked="" type="checkbox"/> Federal tax information (FTI) <input type="checkbox"/> Criminal justice information (CJI) <input type="checkbox"/> Payment card information (PCI) <input checked="" type="checkbox"/> Social Security Administration (SSA data) <input type="checkbox"/> Other (list below):

Information owner review (internal use only)	
Name of reviewer: Amber Padilla	Review date: 6/06/2025
<b>Access determination:</b> Role or group assigned (if applicable): Access is: Granted as requested <input type="button" value="v"/> Reason for determination: Need to have access to complete case management contract requirements	
Add another system	Remove this system (above)

System 4
Name of system: MMIS
Type of access requested: Read/write (please describe): <input type="button" value="v"/>
Description of access: Per the contract, shall upload all applicable documentation supporting the service authorization and rates within MMIS.
Expiration date of access: 06/30/2027

<b>Information type</b>	
Will information being shared or accessed be identifiable ( <i>i.e., names, DOB, address, etc.</i> )?	
<input checked="" type="radio"/> Yes <input type="radio"/> No	
If yes, what protected information will be shared or accessed? ( <i>Check all that apply.</i> )	
<input checked="" type="checkbox"/> Protected health information (PHI)	<input checked="" type="checkbox"/> Personally identifiable information (PII)
<input checked="" type="checkbox"/> Financial information	<input checked="" type="checkbox"/> Federal tax information (FTI)
<input type="checkbox"/> Criminal justice information (CJI)	<input type="checkbox"/> Payment card information (PCI)
<input type="checkbox"/> Social Security Administration (SSA data)	
<input type="checkbox"/> Other ( <i>list below</i> ):	
<b>Information owner review (internal use only)</b>	
Name of reviewer: Bob Costa	Review date: 06/27/2025
<b>Access determination:</b>	
Role or group assigned ( <i>if applicable</i> ):	
Access is: Granted as requested <input type="button" value="v"/>	
Reason for determination: This is a contract renewal and users have been performing this function in MMIS for many years, so approved.	
Add another system	Remove this system ( <i>above</i> )

<b>System 5</b>	
Name of system: ONE	
Type of access requested: View only (please describe): <input type="button" value="v"/>	
Description of access: To provide complete case management entity contract requirements.	
Expiration date of access: 06/30/2027	
<b>Information type</b>	
Will information being shared or accessed be identifiable ( <i>i.e., names, DOB, address, etc.</i> )?	
<input type="radio"/> Yes <input type="radio"/> No	
If yes, what protected information will be shared or accessed? ( <i>Check all that apply.</i> )	
<input checked="" type="checkbox"/> Protected health information (PHI)	<input checked="" type="checkbox"/> Personally identifiable information (PII)
<input checked="" type="checkbox"/> Financial information	<input type="checkbox"/> Federal tax information (FTI)
<input type="checkbox"/> Criminal justice information (CJI)	<input type="checkbox"/> Payment card information (PCI)
<input checked="" type="checkbox"/> Social Security Administration (SSA data)	
<input type="checkbox"/> Other ( <i>list below</i> ):	
<b>Information owner review (internal use only)</b>	
Name of reviewer: John Riordan	Review date: 06/30/2025
<b>Access determination:</b>	
Role or group assigned ( <i>if applicable</i> ):	
Access is: Granted as requested <input type="button" value="v"/>	

Reason for determination: WP Read Only – Limited.	
<b>Add another system</b>	<b>Remove this system (above)</b>

Check all methods the third party will use to access DHS/OHA information systems.

**Section 4. Program sponsor**

The **program sponsor** is the DHS or OHA manager who sponsors the requested access. That person must monitor and ensure the third party complies with the terms and conditions of the access agreement. (Note that the program sponsor is usually the contract administrator of the governing contract authorizing the access.)

<b>Verification of need to know:</b>	
<input checked="" type="checkbox"/> As program sponsor, I certify that sections 1 through 3 of this form note the minimum necessary access. Date: <u>04/29/2025</u>	
Name (first, last):	Heather Smith
Position/title:	Operation Administration Unit Manager
Office:	ODHS
Program:	ODDS
District name:	Central
Work street address:	500 Summer St NE, E-09
City, State, ZIP:	Salem, OR 97301
Phone (include ext.):	503-877-0635
Email:	heather.m.smith@odhs.oregon.gov

**Section 5. Program requestor**

The **program requestor** is the DHS or OHA staff person who works with the third party on a day-to-day basis. That person requests the access agreement for the third party. The requestor can be the same person as the program sponsor or contract administrator. However, a program can list separate requestors/contract administrators. This will ensure all relevant parties receive contract communication and expiration notices.

Check this box and skip this section if the program requestor is also the program sponsor.

**Submission**

Click the submit button below to submit electronically, or email this completed form to the Information Exchange (InfoEx) Program within the Information Security and Privacy Office at [DHSOHA.InfoEx@dhsoha.state.or.us](mailto:DHSOHA.InfoEx@dhsoha.state.or.us). You can also email this address if you need more help.

Policy reference: <https://apps.state.or.us/Forms/Served/de090-003.pdf>

<b>Submit by email</b>
------------------------

<b>DHS/OHA Information Security and Privacy Office use only</b>	
Date received: 06/10/2025	Date completed: 07/01/2025
Date approved by all information owners: 07/01/2025	Date executed: N/A

Notes:  
785 on file. Part of the 118 process. PSA provided.

Completed by: Molly Norris, Information Exchange Coordinator

Agreement #: 047145 Org name: Marion County

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**ATTACHMENT #1**  
**Days and Hours of Operation**

During the Agreement period stated in Section 1 “Effective Date and Duration”, the County will maintain the following days and hours of operation:

Days of Operation: Monday through Friday

Hours of Operation: 8:00 AM until 5:00 PM

Will there be a physical office building for the public to access staffed during the hours indicated above?  Yes  No

Hours of Operation begin when the majority of County staff are expected to be in the office or at their remote workstations and end when the majority of County staff are expected to leave the office or their remote workstations.

Submitted by: Ryan Matthews

Date completed: August 19, 2025

**ATTACHMENT #2**  
**Disclosures Report**

County Name: \_\_\_\_\_

As described in Section 13 “Disclosures” of Exhibit F “Federal Terms and Conditions” 42 CFR, 455.104, County reports the following:

Name(s) of County Administrator/Manager: \_\_\_\_\_

Name:	Title:	County:	
Residence of Named individual: Street Address:	City:	State:	Zip:
SSN:	DOB:		
Do you have any other ODHS Provider numbers: Yes      No			
If yes, please list all Provider names and numbers:			
Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person’s involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories:			

CDDP Name: \_\_\_\_\_

As described in Section 12 “Disclosures” of Exhibit F “Federal Terms and Conditions”, County Subcontractor reports the following:

Number of board members: \_\_\_\_\_

Number of directors: \_\_\_\_\_

Number of indirect owners with five percent or more ownership: \_\_\_\_\_

Number of direct owners with five percent or more ownership: \_\_\_\_\_

Name:		Title:		Percentage of Ownership:	
Residence Street Address:			City:	State:	Zip:
SSI or EIN:			DOB:		
Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes    No					
If yes, please list all Provider names and numbers:					
Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person’s involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories:					

Name:		Title:		Percentage of Ownership:	
Residence Street Address:			City:	State:	Zip:
SSI or EIN:			DOB:		
Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes    No					
If yes, please list all Provider names and numbers:					
Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person’s involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories:					

Name:		Title:		Percentage of Ownership:	
Residence Street Address:			City:	State:	Zip:
SSI or EIN:			DOB:		
Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No					
If yes, please list all Provider names and numbers:					
Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories:					

Name:		Title:		Percentage of Ownership:	
Residence Street Address:			City:	State:	Zip:
SSI or EIN:			DOB:		
Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No					
If yes, please list all Provider names and numbers:					
Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories:					

Name:		Title:		Percentage of Ownership:	
Residence Street Address:			City:	State:	Zip:
SSI or EIN:			DOB:		
Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No					
If yes, please list all Provider names and numbers:					
Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories:					

Name:		Title:		Percentage of Ownership:	
Residence Street Address:			City:	State:	Zip:
SSI or EIN:			DOB:		
Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes    No					
If yes, please list all Provider names and numbers:					
Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories:					

Name:		Title:		Percentage of Ownership:	
Residence Street Address:			City:	State:	Zip:
SSI or EIN:			DOB:		
Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes    No					
If yes, please list all Provider names and numbers:					
Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories:					

Name:		Title:		Percentage of Ownership:	
Residence Street Address:			City:	State:	Zip:
SSI or EIN:			DOB:		
Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes    No					
If yes, please list all Provider names and numbers:					
Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories:					

### ATTACHMENT #3 ODDS Case Management Entity FTE Survey

Allocated Positions	Number of employees per position		TOTAL FTE	Annual Personnel Costs	Indirect Costs	Total Annual Costing
	Full Time (21-40 Hrs)	Half Time (20 or less Hrs)				
Program Manager/Director >1200 individuals			0	\$ -		\$ -
Program Manager/Director 900 - 1199 individuals			0			\$ -
Program Manager/Director <900 individuals			0			\$ -
Supervisors			0			\$ -
Case Manager			0			\$ -
Administrative Support			0			\$ -
Oregon Needs Assessment ONA (CM)			0			\$ -
Designated Referral Coordinator DRC (CM)			0			\$ -
Eligibility Case Manager (CDDP only)			0			\$ -
APS Specialist (CDDP Only)			0			\$ -
Licensors / Certification (CDDP only)			0			\$ -
<b>* List other staff funded with DD funding</b>						
			0			\$ -
			0			\$ -
			0			\$ -
			0			\$ -
<b>* List temporary/limited duration staff funded with DD funding</b>						
			0			\$ -
			0			\$ -
			0			\$ -
			0			\$ -
Please enter staffing info for each position applicable to your organization inside the red grid			0		\$ -	\$ -

Follow-up Questions:	
1. Are your staff part of a union?	
2. How many offices does your CME have that is open to the public?	
3. Do you have staff that work from home?	

Select answer from drop-down menu  
Select answer from drop-down menu  
Select answer from drop-down menu

4. How many home offices does your CME provide supplies?		Select answer from drop-down menu
5. Does your CME employ bilingual staff?		Select answer from drop-down menu
6. How many bilingual staff are employed at your CME?		Select answer from drop-down menu
7. Does your CME offer a pay differential for bilingual staff?		Select answer from drop-down menu
8. How much is the pay differential for bilingual staff per hour?		Select answer from drop-down menu

\*Please describe duties of other staff:

\*Please describe duties or temporary/limited duration staff:

Please provide any additional informaton you would like to share about how your CME meets the WLM staffing.

*By completing this survey you are complying with your 25-27 contract requirement located in:  
CDDP Contracts: Exhibit B, Part 1 "Operations and Administration Terms and Conditions," Section o. "Workload Model." (1).*

2025-27 CDDP Workload Model - Spring 2025 Forecast

<b>Marion County</b>								
<b>157834</b>								
<b>Allocated Positions:</b>	Actual Staffing	Average Monthly Salary	Annual Cost for Staffing	Subtotal Annual Staffing Cost	Annual OPE %	Annual OPE Cost	Total Annual Cost	Total Biennial Cost
PEM F X7010 Level 35 (Program Manager)	0.84	10,512	8,778	105,330	46.22%	48,688	154,019	308,037
PEM E X7008 Level 33 (Program Manager)	0.00	9,542	0	-	47.94%	0	0	0
PEM D X7006 Level 31 (Program Manager)	0.00	8,658	0	-	49.83%	0	0	0
PEM C X7004 Level 28 (Supervisor)	14.21	7,490	106,418	1,277,022	53.03%	677,143	1,954,164	3,908,328
Administrative Specialist C0107 (AS1)	5.50	4,300	23,654	283,848	70.57%	200,322	484,169	968,339
eXPRS Analyst (Pgm Analyst 2)	8.58	6,866	58,879	706,548	55.17%	389,836	1,096,384	2,192,768
Eligibility Case Manager HSS3	10.62	4,715	50,063	600,751	66.95%	402,189	1,002,940	2,005,880
Office Support Specialist C0104 (OS2)	19.73	3,952	77,976	935,713	74.20%	694,317	1,630,030	3,260,061
APS Specialist C6616 24	7.75	6,245	48,411	580,933	57.74%	335,436	916,369	1,832,737
Oregon Needs Assessment ONA (CM)	11.95	5,419	64,739	776,871	62.06%	482,164	1,259,035	2,518,069
Designated Referral Coordinator DRC (CM)	3.90	5,419	21,136	253,633	62.06%	157,417	411,051	822,101
Case Manager C6630 21	82.83	5,419	448,846	5,386,148	62.06%	3,342,902	8,729,051	17,458,101
Licensors / Certification (CS2)	1.07	6,245	6,677	80,128	57.74%	46,267	126,395	252,789
<b>SUBTOTAL</b>	<b>166.96</b>			<b>10,986,926</b>		<b>6,776,679</b>	<b>17,763,606</b>	<b>35,527,211</b>
Indirect Cost -	15.20%	<b>FTE</b>						<b>5,400,136</b>
Standard Services & Supplies	\$ 3,635	<b>146.34</b>						<b>531,958</b>
New EE Services & Supplies	\$ 5,373	<b>20.62</b>						<b>110,796</b>
<b>TOTAL</b>								<b>41,570,102</b>

Contracts Amounts by Service Element	FTE	Total
Model Contracted Allocation~Local Authority SE 02	11.69	2,646,978
Model Contracted Allocation~ TCM- Comp SE 48	147.53	36,781,969
Model Contracted Allocation~ Adult Protective Services SE 55	7.75	2,141,156
<b>Total:</b>	<b>166.96</b>	<b>41,570,102</b>

Costs Allocable to Case Mgmt - SE 48	FTE	Percent of Total	Monthly Salary	Subtotal (Annual)	OPE %	OPE Cost (Annual)	Total Annual Cost	Biennial
PEM F X7010 Level 35 (Program Mgr)	0.84	100.00%	\$ 10,512	\$ 105,330	46.22%	\$ 48,688	\$ 154,019	\$ 308,037
PEM E X7008 Level 33 (Program Mgr)	0.00	100.00%	\$ 9,542	\$ -	47.94%	\$ -	\$ -	\$ -
PEM D X7006 Level 31 (Program Mgr)	0.00	100.00%	\$ 8,658	\$ -	49.83%	\$ -	\$ -	\$ -
PEM C X7004 Level 28 (Supervisor)	14.21	100.00%	\$ 7,490	\$ 1,277,022	53.03%	\$ 677,143	\$ 1,954,164	\$ 3,908,328
Administrative Specialist C0107 (AS1)	5.50	100.00%	\$ 4,300	\$ 283,848	70.57%	\$ 200,322	\$ 484,169	\$ 968,339
eXPRS Analyst (Pgm Analyst 2)	8.58	100.00%	\$ 6,866	\$ 706,548	55.17%	\$ 389,836	\$ 1,096,384	\$ 2,192,768
Office Support Staff C0104 (OS2) 15	19.73	100.00%	\$ 3,952	\$ 935,713	74.20%	\$ 694,317	\$ 1,630,030	\$ 3,260,061
ONAs C6630 21	11.95	100.00%	\$ 5,419	\$ 776,871	62.06%	\$ 482,164	\$ 1,259,035	\$ 2,518,069
DRCs C6630 21	3.90	100.00%	\$ 5,419	\$ 253,633	62.06%	\$ 157,417	\$ 411,051	\$ 822,101
Case Manager C6630 21	82.83	100.00%	\$ 5,419	\$ 5,386,148	62.06%	\$ 3,342,902	\$ 8,729,051	\$ 17,458,101
<b>Staffing Total</b>	<b>147.53</b>			<b>\$ 9,725,114</b>		<b>\$ 5,992,788</b>	<b>\$ 15,717,902</b>	<b>\$ 31,435,805</b>

Add: Indirect	\$ 4,778,242
Existing FTE S&S	\$ 470,025
New FTE S&S	\$ 97,897
<b>Case Mgmt Total</b>	<b>\$ 36,781,969</b>

Costs Allocable to APS - SE 55	FTE	Percent of Total	Monthly Salary	Subtotal (Annual)	OPE %	OPE Cost (Annual)	Total Annual Cost	Biennial
APS Specialist C6616 24	7.75	100.00%	\$ 6,245	\$ 580,933	58%	\$ 335,436	\$ 916,369	\$ 1,832,737
<b>Staffing Total</b>	<b>7.75</b>			<b>\$ 580,933</b>		<b>\$ 335,436</b>	<b>\$ 916,369</b>	<b>\$ 1,832,737</b>

Add: Indirect	\$ 278,576
Existing FTE S&S	\$ 24,698
New FTE S&S	\$ 5,144
<b>APS Total</b>	<b>\$ 2,141,156</b>

Costs Applicable to LA (SE02)	FTE Staffing	Percent of Total	Monthly Salary	Subtotal (Annual)	OPE %	OPE Cost	Total Annual Cost	Biennial
Elig. Spec. HSS3 - C6659 (with MMA) 19	10.62	0.00%	4,715	\$ 600,751	66.95%	\$ 402,189	\$ 1,002,940	\$ 2,005,880
Licensors / Certification (CS2)	1.07	100.00%	6,245	\$ 80,128	57.74%	\$ 46,267	\$ 126,395	\$ 252,789
<b>Staffing Total</b>	<b>11.69</b>			<b>\$ 680,879</b>		<b>\$ 448,456</b>	<b>\$ 1,129,335</b>	<b>\$ 2,258,669</b>

FTE Total 48, 55 and 02                      166.96  
 FTE from Above                                      166.96  
 Difference    -

Add: Indirect	\$ 343,318
Existing FTE S&S	\$ 37,235
New FTE S&S	\$ 7,755
<b>LA02 Total</b>	<b>\$ 2,646,978</b>



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 17, 2025

Department: Public Works

Title: Schedule adoption of an administrative ordinance approving Zone Change/Comprehensive Plan Change/Administrative Review 25-001/Jerome P. Lackner

Management Update/Work Session Date: N/A Audio/Visual aids [ ]

Time Required: 0 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Schedule adoption of the ordinance at the next board session, September 24, 2025.

Issue, Description & Background: The Marion County Hearings Officer held a duly noticed hearing on the application on May 15, 2025, and on June 30, 2025, issued a recommendation to approve the application. The Board held a duly noticed public hearing on the application on August 27, 2025, and considered all the evidence in the record and approved the request. The ordinance and findings have been prepared and the matter needs to be scheduled for final consideration and adoption.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Ordinance

Presenter: Austin Barnes

Department Head Signature: for Brandon Risch



The property rezoned by this Ordinance is identified on a map in Exhibit B, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to Marion County Code Section 17.110.660 to reflect the new zoning subject to conditions identified in Exhibit A, attached hereto, and by this reference incorporated herein.

SECTION V. Effective Date

Pursuant to Chapter 1.10 of the Marion County Code, this is an Administrative Ordinance and shall take effect 21 days after the adoption and final signatures of the Marion County Board of Commissioners.

SIGNED and FINALIZED this \_\_\_\_\_ day of \_\_\_\_\_, 2025, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Recording Secretary

**JUDICIAL NOTICE**

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of:	)	Case No. ZC CP AR 25-001
	)	<b>COMPREHENSIVE PLAN</b>
JEROME P. LACKNER	)	<b>AMENDMENT / ZONE CHANGE /</b>
	)	<b>ADMINISTRATIVE REVIEW</b>

**RECOMMENDATION**

**I. Nature of the Application**

This matter comes before the Hearings Officer on the Application of Jerome P. Lackner for a zone change, comprehensive plan change, and administrative review to change the zone from EFU (Exclusive Farm Use) to FT (Farm Timber) zone; to change the comprehensive plan designation from Primary Agriculture to Farm Timber, and to establish a template test dwelling on 21.67 acre parcel in the EFU (Exclusive Farm Use) zone located at the end of Wagner Lane SE in the 22600 block (T9S; Range 2E; Section 18A; Tax Lot 100).

**II. Relevant Criteria**

The standards and criteria relevant to this Application are found in the Oregon Statewide Planning Goals, Marion County Comprehensive Plan Policies (Forest Land and Farm / Timber Land Policies), and Marion County Code Chapter 17, especially 17.123 (Zone Change Procedure), 17.136 (Exclusive Farm Use Zone), and 17. 139 (Farm / Timber Zone), MCC 138.060 (Special Siting Standards) (Unincorporated Community Industrial Zone).

**III. Public Hearing**

A public hearing was held on this matter on May 15, 2025. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the Application:

- |    |                |                                 |
|----|----------------|---------------------------------|
| 1. | Austin Barnes  | Marion County Planning Division |
| 2. | Norman Bickell | Representative for Applicant    |

No documents were presented, marked, or entered into the record as exhibits. No objections were raised as to notice, jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

**IV. Executive Summary**

Applicant seeks a zone change, comprehensive plan change, and administrative review to change the zone from EFU (Exclusive Farm Use) to FT (Farm Timber) zone; to change the comprehensive plan designation from Primary Agriculture to Farm Timber, and to establish a template test dwelling on 21.67 acre parcel.

At the time Applicant purchased the property, it was in timber use, and Applicant planted timber to replace the timber harvested by the prior owner. The subject property has historically been in timber production, has never been in farm use, and continues to be managed for timber production.

The proposed zone change is consistent with the historic and ongoing use of the property. Applicant has established compliance with all applicable criteria, and the hearings officer recommends **APPROVAL** of the application.

### **V. Findings of Fact**

The Hearings Officer, after careful consideration of the testimony and evidence in the record, issues the following finding of fact:

1. The subject property consists of one parcel, totaling 21.67 acres. The property is designated Primary Agriculture in the Marion County Comprehensive Plan (MCCP) and zoned EFU (Exclusive Farm Use).
2. The property is located at the terminus of Wagner Ln SE, a public road that is graveled. The property is vacant and planted with commercial timber. There are no streams, floodplains, wetlands or geo-hazards mapped on the subject property.
3. Surrounding properties to the west, and south are zoned EFU and in various types of farm use. Property to the north and east are zoned TC (Timber Conservation) and are in active timber use.
4. Applicant seeks to change the Comprehensive Plan designation from Primary Agriculture to Farm Timber and change the zoning from EFU to FT (Farm Timber).
5. Marion County Planning Division requested comments from various governmental agencies. The following comments were received:

Marion County Public Works Land Development and Engineering Permits (LDEP) commented:

#### ENGINEERING REQUIREMENTS

- A. At the time of application for building permits, an Access Permit will be required.
- B. Transportation System Development Charges (TSDCs) and Parks fee will be assessed at the time of application for building permits.
- C. Any new utility service extensions such as electric power originating from within the public right-of-way to the property require permits from MCPW Engineering.

Marion County Septic commented: "A soils and site evaluation will be required before building."

Marion County Building Department commented: "Permits are required to be obtained prior to the development of structures and/or utilities installation on private property."

All other contacted agencies either failed to respond or stated no objection to the proposal.

6. The Application was signed by Jerome P. Lackner, as the owner of the property who purchased the property from the Estate of Ledor and Tyler Pinkston on September 16, 1992. Mr. Lackner should be prepared to present a copy of his deed if requested to the Board of Commissioners.

## **VI. Additional Findings of Fact and Conclusion of Law**

1. Applicant has the burden of proving compliance with all applicable criteria.

### **STATEWIDE PLANNING GOALS**

2. The Marion County Comprehensive Plan amendments section states that comprehensive plan amendments must be consistent with statewide planning goals, or seek exemptions to them. The relevance of each goal in this proposal is addressed below:

*Goal 1: Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The notice and hearings process before the hearings officer and Board of Commissioners (BOC) provides opportunity for citizen involvement. Goal 1 is satisfied.

*Goal 2: Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.*

Applicant proposes a site-specific comprehensive plan amendment and an administrative review for a template dwelling. The Planning Division notified local and state agencies, including the Oregon Department of Land Conservation and Development (DLCD), for comments. Goal 2 is satisfied.

*Goal 3: Agricultural Lands. To preserve and maintain agricultural lands.  
OAR 660-033 governs agricultural lands.*

*OAR 660-033-0145:*

*(1) Agriculture/forest zones may be established and uses allowed pursuant to OAR 660-006-0050;*

*(2) Land divisions in agriculture/forest zones may be allowed as provided for under OAR 660-006-0055; and*

*(3) Land may be replanned or rezoned to an agriculture/forest zone pursuant to OAR 660-006-0057.*

Applicant's request to re-designate and rezone the subject property for farm/forest use is evaluated under OAR 660-006, specifically, OARs 660-06-0015, 660-006-0050 and 660-006-0057, and no Goal 3 exception is required to designate the subject property for forest use. Therefore, Goal 3 is met.

*Goal 4: Forest Lands. To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

OAR 660-006-0015:

*(1) Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone that conserves forest lands consistent with OAR chapter 660, division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest lands are marginal lands pursuant to ORS 197.247 (1991 Edition), the land is zoned with an Exclusive Farm Use Zone pursuant to ORS chapter 215 provided the zone qualifies for special assessment under ORS 308.370, or is an "abandoned mill site" zoned for industrial use as provided for by ORS 197.719. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR chapter 660, division 6. The plan shall describe the zoning designation(s) applied to forest lands and its purpose and shall contain criteria that clearly indicate where the zone(s) will be applied.*

*(2) When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.*

The subject property is not inventoried, designated or zoned as forest land. No Goal 4 exception is required. Marion County is not a marginal lands county. The subject property is not an abandoned mill site. The property is zoned EFU under ORS Chapter 215. ORS 308.370, a farm use special assessment provision, was repealed in 1999. ORS 308A now governs farm use special assessment. EFU zoned land in farm use may receive special farm assessment but the farm use definition does not include land subject to forest use special assessment (ORS 308A.056(2)). The subject property is currently specially assessed for forest use. To approve the subject application, the BOC must inventory the property, apply a farm/forest designation and zone consistent with OAR 660-006, and explain the factors used to select the farm/forest designation. Under the MCCP forest lands section:

*An area located east and south of the city of Silverton and commonly referred to as the Silverton Hills consist[s] of a mixed pattern of farm and forest land uses. The topography of this area consists of relatively level ridge tops with intervening stream canyons. The level areas are largely devoted to farm and woodlot uses while the stream canyons and steeper ridges are devoted to forest uses. This area is a transition between the Western Cascades and the Willamette Valley floor.*

\* \* \*

*Under the provisions of OAR 660-006-0050, a governing body may establish agricultural/forest zones in accordance with both Goals 3 and 4 and consistent with OAR Chapter 660, Divisions 6 and 33. The mixed nature of the farm and forest uses in this area justifies the application of an agricultural/forest zone and both Goals 3 and 4. The Farm/Timber designation is discussed in the Forest Lands section of the Marion County Comprehensive Plan and policies pertaining to this designation are also included in the forest land goal and policies section.*

*The Farm and Timber designation has been applied to lands in Marion County that support a mixture of both agricultural and forestry activities. Designated areas were characterized by wide varieties in terrain, soil types and land use conditions. These areas are located in the foothills of the Cascade Mountains and are characterized by steep canyons, broad ridge tops and narrow alluvial river terraces. Soil types vary considerably in agricultural productivity from Class II to VI agricultural capability. The area is predominantly Class 2 and 3 timber soils which make a majority of the area highly productive forest land.*

*Whenever the terrain is not too steep and the soils have agricultural capability, the land is typically in farm use. Otherwise, the land is managed as woodland. As a result of the mixed terrain and soils, this area consists of a very mixed pattern of farm and forest uses frequently including both uses on a single tract. Therefore, both the agricultural lands and forest lands goals are applied, as authorized by OAR 660-006-0050.*

*The variable terrain and crop capabilities have contributed to the existing land use pattern that is a transition area between the predominately large-scale farms on the low land to the west and the large-scale commercial timber operations on the higher elevations to the east. The most common management units in the FT areas range from 20 to 40 acres. Ownership fragmentation and the alternating farm and timber character make it unlikely that these smaller farm and timber tracts will be consolidated to achieve larger management units.*

*A minimum parcel size of 80 acres is applied to the Farm/Timber land in Marion County. This minimum was chosen because it is consistent with the existing parcel sizes in this area being managed for timber and agriculture production on a commercial basis. Also, this parcel size is consistent with both OAR 660-06-0026 and 660-33-100, and it exceeds the recommendations of the State Department of Fish and Wildlife for the protection of significant deer and elk habitats. This area is primarily located within the peripheral deer and elk habitat as identified by the State Department of Fish and Wildlife. With development limited to such low densities, the watershed, open space and other resource values found on forest lands will be protected.*

There are 15,000+ Farm/Timber designated acres in Marion County (MCCP, page I-14), most of it in the Silverton Hills, coexistent with the peripheral big game habitat area. In ZC/CP 15-001, ZC/CP 11-002 and ZC/CP 03-5, the BOC recognized that land outside the Silverton Hills area may qualify for Farm/Timber designation if it has sufficient Farm/Timber characteristics. The Farm/Timber area is described as an area of stream canyons and broad ridge tops. This description fits the subject property, but in miniature.

The variable topography makes integration with neighboring farm parcels less likely. At 21 acres, the property is in line the 20 to 40-acre common Farm/Timber parcel size.

The land adjacent to the north is zoned FT, and surrounding area of the subject parcel is devoted to timber and farming activities. As stated, the subject property has never been actively farmed. The previous owner harvested timber, and the Applicant has replanted timber during his ownership. The property has historically been devoted to timber and the Farm/Timber designation better suits the subject property than a Timber Conservation zone designation.

The Santiam Canyon Fire had a significant impact on the parcel by burning most of the acreage that was in 25+ years of replanting, as evidenced aerial photographs. Applicant provided proof of ongoing management for commercial forest use. Receipts provided by Applicant illustrate purchases from nurseries of commercial tree species.

The site shares sufficient characteristics to allow Farm/Timber designation and zoning. OAR 660-006-0015 is satisfied.

OAR 660-006-0050:

*(1) Governing bodies may establish agriculture/forest zones in accordance with both Goals 3 and 4, and OAR chapter 660, divisions 6 and 33.*

*(2) Uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any agricultural/forest zone. The county shall apply either OAR chapter 660, division 6 or 33 standards for siting a dwelling in an agriculture/forest zone based on the predominant use of the tract on January 1, 1993.*

*(3) Dwellings and related structures authorized under section (2), where the predominant use is forestry, shall be subject to the requirements of OAR 660-006-0029 and 660-006-0035.*

Goals 3 and 4, and OAR Chapter 660, Divisions 6 and 33 are being considered in this request to re-designate and rezone the subject property. Aerial photographs and the narrative in the record show the subject property was mostly treed and not apparently farmed at that time. OAR 660-006 dwelling standards apply. OAR 660-006-0055 is satisfied.

OAR 660-006-0057:

*Any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each area being rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.*

The area to consider for re-designation and rezoning consists solely of the subject properties. It contains a mixture of soils that are suitable for farm or forest uses. Practical

restrictions on this property do not make it wholly productive for solely farm or solely forest use. OAR 660-006-0057 is satisfied.

Goal 4 is satisfied.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. *To protect natural resources and conserve scenic and historic areas and open spaces.*

There are no scenic, historic, or natural resources identified in the MCCP on the subject or nearby properties. Goal 5 is satisfied.

Goal 6: Air, Water and Land Resources Quality. *To maintain and improve the quality of the air, water and land resources of the state.*

The parcel is not within an identified ground water overlay or any big game habitat. Farm/forest designation and zoning will allow forest uses and perhaps a future dwelling. The Marion County Code contains development standards related to septic system requirements that will have to be met if development occurs. Normal residential use would not emit excessive particulates or noise. In-place regulations will maintain the level of air, water and land resources. Goal 6 is satisfied.

Goal 7: Areas Subject to Natural Disasters and Hazards. *To protect people and property from natural hazards.*

The property contains no identified hazards. Goal 7 is satisfied.

Goal 8: Recreational Needs. *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

No Goal 8 resources are identified on the subject site or implicated by this application. This goal is not applicable.

Goal 9: Economic Development. *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

Goal 9 addresses commercial and industrial development, primarily in urban areas. OAR Chapter 660, Division 009 applies only to comprehensive plans for areas within urban growth boundaries. Goal 9 is not applicable.

Goal 10: Housing. *To provide for the housing needs of citizens of this state.*

OAR 660-008 is intended to define standards for compliance with Goal 10. OAR 660-008 deals with providing an adequate number of needed housing units, and efficient use of buildable land within urban growth boundaries. The subject property is not within an urban growth boundary. Goal 10 does not apply.

Goal 11: Public Facilities and Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Applicant states that all rural services are provided in the area. Electric and telephone utilities are available in the area. Fire protection is provided by the Stayton Fire District and police protection is provided by the Marion County Sheriff. No public water and sewer services will be required. Little traffic will be generated by the proposed use, except during timber harvest. Goal 11 is satisfied.

Goal 12: Transportation. To provide and encourage a safe, convenient and economic transportation system.

*Under OAR 660-012-0060(1), if an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*

*(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

*(b) Change standards implementing a functional classification system; or  
(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP [transportation system plan]. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*

*(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*

*(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan;  
or*

*(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

The subject parcel will obtain its access of the Eastern end of Wagner Lane SE. The change in zone will not significantly impact the easement because any proposed use would comply with the zoning would be similar for both zones. The proposal would allow one dwelling that would potentially generate 10 traffic trips a day and forest use traffic would be minimal, except during harvest. Applicant does not propose changing the

functional classification of the road or standards implementing them. LDEP expressed no concern about the plan and zone amendment significantly affecting the existing transportation facility by allowing uses or levels of development that would be inconsistent with roads serving the property. Goal 12 is satisfied.

Goal 13: Energy Conservation. *To conserve energy.*

Both farm and forest uses are similar in nature, and changing the zone to FT will not create a more energy intensive use than is permitted in the EFU zone. An additional home site and continued forest use would not significantly increase energy consumption. Goal 13 is satisfied.

Goal 14: Urbanization. *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

Changing the Marion County Comprehensive Plan designation to Farm/Timber and zoning to FT will not urbanize the subject property. Goal 14 does not apply.

Goals 15-19, Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

The subject site is not within the Willamette River Greenway, or near ocean or coastal related resources. These goals do not apply.

### **COMPREHENSIVE PLAN AMENDMENT**

3. The Marion County Comprehensive Plan does not contain specific review criteria for plan amendments. However, all comprehensive plan amendments must be consistent with applicable MCCP goals and policies. If the subject property is designated Farm Timber, forest lands goals and policies will apply. Therefore, the proposal must be consistent with the forest lands and goals and policies.

Forest Land and Farm/Timber Land Policy 1: *Protect the resource values of those areas designated as Forest Lands by applying a Timber Conservation [TC] zone consistent with OAR 660 Division 6.*

Applicant asks for Farm/Timber rather than Forest Land designation. Forest Land designation, TC zoning and Forest Land and Farm/Timber Land Policy 1 do not apply.

Forest Land and Farm/Timber Land Policy 2: *Protect the forest resource value of those areas designated as Farm/Timber Lands by applying a Farm/Timber zone consistent with OAR 660 Division 6.*

Forest Land and Farm/Timber Land Policy 3: *Protect the agricultural resource value of those areas designated as Farm/Timber Lands by applying a Farm/Timber zone consistent with OAR 660 Division 33.*

The existing parcel has been in timber use as far back as records can be researched. The parcel has had commercial timber harvested through the years and has been replanted with commercial tree species. Applicant proposes Farm/Timber designation and FT zoning. The subject parcel contains woodland and high value farm soils. FT zoning will recognize the parcel's current forest use while also protecting it for any future agricultural use. If re-designated Farm/Timber, OAR 660, Divisions 6 and 33 will be applied as required, and policies 2 and 3 will be met.

*Forest Land and Farm/Timber Land Policy 4: Non-forest and non-farm uses included in OAR 660-06-0025 and OAR 660-33-0120 may be allowed when the activity meets criteria that ensure there will be no significant adverse impacts on farm or forest practices occurring on nearby lands or increase risks associated with fire.*

Any requested OAR 660-06-0025 or 660-33-0120 uses will be reviewed and required to comply with all state and local criteria, including special fire protection standards. Policy 4 is met.

*Forest Land and Farm/Timber Land Policy 5: Subdivision development is prohibited and other land divisions creating new dwelling sites are not compatible with the protection and efficient management of Forest Lands and Farm/Timber Lands and are discouraged.*

Subdivision is not requested or allowed under the proposed designation and zoning. Policy 5 is met.

*Forest Land and Farm/Timber Land Policy 6: Division of forest lands and agricultural lands into parcels smaller than 80 acres may be permitted only for those non-forest uses specified in OAR 660 06 0026(2) and those non-farm uses specified in OAR 660 33 0120.*

The minimum parcel size in the FT zone is 80 acres. The subject 21.67-acres are below that standard. Land division is not requested or allowed. Policy 6 is met.

*Forest Land and Farm/Timber Land Policy 7: Lot line adjustments may be appropriate provided tracts over 80 acres are not reduced below 80 acres. Tracts capable of significant timber or agricultural production but already below 80 acres should not be reconfigured in a manner that makes them less suitable for timber or farm management.*

No property line adjustments are requested, and any future property line adjustment request will be reviewed for compliance with applicable MCCP policies and MCC criteria. Policy 7 is met.

*Forest Land and Farm/Timber Land Policy 8: Strict criteria should be applied to ensure that any dwellings and accessory structures permitted on existing parcels will not interfere with accepted forest or farm management practices on adjacent lands, have adequate road access, fire protection and domestic water supply, and do not increase fire hazards.*

The applicant has submitted for a template test dwelling which will be reviewed for compliance applicable criteria in the Marion County Code. Policy 8 is met.

*Forest Land and Farm/Timber Land Policy 9: If special siting and fire hazard protection requirements are imposed dwellings may be appropriate on existing parcels with low cubic foot per acre per year productivity, on parcels with timber management limitations due to the proximity of dwellings and a highly parcelized ownership pattern, or on existing parcels of 160 acres or more created prior to January 1, 1994. Dwellings allowed under OAR 660-06-0027(1)(a), (e) and (f), as limited in the TC zone, are consistent with this policy.*

MCC 17.139.070 contains special siting and fire hazard protection requirements for the FT zone. If a dwelling is allowed on the subject property, it would have to meet any applicable OAR 660-006 and MCC chapter 17.139 requirements. Policy 9 is met.

*Forest Land and Farm/Timber Land Policy 10: The siting of dwellings in the Farm/Timber zone must meet the applicable criteria in either OAR 660, Division 6 or 33 based on the predominant use of the tract on January 1, 1993.*

Applicant purchased the property in September, 1992, and began restocking timber resources. A 1992 aerial photograph shows the subject property predominantly in trees. The parcel was in forest use on the January 1, 1993. If, in the future, a dwelling is requested for the parcel, it will be reviewed and have to comply with OAR 660-006 and MCC requirements. Policy 10 is met.

Applicant's proposal is consistent with statewide planning goals and the applicable goals and policies in the MCCP.

#### **ZONE CHANGE**

4. The criteria for a zone change are found in the Marion County Code Chapter 17.123.060:

*A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and*

The zone will be consistent with the goals and policies of the comprehensive plan as the comprehensive plan will change with it and will match the land use pattern in the area which is a mix of farm and forest uses. The criterion is met.

*B. The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and*

The zone will be consistent with the surrounding uses as it will match the land use pattern in the area which is a mix of farm and forest uses. The criterion is met.

*C. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and*

The parcel is served by the Stayton Fire District, Marion County Sheriff's Office, has a public road providing access and will be served by a well and septic system. The criterion is met.

*D. The other lands in the county already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and*

While the applicant is not proposing a specific use that needs to be located on the subject parcel, the applicant seeks to better align the present and future use of the parcel with its zoning. The applicant has no intentions to farm the property and would rather continue its commercial timber production use, which better suits the size and topography of the parcel. The criterion is met.

*E. If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*

The new zone does not allow uses that are more intensive, rather it allows a combination of the same uses of the EFU zone with some added timber uses, which are already present on the site. By applying the FT zone to the property, there will be a benefit for the long term management of timber use. The new zone will better align the zoning with the present and future use of the parcel. The criterion is met.

### **TEMPLATE TEST**

5. According to Chapter 17.139.030(B) of the Marion County Code (MCC) a single-family dwelling subject to the special use and siting requirements in MCC 17.139.070 may be allowed provided:

*(a) The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.*

The subject parcel is owned by Jerome P. Lackner. Mr. Lackner does not own any other contiguous lands and there is not a dwelling on the subject property. The criterion is met.

*(b) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract. The other lots or parcels in the tract cannot be used to justify another forest dwelling. Evidence must be provided that covenants, conditions and restrictions have been recorded with the county clerk of the county or counties where the property is located for any other lot or parcel within the subject tract.*

The Applicant owned the lot in 2019 and was not a part of any tract. There was no dwelling on the subject property in 2019 either. The criterion is met.

*(c) The lot or parcel is:*

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*(1) Predominantly composed of soils that are capable of producing zero to 49 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least three other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; or*

*(2) Predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least seven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; or*

*(3) Predominantly composed of soils that are capable of producing more than 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least eleven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; and*

*(4) If the tract is 60 acres or larger and abuts a road or perennial stream the measurements shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road or stream; and*

*If a road crosses the tract on which the dwelling will be located, at least one of the required dwellings shall be on the same side of the road as the proposed dwelling and be located within the 160-acre rectangle or within one-quarter mile from the edge of the subject tract and not outside the length of the 160-acre rectangle; or*

*(5) If the tract abuts a road that existed on January 1, 1993 and subsection (D) of this section does not apply, the measurements may be made using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road.*

The FT zone permits dwellings that meet the template test criteria. The proposed dwelling will comply with the template test and is therefore not prohibited by the regulations. A study map produced by the Marion County Planning Division plots out a 160 acre square centered on the subject parcel that indicates that there are 20 lots with 10 dwellings in the study area. The study area encompasses an area that has been highly compromise by the Santiam Canyon fire, and many of the dwellings were destroyed and replaced.

The parcel can produce 2884.8 cubic feet per year of wood and abuts a road that did exist on January 1, 1993, Wagner Rd SE, as such, the applicants may use a square or rectangle to satisfy the template test. In this case, they have used a square that is aligned to the maximum extent with Wagner Rd SE. They have counted and marked on the map where 3 dwellings are that have existed since January 1, 1993 and the rectangle touches 20 total lots. There are no historic structures or sites. The criterion is met.

*(6) Lots or parcels within an urban growth boundary cannot be used to satisfy the requirements in this subsection.*

No lots located within an urban growth boundary were used in this analysis. The criterion is met.

*(c) The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including Sections 110.830 through 110.836.*

Applicant details compliance with MCC 17.110 through 17.110.836, and the proposal complies with the General Provisions Section of the MCC 17.110.830 – 17.110.836. The parcel is not within an identified groundwater limited area, and the proposed dwelling will use a domestic well that is exempt from requiring a water right. The subject parcel is not within 1,500 feet of an aggregate site, nor will a dwelling have an adverse impact of natural areas, noise impacts or wildlife habitats where the area is already developed with dwellings. The criterion is met.

*(d) The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.*

The parcel is not located within the Major Big Game Habitat Overlay. The criterion does not apply.

*Development density shall be controlled so that significant wildlife habitat will not be adversely affected in the County's resource zones. The standards for dwelling density in big game habitat, as identified on the habitat maps, shall be: one dwelling unit/80 acres in major habitat; one dwelling unit/40 acres in peripheral habitat. If dwellings are clustered within 200 feet of each other, these densities may be doubled.*

This criterion does not apply.

The special standards in MCC 17.139.070 include:

*(a) Special Siting Requirements:*

*(1) Dwellings and structures shall comply with the special requirements in subsection (a)(2) or (3) of this section. Compliance with the provisions in subsection (a)(2) of this section and subsections (b), (f) and (g) satisfies the criteria in (a)(3) of this section. Alternative sites that meet the criteria in subsection (3) of this section and may be approved as provided in MCC 17.110.680.*

*(2) Siting Standards for Dwellings and Other Buildings.*

*A. Dwellings shall be at least 200 feet from any abutting parcel in farm use or timber production. Buildings other than a dwelling shall be located at least 100 feet from any abutting parcel in farm use or timber production.*

This setback will be applied only to all property lines, as they all are in farm or forest use. The site plan submitted with this application meets this standard. The criterion is met.

*B. The special setback in subsection (a)(2)(A) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (a)(2)(A) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.*

The setbacks will not be applied in such a way, the parcel is large enough to accommodate the setbacks. The criterion is met.

*C. The dwelling or other building shall be located within 300 feet of the driveway entrance on an abutting public road; or, if the property does not abut a public road for a distance of at least 60 feet, the dwelling or other building shall be located within 300 feet of the point where the driveway enters the buildable portion of the property.*

The parcel does not abut a public road, but is located directly southeast of Wagner Ln SE. It will be accessed by an approximately 400-foot-long easement that runs from the end of Wagner Ln SE through tax lot 1200 to the north and then the driveway will enter the subject property. The driveway on the subject property is 200 feet long and ends at a flat area, suitable for building, that is outside of the reforested area of the property. The criterion is met.

*(3) Review criteria for alternative sites. Sites for dwellings or buildings that do not meet the siting requirements in subsection (a)(2) of this section may be approved if the proposed site will meet the following criteria:*

*A. The site will have the least impact on nearby or adjoining forest or agricultural lands.*

*B. The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.*

*C. The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.*

*D. The risks associated with wildfire are minimized.*

Applicant does not request an alternative site. The area was chosen by Applicant because it is relatively flat and outside of the reforested portion of the property. The criterion do not apply.

*(b) Declaratory Statement. The owner of property for which a dwelling, structure or other specified use has been approved shall be required to sign and allow the entering of the following declaratory statement into the chain of title for the subject lots or parcels:*

*"The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily*

*produce noise, dust, smoke and other impacts. The grantees, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and I/We acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices I/We will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937."*

Compliance may be met through a condition of approval.

*(c) Domestic Water Supply.*

*(1) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as de-fined in the Forest Practices Rules (OAR Chapter 629).*

*(2) Evidence of a domestic water supply means verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or a water use permit issued by the Water Resources Department for the use described in the application; or verification from the Water Resources Department that a water use permit is not required for the use.*

*(3) If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report upon completion of the well.*

This shall be made a condition of approval.

*(e) Road Access. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the U.S. Forest Service, the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.*

Access is not being taken via a Forest Service Road, and the criterion do not apply.

*(e) Tree Planting Requirements for Lots or Parcels over 10 Acres:*

*(1) Prior to issuance of a building or siting permit for a dwelling, approved under the provisions in MCC 17.139.030(A), (B) or (C), on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.*

*(2) At the time required by the Department of Forestry rules the owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met.*

This shall be made a condition of approval.

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*(f) Fire Protection.*

*(1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.*

*(2) If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards may be approved, pursuant to the procedures set forth in MCC 17.110.680, subject to the requirements of subsection (F)(3) of this section.*

Applicant is within the Stayton Fire District. The criterion are met.

*(3) Alternative means of fire protection may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions. The following requirements apply:*

*A. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use.*

*B. Road access to the water supply required in subsection (F)(3)(A) of this section shall be provided to within 15 feet of the water's edge for fire-fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posed along the access route to indicate the location of the emergency water source.*

The Stayton Fire Department has not commented regarding these requirements. At this time this section does not apply, but fire requirements may change when a building permit is applied for.

*(g) Fire Hazard Reduction.*

*(1) The owners of a dwelling, or structure occupying more than 200 square feet, shall maintain a primary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provision in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.*

*(2) The dwelling shall have a fire-retardant roof.*

*(3) The dwelling shall not be sited on a slope of greater than 40 percent.*

*(4) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*

This shall be made a condition of approval.

*(h) Road and Drainage Standards.*

*(1) Public road access to structures of more than 200 square feet in area or a dwelling shall comply with Section 4 of the Marion County Department of Public Works Engineering Standards adopted by the board of county commissioners April 11, 1990.*

*(2) Except for private roads and bridges accessing only commercial forest uses, private road or driveway access to structures of more than 200 square feet in area or a dwelling shall meet the requirements of the local fire protection district or forest protection district, except that the county maximum grade standard for a private road is 15 percent. A greater grade may be approved by the fire district or, if the site is not in a fire district, by the State Department of Forestry.*

*(3) Drainage standards for private roadways shall be those in Section 5 of the Public Works Engineering standards except that corrugated metal culverts of equivalent size and strength may be used.*

This shall be made a condition of approval.

6. Applicant seeks to change the comprehensive plan designation from Primary Agriculture to Farm/Timber, which required consideration of the Forest Land and Farm/Timber Land policies. Marion County Planning found that the policies are satisfied and, if the Board of Commissioners (BOC) approves the comprehensive plan amendment, states that the proposed FT zone will be consistent with the Farm/Timber plan designation. MCC 17.123.060(A) is satisfied. Marion County Planning, and the hearings officer finds that the subject property contains sufficient FT zone characteristics and FT zoning can be applied here to protect this site for FT uses, and recommends the proposed zone change.
7. If the Board of Commissioners (BOC) approves the Zone Change/Comprehensive Plan Change/Administrative Review, Marion County Staff and the Hearings Officer recommend the following conditions:
  - A. The applicants shall obtain all permits required by the Marion County Building Inspection Division.
  - B. Prior to issuance of any building permits, the applicants shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
  - C. The proposed dwelling shall be located substantially as indicated on the site plan submitted with the application. Minor variations may be allowed upon review and approval by the Planning Director.
  - D. The owners shall maintain a fire hazard reduction plan as recommended by the Oregon Department of Forestry.

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E. The proposed dwelling shall meet the fire protection and hazard reductions as listed in MCC 17.139.070.

F. The dwelling shall maintain a special 200-foot setback from all property lines. Accessory structures shall maintain a special 100-foot setback from surrounding properties in farm or timber production.

G. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629).

H. Prior to issuance of a building or siting permit for a dwelling, approved under the provisions in MCC 17.139.030(A), (B) or (C), on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.

I. All standards contained in MCC 17.139.070 shall be made conditions of approval.

J. As an advisory, the applicant should contact the Stayton Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

8. The proposed conditions of approval are necessary for the public health, safety, and welfare.

## VII. Recommendation

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval of a zone change, comprehensive plan change, and administrative review to change the zone from EFU (Exclusive Farm Use) to FT (Farm Timber) zone; to change the comprehensive plan designation from Primary Agriculture to Farm Timber, and to establish a template test dwelling on 21.67 acre parcel in the EFU (Exclusive Farm Use) zone located at the end of Wagner Lane SE in the 22600 block (T9S; Range 2E; Section 18A; Tax Lot 100).

Therefore, the Hearings Officer recommends that the Marion County Board of Commissioners **GRANT** the Application subject to the following conditions that are necessary for the public health, safety, and welfare:

1. Applicant shall obtain all permits required by the Marion County Building Inspection Division.
2. Prior to issuance of any building permits, the applicants shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.

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3. The proposed dwelling shall be located substantially as indicated on the site plan submitted with the application. Minor variations may be allowed upon review and approval by the Planning Director.
4. Applicant/Owner shall maintain a fire hazard reduction plan as recommended by the Oregon Department of Forestry.
5. The proposed dwelling shall meet the fire protection and hazard reductions as listed in MCC 17.139.070.
6. The dwelling shall maintain a special 200-foot setback from all property lines. Accessory structures shall maintain a special 100-foot setback from surrounding properties in farm or timber production.
7. Applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629).
8. Prior to issuance of a building or siting permit for a dwelling, approved under the provisions in MCC 17.139.030(A), (B) or (C), on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.
9. Applicant shall comply with all standards contained in MCC 17.139.070, shall be made conditions of approval.
10. As an advisory, Applicant should contact the Stayton Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.

### VIII. Referral

This document is a recommendation to the Marion County Board of Commissioners. The Board will make the final determination on this Application after holding a public hearing. The Planning Division will notify all parties of the hearing date.

DATED at Salem, Oregon, this 30<sup>th</sup> day of June, 2025.



Jill F. Foster  
Marion County Hearings Officer

**CERTIFICATE OF MAILING**

I hereby certify that I served the foregoing order on the following persons:

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P.O. Box 3274  
Salem, OR 97302

1000 Friends of Oregon  
133 SW 2nd Ave  
Portland, OR 97204-2597

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**Assessor's Office (via email)**  
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**Tax Collector (via email)**  
[NMcVey@co.marion.or.us](mailto:NMcVey@co.marion.or.us)  
[ADhillon@co.marion.or.us](mailto:ADhillon@co.marion.or.us)  
**Surveyor's Office (via email)**  
[KInman@co.marion.or.us](mailto:KInman@co.marion.or.us)

**Fire District: (via email)**  
Stayton Fire District

[jay.alley@staytonfire.org](mailto:jay.alley@staytonfire.org)  
[jack.carriger@staytonfire.org](mailto:jack.carriger@staytonfire.org)

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[abarnes@co.marion.or.us](mailto:abarnes@co.marion.or.us)  
[jspeckman@co.marion.or.us](mailto:jspeckman@co.marion.or.us)  
[ediaz@co.marion.or.us](mailto:ediaz@co.marion.or.us)

**Building Inspection (via email)**  
[pwolterman@co.marion.or.us](mailto:pwolterman@co.marion.or.us)  
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[CTate@co.marion.or.us](mailto:CTate@co.marion.or.us)

**Public Works LDEP Section (via email)**  
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[mcldep@co.marion.or.us](mailto:mcldep@co.marion.or.us)  
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20256 Grim Rd. NE  
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[ginger.redlinger@nsantiam.k12.or.us](mailto:ginger.redlinger@nsantiam.k12.or.us)

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[odfw.info@state.or.us](mailto:odfw.info@state.or.us)

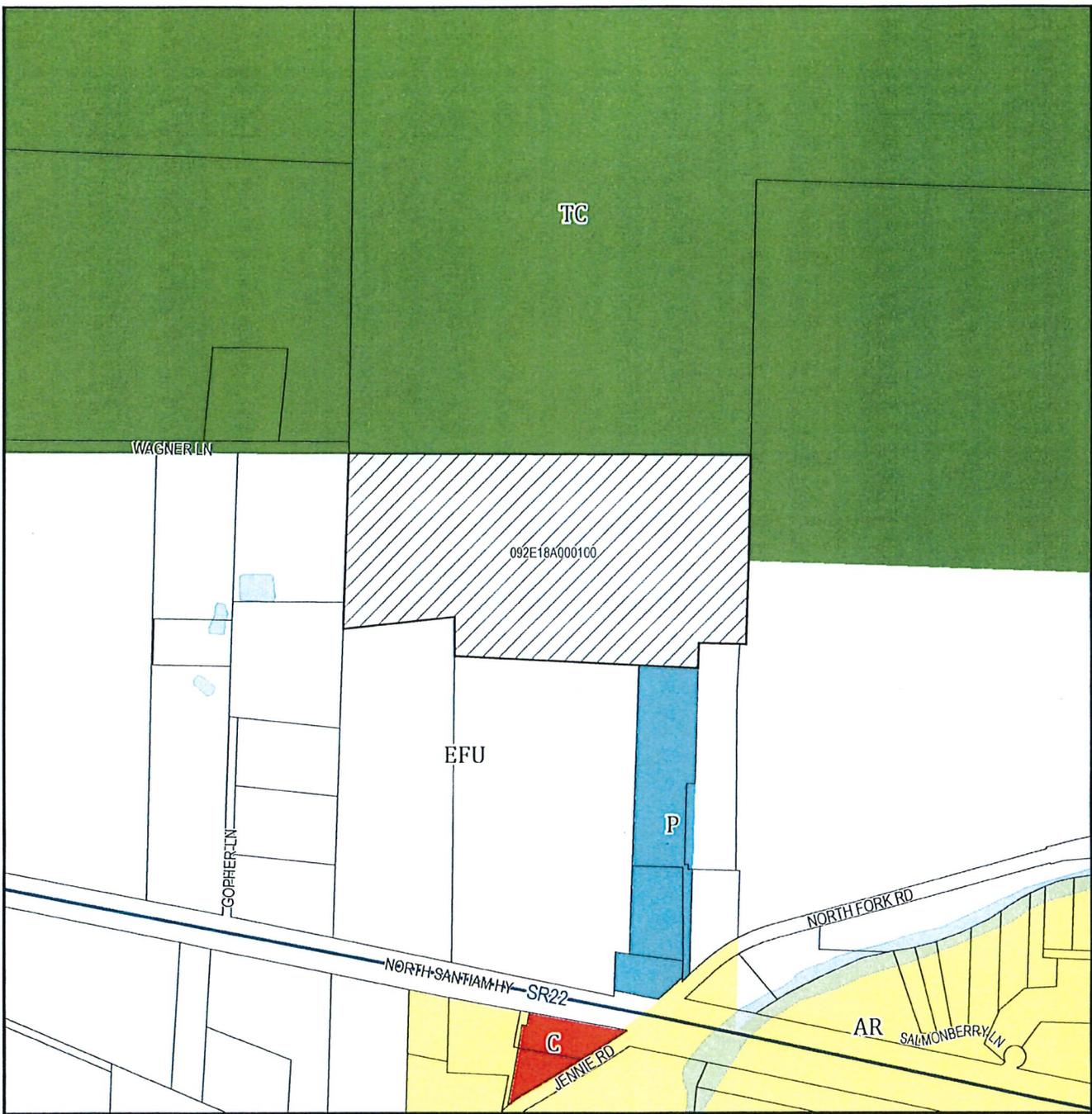
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Jill Engel  
PO Box 1261  
Salem, OR 97303  
[info@marioncofarm.com](mailto:info@marioncofarm.com)

CERTIFICATE OF MAILING (ZC / CP / AR 25-001 Jerome P. Lackner)

By mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above, that said copies were deposited in the United States Post Office at Salem, Oregon, on the 30<sup>th</sup> day of June, 2025 and that the postage thereon was prepaid.

A handwritten signature in blue ink, appearing to read "Gayle Dill", written over a horizontal line.

Administrative Assistant to the  
Hearings Officer



**ZONING MAP**

Input Taxlot(s): 092E18A000100

Owner Name: LACKNER, JEROME P

Situs Address: ( No Situs Address )

City/State/Zip:

Land Use Zone: EFU

School District: NORTH SANTIAM

Fire District: STAYTON

**Legend**

Input Taxlots

Lakes & Rivers

Highways

Cities



scale: 1 in = 507 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 17, 2025

Department: Public Works

Title: Schedule adoption of an administrative ordinance approving Zone Change 25-003/LuckyJun, LLC

Management Update/Work Session Date: N/A Audio/Visual aids [ ]

Time Required: 0 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Schedule adoption of the ordinance at the next board session, September 24, 2025.

Issue, Description & Background: The Marion County Hearings Officer held a duly noticed hearing on the application on August 7, 2025, and on August 20, 2025, issued a decision to approve the application. The ordinance and findings have been prepared and the notice of adoption was given on September 17, 2025. The administrative ordinance is now set for formal adoption. The zone is changing from Multi-Family to Commercial Retail and will match the underlying existing commercial designation. Unless there is an appeal, the zoning code provides that the board does not have to hold a hearing on this request because it is for a zone change only; the comprehensive plan isn't changing. The underlying commercial comprehensive plan designation will remain the same.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Ordinance

Presenter: Austin Barnes

Department Head Signature: [Handwritten Signature]



SECTION V. Effective Date

Pursuant to Chapter 1.10 of the Marion County Code, this is an Administrative Ordinance and shall take effect 21 days after the adoption and final signatures of the Marion County Board of Commissioners.

SIGNED and FINALIZED this \_\_\_\_\_ day of \_\_\_\_\_, 2025, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Recording Secretary

**JUDICIAL NOTICE**

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

In the Matter of the Application of	)	Case No. ZC 25-003
	)	
LUCKYJUN, LLC	)	<b>ZONE CHANGE</b>

**ORDER**

**I. Nature of the Application**

This matter comes before the Marion County Hearings Officer on the Application of LuckyJun, LLC to change the zone from RM (Multi-Family Residential) to CR (Commercial Retail) on a 0.21-acre portion of a 0.53-acre parcel located at 193 Lancaster Dr NE, Salem (T7S; R2W; Section 30CC; Tax lot 100).

**II. Relevant Criteria**

The standards and criteria relevant to this application are found in the Marion County Code, especially Chapter 16.06 (Commercial Retail Zone) and Chapter 16.39 (Zone Change), the Salem Comprehensive Plan Goals, Economic Development and Employment Policies, Land Use and Urbanization Goals and Policies, and the State of Oregon Planning Goals.

**III. Public Hearing**

A public hearing was held on this matter on August 7, 2025. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the application:

- |    |               |                                  |
|----|---------------|----------------------------------|
| 1. | Austin Barnes | Marion County Planning Division  |
| 2. | Junyao Cen    | Applicant                        |
| 3. | Jimmy Cen     | Applicant's Representative (son) |

No objections were raised as to notice, jurisdiction, conflict of interest, or to evidence or testimony presented at the hearing.

**IV. Executive Summary**

Applicant seeks to change the zone from RM (Multi-Family Residential) to CR (Commercial Retail) on a 0.21-acre portion of a 0.53-acre parcel located at 193 Lancaster Dr NE, Salem. Approval of the application will eliminate the dual-zoning condition, which is inefficient to expand commercial use in a commercially developed area. Applicant has met the burden of establishing compliance with the applicable standards and criteria to change the zone from RM to CR, and the hearings officer **GRANTS** the application, subject to conditions of approval.

## VI. Findings of Fact

The hearings officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. Junyao Cen, on property owned by LuckyJunLLC, proposes to change the zone from RM (Multiple-Family Residential) to CR (Commercial Retail) on a portion of a 0.53-acre parcel located at 193 Lancaster Dr NE, Salem (T7S, R2W, Section 30CC, Tax lot 100).

The other portion of the property is already zoned CR and this would make the entire property zoned CR. The subject property is within the Salem Urban Growth Boundary (UGB) and designated Commercial in the Salem Area Comprehensive Plan (SACP). The property's current split RM and CR zoning is under the jurisdiction of Marion County. Applicant proposes to construct a mixed-use building used for both commercial and residential purposes the property, assuming approval of this zone change.

2. The property is located directly west of Lancaster Dr NE, directly northwest of its intersection with Hudson Ave NE. The parcel is generally flat and contains one commercial structure on it. The entire property is paved, while the area surrounding the structure is landscaped with some vegetation.
3. Adjacent properties to the north, south, and east are zoned CR (Commercial Retail) and are mostly in commercial use. The exception to this is one undeveloped parcel directly south, which is zoned RM. Properties to the west and southwest are zoned RM (Multiple-Family Residential) and appear to have a mix of multi-family and single-family residences.
4. Marion County Planning Division requested comments from other agencies:

Marion County Land Development Engineering and Permits (LDEP) commented:

### ENGINEERING ADVISORIES

- A. The following are PW Engineering anticipated items for future site buildout:

- Dedicate 48-foot right-of-way half-width along Lancaster Dr
- Dedicate a 30-foot right-of-way half-width along Hudson Ave
- Reconstruct and narrow Lancaster Dr driveway to meet county width and ADA standards
- Consolidate Hudson Ave accesses into one reconstructed ADA-compliant west approach
- Design and construct up to two directional ADA ped corner ramps to replace existing single non-compliant ramp at intersection
- Remove encroaching sidewalk vegetation west end Hudson Ave
- Design, permit and construct stormwater collection, conveyance, detention and water quality treatment system

- Remove concrete pad(s) from expanded public R/W

Marion County Building commented: “Permit(s) are required to be obtained prior to the development of structures and utilities installation on private property. Construction documents are highly recommended to be prepared by an Oregon licensed design professional (architect or engineer) to show the proposed development will meet current building codes requirements.”

All other agencies either failed to comment or stated no comment on the proposal.

5. Austin Barnes, Marion County Planning, testified that all applicable criteria were addressed with respect to the zone change. Mr. Barnes indicated that there is a clarification from the staff report. The application and staff report did not specifically address a housing analysis or make any findings with respect to housing goals because the application seeks to change the zone from RM to Commercial. The Fair Housing Council indicated that the property was not previously included in the housing inventory. Mr. Barnes testified that since the Applicant seeks to include housing in the proposal, the proposal only adds to the housing inventory, which satisfies Goal 10.
6. Jimmy Cen testified at the hearing. Mr. Cen testified that the parcel is currently divided between CR and RM zoning. Mr. Cen indicated that the split zoning renders the property inefficient to expand the commercial use as a primarily commercial area. The change in zoning would allow additional building on the site, and meets applicable code and criteria.

## **VII. Additional Findings of Fact and Conclusion of Law**

1. Applicants have the burden of proving by a preponderance of the evidence that all applicable standards and criteria are met as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).

“Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

Applicants must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicants have not met their burden and the application must be denied. If the evidence for every criterion is even slightly in Applicant’s favor, the burden of proof is met.

2. Pursuant to MCC 16.36.070, applications shall include the signature of all owners of the subject property. The application was signed by Junyao Cen. A Statutory Special Warranty Deed, recorded at Reel 4612, Page 232, evidences that LuckyJun, LLC is the owner of the subject

property. The Oregon Secretary of State Corporation Division website evidences that LuckyJun, LLC is an active Oregon limited liability company, and its member is Junyao Cen.

3. Pursuant to MCC 16.39.010, the hearings officer is authorized to make the initial decision on zone change applications.
4. Pursuant to MCC 16.39.040, a hearings officer's decision to approve a zone change does not become final until the Board of Commissioners adopts an ordinance implementing the decision.
5. According to the Salem-Keizer Urban Area (Regional) Procedures and Policies of the Salem Area Comprehensive Plan, the following applies to the question of jurisdiction: Marion County has exclusive jurisdiction over all land use actions applicable within that portion of the Salem Urban Area and Keizer Urban Area that are outside the Salem city limits and outside the Keizer city limits, other than regional planning actions and amendments to the urban area policies.
6. Under Marion County Code (MCC) 16.39.050, approval of a zone change shall include findings that the change meets the following criteria:
  - A. *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.*

The subject property is currently a split zone, with a portion of the parcel being zoned Commercial Retail and the remainder being Multiple-Family Residential. Applicant proposes to change the section of the parcel zoned RM to Commercial Retail. This change would be in alignment with the underlying Comprehensive Plan (Commercial). Approval of the application to allow the zone change would also resolve the existing issue of having an incompatible Zone and Comprehensive Plan combination, as the RM zone does not implement the Commercial Comprehensive Plan designation. The criterion is met.

- B. *Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property.*

The subject property is located directly off Lancaster Dr NE, which is within the Cherriots Public Transit Corridor Overlay. The property has available water and sewer services. Applicant also states that, should any additional utilities and traffic needs be required, they will be addressed during the development process and coordinated with the appropriate public agencies. The criterion is met.

- C. *The request shall be consistent with the purpose statement for the proposed zone.*

The purpose statement for the CR zone is "to provide areas suitable for professional and general commercial offices, retail sales within a building, eating and drinking places, commercial

accommodations and commercial services. The commercial retail zone is appropriate in those areas designated commercial in the applicable urban area comprehensive plan and where the location has access to a collector or arterial street.”

Applicant intends to place a mixed-use building on the western portion of the property. This building will consist of a commercial space with dwelling units on the second floor. Per MCC 16.06.010(A)(1) Dwelling units in conjunction with a commercial use are allowed outright as a permitted use, and are therefore, by default, consistent with the CR zone’s proposed statement. The criterion is met.

*D. If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the proposed zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*

Commercial Retail is the least intensive zone that both fits the Commercial plan designation and that allows for dwelling units in conjunction with a commercial use as an outright permitted use. Commercial Retail is also the zoning of the majority of surrounding properties off Lancaster. The proposal of dwelling units also aligns with the neighboring properties to the west off Hudson Avenue NE, as these properties are zoned for and contain dwellings. Therefore, the proposed zone change will not have any significant adverse effects on adjacent properties, as a zone change to Commercial Retail would match the current zoning of most neighboring properties. The criterion is met.

7. The existing Plan designation in the Salem Area Comprehensive Plan (SACP) is Commercial, and this Plan designation provides for the application of the CR zone proposed by the applicant. Policies applicable to the proposal are:

***E 1 Economic Development Goal: Strengthen and diversify the economy to enhance Salem’s economic prosperity and resiliency. (SUA)***

The proposed zone change meets many of the policies within this section; as the Commercial Retail zoning allows for multiple commercial uses beneficial to economic growth. The criterion is met.

***E 2 Land Supply Goal: Maintain an adequate supply of land to meet Salem’s economic and employment needs. (SUA)***

***E 2.1 Employment land: The City shall provide a supply of employment land that accommodates the amounts, size, types, locations, and service levels needed to meet the short-term and long-term employment growth forecasts for the Salem Urban Area. (SUA)***

The Salem Comprehensive Plan designates the subject parcel as Commercial. The proposed zone change would bring the RM portion of the parcel into conformity with the long-term growth forecast for Salem. The mixed-use development provides a zone appropriate service to the surrounding area and aids in residential, economic, and employment goals. The criterion is met.

***E 3 Access and Livability Goal: Promote a vibrant economy that increases access to jobs, goods, and services.***

***E 3.2 Transit-oriented development: Pedestrian-friendly, mixed-use development and redevelopment should be encouraged along corridors with frequent transit access and near Cherriots' Core Network to increase access to jobs and services, reduce the need for single-occupancy vehicle trips, and support public transit.***

Lancaster Dr NE is classified as a Major Arterial Road and is a main service branch and key focus area for Cherriots bus routes. There are frequent services along the said transit corridor, and therefore has convenient access to jobs, goods, and services. Furthermore, the goal seeks to encourage mixed-use development is met with the applicant's proposal. The criterion is met.

***L 1 Urbanization and Growth Management Goal: Manage growth in the Salem Urban Area through cooperative efforts between the City of Salem, Marion and Polk counties, and other jurisdictions to provide area residents with a high quality of life, contain urban development, promote the City's efficient delivery of services, and preserve adjacent agricultural lands. (SUA)***

***L 1.10 Infill: Development of vacant and underutilized land with existing urban services should be encouraged before converting urbanizable lands to urban uses and extending services beyond presently served areas.***

The subject property is within the Salem Urban Area, is surrounded by development, and the western portion of the property (which is the focus of this zone change application) is vacant but has immediate access to services. Approval of the zone change would promote potential development of underutilized land within the existing urban services area. The criterion is met.

8. Based on the findings and analysis under the Marion County Code and the Salem Area Comprehensive Plan (SACP), the proposed zone change from RM to CR is appropriate for the underlying commercial designation and is consistent with the applicable policies of the relevant goals as outlined by SACP.

Therefore, the proposed zone change meets the criteria in MCC 16.39.050(A).

9. The subject parcel is in an area with existing infrastructure, including water and sewer services. The parcel is located on Lancaster Dr SE, a well-developed five lane road classified as a major arterial. Both northbound and southbound transit service stops are located within 1/5<sup>th</sup> of a mile

of the subject parcel along Lancaster Dr NE. These stops are run by Cherriots bus service every 15 minutes on weekdays.

Therefore, the criterion of MCC 16.39.050(B) is met.

10. The CR (Commercial Retail) zone purpose statement listed under MCC 16.06.000 states:

*The purpose of the CR (commercial retail) zone is to provide areas suitable for professional and general commercial offices, retail sales within a building, eating and drinking places, commercial accommodations and commercial services. The commercial retail zone is appropriate in those areas designated commercial in the applicable urban area comprehensive plan and where the location has access to a collector or arterial street.*

The proposed CR zone is appropriate for the underlying SACP designation of Commercial. Applicant anticipates developing mixed-use commercial infrastructure that has access from a major arterial road. Therefore, MCC 16.39.050 (C) is met.

11. The proposed CR zone would allow the zone and comprehensive plan designation to come into alignment, as the existing RM zone is incompatible with the underlying Commercial designation. The proposed CR zone would not cause any adverse effects on adjacent properties as the majority are also zoned CR and therefore the subject property being made wholly CR would not cause it to be zoned for a more intensive use than neighboring parcels. Therefore, MCC 16.30.050 (D) is met.

12. Relevant Oregon Statewide Planning Goals are considered:

Goal 2 – Land Use Planning

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The process for evaluating the proposed zone change is outlined in MCC 16.39. This process implements policy framework of both Marion County Code and consideration of the underlying City of Salem Comprehensive Plan Goals. The process also allows the opportunity for public comment and requires review by a hearings officer. Therefore, the planning process is consistent with Goal 2.

Goal 9 – Economic Development

*To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

The proposed Commercial zoning allows for a variety of commercial uses, creating opportunities for small businesses and local economic growth. Rezoning this section of the parcel would allow

for infill development and contribute to the community's economic vitality. Therefore, this is consistent with Goal 9.

Goal 10 – Housing

*To provide for the housing needs of citizens of the state.*

The property is zoned RM This zone change would allow the property to be developed as commercial with mixed use to include housing. The property was not previously counted as inventory, however, because the applicant proposes to include housing, the zone change adds to the housing inventory, which implements the underlying plan designation. Therefore, the proposal is consistent with Goal 10.

Goal 12 – Transportation

*To provide and encourage a safe, convenient and economic transportation system.*

The subject parcel of the proposed zone change is next to the major arterial road Lancaster Dr SE. The Cherriots service corridor that runs the length of Lancaster, Route 11, runs every 15 minutes on weekdays. Lancaster Dr SE is a five-lane road and can easily accommodate the increased traffic which may result from the potential infill development made possible by the proposed zone change. Therefore, the proposed zone change is compatible with Goal 12.

Goal 14 – Urbanization

*To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

The subject parcel is within the Salem Urban Growth Boundary and designated Commercial in the Salem Area Comprehensive Plan. The proposed zone change to Commercial Retail is consistent with Salem's Comprehensive Plan designation and would bring the property into compliance with Salem's long term urbanization goals, which in turn ensures the efficient use of the land. Therefore, the proposed zone change is compatible with Goal 14.

13. Marion County Planning Staff recommended approval of the proposal from RM to CR, with the application of the following conditions of approval:
  - A. Applicant shall obtain all permits required by the Marion County Building Inspection Division.
  - B. All current and future development on the property must satisfy the specific development standards in the CR zone (MCC 16.06) and the general development standards found in Chapters 16.26 through 16.40 of the MCC.

14. The proposed condition of approval (requiring all development on the property must satisfy specific development standards in the CR zone) requires clarification because there is a conflict with respect to density allowances between the CR and RM zones. The conflict is that the CR zone expressly allows “dwelling units” tied to a commercial use, but MCC 16.200.050(E) would cap other zones (which includes CR) at one dwelling per lot when dwellings are allowed. Staff indicates that the number of dwellings could not exceed that which is allowed in the RM zone. MCC 16.27.050(E) can be interpreted as applying to stand-alone residential projects in “other zones” and not mixed use in the CR zone. Staff indicates a maximum of six (6) dwelling units as a restriction on density. However, Applicant indicates that substantially fewer units are intended based upon the available property and restrictions of other applicable standards.

### VII. Decision

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval of a zone change from RM to CR have been met. Therefore, the Hearings Officer **GRANTS** the zone change application, subject to the conditions set forth below. The conditions are necessary for the public health, safety and welfare.

- A. The Applicant shall obtain all permits required by the Marion County Building Inspection Division.
- B. All current and future development on the property must satisfy the specific development standards in the CR zone (MCC 16.06) and the general development standards found in Chapters 16.26 through 16.40 of the MCC.
- C. The Applicant is limited to the development of up to 6 dwelling units.

### VIII. Referral of Decision

This document is a referral to the Marion County Board of Commissioners. A hearings officer’s decision to approve a zone change does not become final until the Board adopts an ordinance implementing the decision. Any aggrieved or affected person may file with the Marion County Clerk (555 Court Street NE, Salem, Oregon), a written request for a public hearing before the Board within fifteen (15) days of the date of mailing of this decision. The request must be accompanied by and will not be accepted without payment of a \$500.00 fee. If the Board denies the appeal, \$300 of the fee will be refunded. The Board has discretion whether to hold a public hearing. After fifteen (15) days, the Board may take final action on this application without conducting another public hearing.

DATED this 20<sup>th</sup> day of August, 2025.

  
\_\_\_\_\_  
Jim F. Foster  
Marion County Hearings Officer

## CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

Junyao Cen  
193 Lancaster Dr. NE  
Salem, OR 97301

Surveyor's Office (via email)  
KInman@co.marion.or.us

Jimmy Cen  
193 Lancaster Dr. NE  
Salem, OR 97301

Fire District No. 1:  
300 Cordon Rd NE  
Salem, OR 97301  
emanuela@mcfd1or.gov

City: Salem/Keizer (via email)  
apanko@cityofsalem.net  
developmentservices@cityofsalem.net  
Planning@cityofsalem.net  
withams@keizer.org

Planning Division (via email)  
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abarnes@co.marion.or.us  
jspeckman@co.marion.or.us  
ediaz@co.marion.or.us  
GPeden@co.marion.or.us

Area Advisory: Committee #  
NA

Building Inspection (via email)  
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Kaldrich@co.marion.or.us  
CTate@co.marion.or.us

Roger Kaye  
Friends of Marion County  
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Salem, OR 97302

Public Works LDEP Section (via email)  
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mcldep@co.marion.or.us  
JShanahan@co.marion.or.us

1000 Friends of Oregon  
340 SE 6<sup>th</sup> Street  
Portland, OR 97214

School District: Salem/Keizer (via email)  
fridenmaker\_david@salkeeiz.k12.or.us

### **County Agencies Notified:**

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assessor@co.marion.or.us

Code Enforcement (via email)  
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Tax Collector (via email)  
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ADhillon@co.marion.or.us

**State Agencies Notified:**  
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hilarv.foote@dlcd.oregon.gov  
sarah.marvin@state.or.us

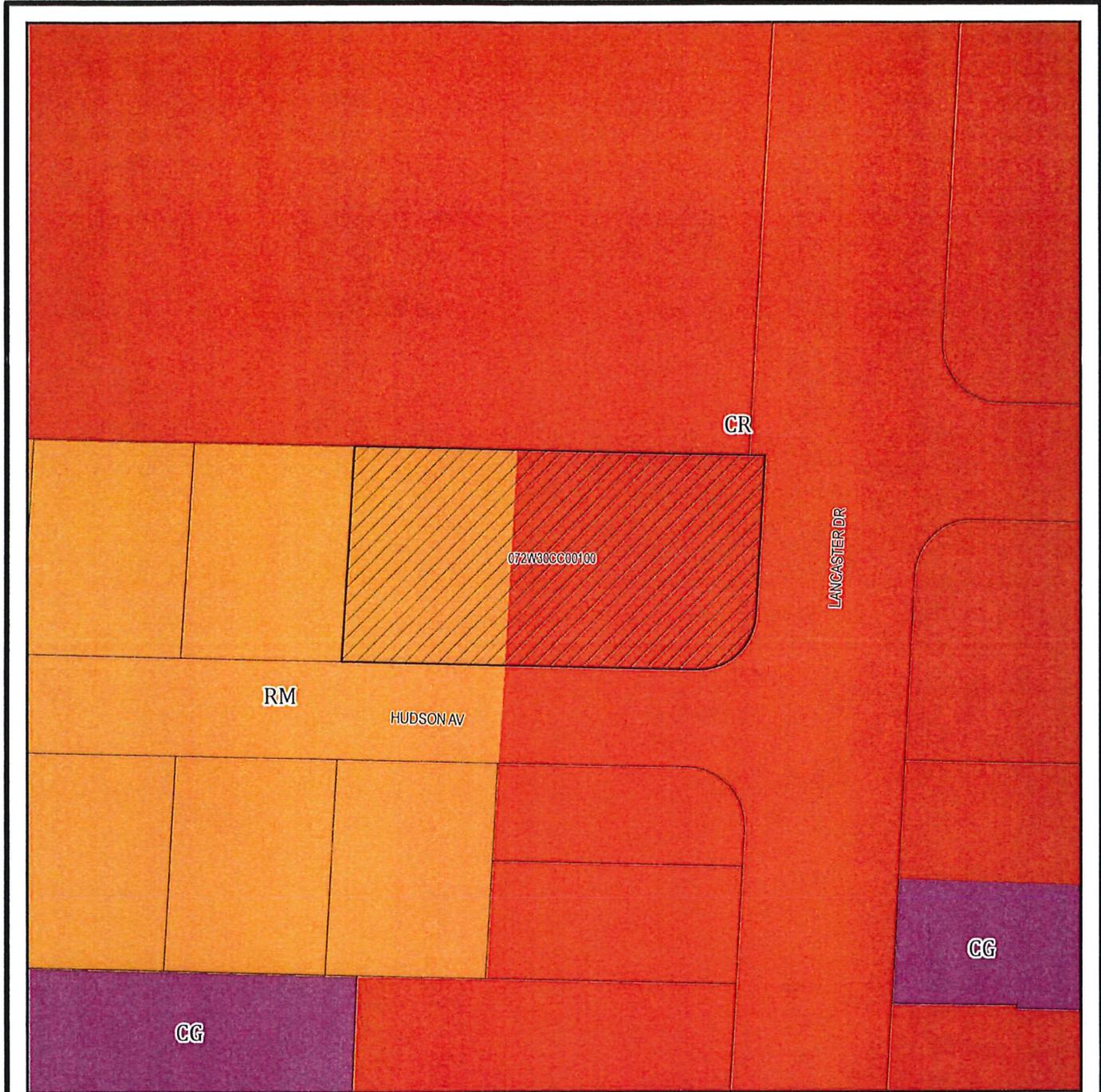
**Special Agencies Notified:**

NA

By mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes addressed as noted above. that said copies were deposited in the United States Post Office at Salem, Oregon, on the 20th day of August, 2025 and that the postage thereon was prepaid.



Administrative Assistant to the  
Hearings Officer



### ZONING MAP

Input Taxlot(s): 072W30CC00100

Owner Name: LUCKYJUN LLC

Situs Address: 193 LANCASTER DR NE

City/State/Zip: SALEM, OR, 97301

Land Use Zone: CR; RM

School District: SALEM-KEIZER

Fire District: MARION COUNTY NO.1

#### Legend

Input Taxlots

Lakes & Rivers

Highways

Cities



scale: 1 in = 73 ft

DISCLAIMER: This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 17, 2025

Department: Public Works

Title: Schedule adoption of an administrative ordinance approving Comprehensive Plan Change/Zone Change/Partition 19-005/Pfennig/Lois Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust

Management Update/Work Session Date: N/A Audio/Visual aids [ ]

Time Required: 0 min Contact: Austin Barnes Phone: 503-566-4174

Requested Action: Schedule adoption of an administrative ordinance approving Comprehensive Plan Change/Zone Change/Partition 19-005/Pfennig/Lois Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust at the next board session, September 24, 2025.

Issue, Description & Background: The Marion County Hearings Officer held a duly noticed hearing on the application on September 8, 2022, and on June 2, 2025, issued a recommendation to approve the application. The Board held a duly noticed public hearing on the application on August 20, 2025, and considered all the evidence in the record and approved the request. The ordinance and findings have been prepared and the matter needs to be scheduled for final consideration and adoption.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Ordinance

Presenter: Austin Barnes

Department Head Signature: [Handwritten Signature]

**BEFORE THE BOARD OF COMMISSIONERS  
FOR MARION COUNTY, OREGON**

In the Matter of the ) Case No. CP/ZC/P19-005  
Application of: )  
Lois M. Pfennig, Trustee of the Henry O. )  
and Lois M. Pfennig Trust )

AN ADMINISTRATIVE ORDINANCE

**ORDINANCE NO. \_\_\_\_\_**

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

**SECTION I. Purpose**

This matter comes before the Marion County Board of Commissioners ("Board") on the application of Lois M. Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust to change the zone from SA (Special Agriculture) to AR-10 (Acreage Residential 10-acre minimum) and the comprehensive plan designation from SA (Special Agriculture) to Rural Residential with an exception to Statewide Land Use Goal 3 (Agricultural Land) on a 20.46 acre parcel, and then a partition to divide the 20.46 acre parcel into two parcels containing 10 acres and 10.46 acres each, on property located in the 2400 block of 62nd Avenue SE, Salem (T8S; R2W; Section 04A; Tax Lot 2800).

**SECTION II. Procedural History**

The Marion County Hearings Officer held a duly noticed public hearing on September 8, 2022, and on June 2, 2025, issued a recommendation to approve the application. Official notice was taken of the Planning Division file and the Hearings Officer's recommendation. The Board held a duly noticed public hearing on the application on August 20, 2025, and has considered all the evidence in the record, all arguments of the parties and is otherwise fully advised in the premises.

**SECTION III. Adoption of Findings and Conclusion**

After careful consideration of all facts and evidence in the record, the Board adopts as its own the Findings of Fact and Additional Findings of Fact and Conclusions of Law contained in Section V and VI of the Hearings Officer's decision dated June 2, 2025 contained in Exhibit A, and supplemental findings contained in Exhibit B, both attached hereto, and by this reference incorporated herein.

**SECTION IV. Action**

The requested zone change from SA (Special Agriculture) to AR-10 (Acreage Residential 10-acre minimum) and the comprehensive plan designation from SA (Special Agriculture) to Rural

Residential with an exception to Statewide Land Use Goal 3 (Agricultural Land) on a 20.46 acre parcel, and then a partition to divide the 20.46 acre parcel into two parcels containing 10 acres and 10.46 acres each is hereby **GRANTED**, subject to conditions identified in Exhibit C, attached hereto, and by this reference incorporated herein.

The property rezoned by this Ordinance is identified on a map in Exhibit D, attached hereto and by this reference incorporated herein. The Official Marion County Zoning Map shall be changed pursuant to Marion County Code Section 17.110.660 to reflect the new zoning subject to conditions identified in Exhibit C, attached hereto, and by this reference incorporated herein.

**SECTION V. Effective Date**

Pursuant to Chapter 1.10 of the Marion County Code, this is an Administrative Ordinance and shall take effect 21 days after the adoption and final signatures of the Marion County Board of Commissioners.

SIGNED and FINALIZED this \_\_\_\_\_ day of \_\_\_\_\_, 2025, at Salem, Oregon.

**MARION COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Recording Secretary

**JUDICIAL NOTICE**

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of ) Case No. CP/ZC/P 19-005  
 )  
 Lois Pfennig, Trustee of The Henry O. ) **COMPREHENSIVE PLAN AMENDMENT**  
 and Lois M. Pfennig Trust ) **ZONE CHANGE and PARTITION**

**RECOMMENDATION**

**I. Nature of the Application**

This matter is before the Marion County Hearings Officer on the Application of Lois M. Pfenning, Trustee of the Henry O. and Lois M. Pfenning Trust to change the comprehensive plan designation from Special Agriculture to Rural Residential and to change the zone from SA (Special Agriculture) to AR-10 (Acreage Residential), on a 20.46 -acre parcel, then partition that parcel into two lots of 10 and 10.46 acres, located in the 2400 block of 62nd Avenue SE, Salem (T8S; R2W; Section 4A; tax lot 2800).

**II. Relevant Criteria**

The standards and criteria relevant to this Application are found in the Marion County Comprehensive Plan (Rural Development Policies), and the Marion County Code (MCC) Title 17, especially MCC 17.123, MCC 17.128, and MCC 17.172. Policies relevant to this Application are also found in the State of Oregon Statewide Planning Goals, and Oregon Administrative Rules (OAR 660-004-018 and OAR 660-004-028).

**III. Public Hearing**

A public hearing was held on this matter on September 8, 2022. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the Application:

- |    |               |                                 |
|----|---------------|---------------------------------|
| 1. | Austin Barnes | Marion County Planning Division |
| 2. | Wallace Lien  | Attorney for Applicant          |
| 3. | Larry Pfennig | In Support of Application       |
| 4. | Roger Kaye    | Friends of Marion County        |

No documents were presented, marked, or entered into the record as exhibits. No objections were raised as to notice, jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

A request was made at the hearing to leave the written record open to submit additional materials. Pursuant to ORS 197.763(6)(a), prior to the close of the evidential hearing, any participant may ask to present additional evidence, argument, or testimony on the applications, and the hearings officer shall grant the request by continuing the hearing to a later date, or by keeping the record open to submit the information in writing. The hearings officer granted an open record period.

The following submissions were received during the open record period:

1. Submission by Friends of Marion County Received September 20, 2022 with attached Exhibit Map
2. Applicant's Open Record Submittal

#### IV. Executive Summary and Background

Applicant applied for an irrevocably committed exception to Goal 3 and Goal 14 in the original application in 2019. Planning staff and the hearings officer denied the application. The Board of Commissioners approved the application on March 24, 2021, Ordinance No. 1429. Friends of Marion County appealed the decision to the Land Use Board of Appeals (LUBA). LUBA concluded that the County's decision relied on findings that did not comply with applicable rules and that were not supported by substantial evidence. LUBA determined that the standards for an irrevocably committed exception had not been met.

Applicant submitted a supplemental justification to resolve the concerns raised by LUBA in its remand of the Board's prior approval. As part of the revised application, Applicant modified the request for the AR-2 zone to the AR-10 zone. Because 10 acres are not considered urban in nature, the requirement for a Goal 14 Exception is eliminated.

Applicant submitted additional materials to address the evidence to support the determination and has established compliance with all applicable criteria. The testimony and affidavit of Larry Pfennig are compelling because Mr. Pfennig is the farmer who has attempted to keep the subject property in farm use, but based on several issues has determined that farming is simply impractical on the subject property. The additional findings, along with the modified application, are sufficient to overcome the standards required to take this property out of exclusive farm use. Applicant has shown that the relationship between the subject property and the adjacent lands has irrevocably committed the subject property to uses allowed by Goal 3, and that the uses allowed by the goal are impracticable. The Hearings Officer recommends **APPROVAL** of the Application with conditions of approval stated herein and robust findings of fact to support a determination that farm use cannot coexist with surrounding uses.

This case presents a difficult analysis of conflicting issues for farming viability and protection of farmlands. Larry Pfennig's Affidavit addresses the subject property's relationship with surrounding parcels and presents sufficient findings that farming is impracticable on the subject property. Mr. Pfennig's statements are based on his experience as a life-long farmer, and present sufficient support to approve the application. Robust findings of fact must be included in an Order to withstand scrutiny from the Land Use Board of Appeals. It is recommended that Applicant provide additional evidence at the BOC hearing to support Applicant's decision to stop farming the property, and additional evidence to establish that the issues suffered on the property are not an inevitable consequence of Applicant's decision not to farm, other than cover crops.

Planning suggests a 300-foot special setback if approval is recommended. Applicant objects. Further factual support is needed to justify a special setback of over 100 feet.

## V. Findings of Fact

The Hearings Officer, after careful consideration of the testimony and evidence in the record, issues the following finding of fact:

1. The property is located west of 62<sup>nd</sup> Avenue SE, south of Macleay Road SE, and north of Culver Drove SE. The property is unimproved and has a small amount of frontage on an undeveloped right-of-way identified as Wickiup Street SE and access from Whispering Way SE, a private easement. The parcel is currently being farmed and is specially assessed for agriculture by the Marion County Tax Assessor's Office. Soils on the subject parcel are composed of Amity (Am), Woodburn (WuA), Concord (Co), and Silverton (SuC) Class II and III silt loam soils that are defined as high value for agriculture. The property is described in its current configuration in deeds as far back as 1958 and is a legal parcel for land use purposes.
2. Surrounding properties to the west and south are zoned SA and composed of small to medium sized lots in agricultural and rural residential use. Property to the north and east is zoned AR and developed with small rural residential lots.
3. Applicant seeks to create a revised partition of the 20.46 acre property into two parcels of 10.46 acres and 10 acres.
4. Marion County Planning Division requested comments from various governmental agencies. The following comments were received in response to the Applicant's first application requesting AR-2 zoning. No further request for comments was made for Applicant's modified application, and therefore, the comments received reference the original application:

Marion County Public Works Land Development and Engineering Permits (LDEP) requested that the following conditions be included in the land use case:

### ENGINEERING CONDITIONS

*Condition A* - On the plat, show sufficient right-of-way dedication to serve the future AR-2 lots.

*Condition B* - Prior to plat approval, provide a stormwater detention template plan prepared by a licensed civil engineer addressing stormwater detention on each of the proposed lots to be constructed in conjunction with homebuilding.

*Condition C* - Prior to plat approval, provide a notarized Road Maintenance Agreement (RMA) regarding the proposed shared access easement."

### ENGINEERING REQUIREMENTS

- D. In accordance with Marion County Code 11.10, driveway "Access Permits" for access to the public right-of-way will be required upon application for building permits for a new dwelling on any of the resulting parcels. Driveways must meet sight distance, design, spacing, and safety standards.
- E. The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon

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application for building permits, per Marion County Ordinances #00-JOR and #98-40R, respectively.

- G. Utility work within the public right-of-way requires permits from MCPW Engineering.

ENGINEERING ADVISORY

- I. There is concern that applying a step-wise approach to developing the entire subject property as AR-2 in combination with the northern neighboring parcels under similar ownership may invoke difficulties with access that meets MCPW as well as fire access standards.
- J. The land use application site map has Whispering Way annotated as a 40 feet wide easement. However, it is noted that Partition Plat #2012-08, and subsequently Partition Plat #2019-38, indicates Whispering Way as being a total of 26 feet in width.
- K. Construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner.
- L. Applicant is advised to coordinate with the local fire marshal for any required fire turnarounds and/or turnouts that may need to be depicted on the plat.
- M. Per Partition Plat #2012-08, and subsequent Partition Plat #2019-38, the easement shown on the site plan from Macleay Road (Whispering Way) does not serve the subject property and is therefore not a legal access for the subject property. This easement currently serves two parcels without frontage to public right-of-way."

Marion County Onsite Wastewater Specialist commented: Site evaluation required for two new 2.0 acre parcels.

Marion County Fire District No. 1 commented on fire safety, access, and premise identification requirements for development of the property.

Oregon Department of Land Conservation and Development commented: Irrevocably committed exception must demonstrate compliance with OAR 660-004-0018(2), which addresses planning and zoning for exception areas. Specifically, the applicant must demonstrate that approval of the exception meets the following requirements:

- The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and
- The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

The applicant should address whether future residential uses will irrevocably

commit adjacent lands zoned Special Agriculture and how it will be compatible with adjacent farm use. It is insufficient to rely on current compatibility with adjacent farm uses since the use of the subject property is proposed to change to residential.

All other contacted agencies either failed to respond or stated no objection to the proposal.

5. On November 22, 2021, the Land Use Board of Appeals issued its Final Opinion and Order. LUBA determined that the County's decision relied on findings that do not comply with applicable rules and are not supported by substantial evidence. LUBA stated that the standards for an irrevocably committed exception were not met because resource use of the subject property has not been shown to be impracticable. However, LUBA determined that it could not conclude that an irrevocably committed exception for the subject property is prohibited as a matter of law, and remanded the matter.
6. In response to the LUBA order, Applicant provided Supplemental Justification with additional facts in support of the Application. Most notably, Applicant modified the request to seek an AR-10 zone instead of the AR-2 zone originally sought. The modified application requires an exception to Goal 3 together with a change in the zone designation from Special Agriculture (SA) to Acreage Residential Ten Acre Minimum (AR-10), with a partition of the 20.46 acre subject property into two parcels of 10.46 acres and 10 acres.
7. The scope of the remand hearing should be limited to the issues upon which the case was remanded. The basic underpinnings of the LUBA decision include the alleged misconstruction of the law, adequacy of the findings, and the parcels to be allowed. Applicant submitted a supplemental justification including affidavits of Larry Pfennig and Wallace Lien.
8. Larry Pfennig is a lifelong farmer in Marion County, and is the owner of Pfennig Farms, Inc. Mr. Pfennig has been associated with the subject parcel for almost his entire life. Mr. Pfennig states that the subject property does not have a farm well and there are no current water rights associated with the property, which Mr. Pfennig argues limits the parcel's productivity for farm uses. Mr. Pfennig is concerned about the impact of farm uses on the aquifer; that is, that use of water will have an impact on surrounding properties. On the other hand, because of the proximity of small, landscaped lots, the subject property has experienced overspray of landscape irrigation. Mr. Pfennig indicates that overspray from landscaping can result in damage to crops and impact his ability to readily farm the parcel and that he has lost one acre of crop from the overspray. Mr. Pfennig argues that Mr. Pfennig, in declaration and in testimony, provided evidence of conflict between water availability and overspray. Mr. Pfennig testified about an incident in which he lost one acre of crop from overspray from a now non-existing blueberry patch on adjacent property. Mr. Pfennig has not actively farmed the property since 2005

because it was not practical to do so. Mr. Pfennig testified that based on the size of the parcel, the lack of water rights, and conflicts from neighboring properties, farming the property was not productive or cost effective. Mr. Pfennig presented evidence that the impacts from residential neighbors in non-farm uses has generated impacts that conflict with farming. Mr. Pfennig noted trespass, fire damage, overspray, and use of property (horseback riding, walking dogs, motorcycle riding) that results in his property being incompatible with farming. Mr. Pfennig notes the possible introduction of hazards to farming from animals entering the property. Mr. Pfennig recognizes Oregon's Right to Farm protections, but notes that despite his right to farm, doing so on this property does not shield him from conflicts with the nearby residential uses. Mr. Pfennig argues that the limitations of the property itself (water rights, lack of well, size, surrounding residential uses) make farming impractical for the purpose of obtaining a profit. Mr. Pfennig states that as a life long farmer in this area, no farm uses, no matter how the term is defined can practicably be carried on the subject property with houses lining nearly all sides, and some as close as 20 feet from the property line.

9. Larry Pfennig states that on this subject property, he has seen overspray of chemicals that has taken large swaths of property out of production. Mr. Pfennig stated that overspray from adjoining non-farm parcels on the subject property has impacted his ability to have a farming operation on the subject parcel.
10. Wallace Lien, Attorney for Applicant, addressed the affidavits of Larry Pfennig submitted into the record. Mr. Lien addressed the importance of the size of the study area for this application and stated that a smaller study area is important for a neighborhood view of the existing property. Mr. Lien addressed the adjacent properties and indicated that the surrounding areas have a 2.3-acre average, and 12 of out the 13 nearby parcels have a dwelling, and seven of the 13 parcels are one acre or less. Mr. Lien stated that of the thirteen parcels, none are over ten acres in size. The proposed parcels would be significantly larger than surrounding properties. Mr. Lien addressed the difficulties associated with the subject parcel in that it has no irrigation rights and has suffered impacts from neighbors that is not conducive to agricultural use. Mr. Lien noted that the information provided (trespass, fires, overspray) suggests an impracticability to farm. Mr. Lien argues that the size of the parcel and the close proximity of residential uses make contiguous farm uses impractical.
11. Larry Pfennig testified at the hearing. Mr. Pfennig testified that the water from a neighboring operation came forty feet into the property, and ruined approximately one acre of property. Five acres of the subject property were burned by fire. The damage from fire, in addition to ongoing trespass issues, were factors for Mr. Pfennig to determine replanting was not justified after the fire. Mr. Pfennig attempted to farm with a cover crop year after year, and in 2005, quit because there was no profit in it and the neighbors were unhappy with his farming operations. Of the twenty acres, Mr. Pfennig indicated that at best 14-15 acres were farmable. While it is common for property to include non-tillable land, with the lack of irrigation and water rights, the capability of the parcel to be productively farmed is limited. While a specific threshold of profitability is not presented, Mr. Pfennig's experience as a farmer who did farm the

property but quit for practicality and profitability, is accepted as reasonable support for his position.

Mr. Pfennig testified that the land has been used for motorcycle riding, and horseback riding, and that the property is regularly trespassed upon by neighbors with dogs. The property supported a cover crop, but Mr. Pfennig states it is not practical or cost effective to farm the property. Mr. Pfennig also indicated the concern of introduction of parasites or contaminants to the land caused by the trespass by humans and animals.

12. There is a dispute among the parties whether there is an active blueberry farm adjacent to the subject property. Applicant states that the active blueberry farm, Thank You Berry Much Farms is not on adjacent property. Friends of Marion County states that there is an adjacent parcel in active blueberry operation.
13. Roger Kaye, Friends of Marion County, testified at the hearing. Mr. Kaye addressed the submissions by Friends of Marion County, and stated that adjacent property is in active blueberry production, and could accommodate additional blueberry crops. Mr. Kaye addressed the replacement of manufactured home on adjacent property, and stated that with the new septic drain field, additional blueberry production could be supported on adjacent property. Mr. Kaye states that there are an additional 1.25 acres of blueberry production associated with the Thank You Berry Much. Mr. Kaye addressed the study area, and introduced additional submissions that were included in the record.

#### V. Additional Findings of Fact and Conclusion of Law

1. This is a recommendation to the Marion County Board of Commissioners (BOC). The BOC is the final decision-making authority.
2. Applicant has the burden of proving compliance with all applicable criteria as explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390, 394-395(1987).  
 “Preponderance of the evidence” means the greater weight of evidence. It is such evidence that when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted).

Applicants must prove, by substantial evidence in the record, it is more likely than not that each criterion is met. If the evidence for any criterion is equal or less, Applicants have not met their burden and the application must be denied. If the evidence for every criterion is even slightly in Applicants’ favor, the burden of proof is met and the application is approved.

#### GOAL EXCEPTION PROCESS

3. Applicant seeks an exception to Statewide Planning Goal 3, Agricultural Lands, to

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remove Goal 3 restrictions. Under OAR 660-004-0005(1), an exception to a statewide planning goal is a comprehensive plan provision. The goal exceptions require an M CCP amendment.

4. OAR 660-004-0005(1) defines an exception as a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:
  - (a) *Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;*
  - (b) *Does not comply with some or all goal requirements applicable to the subject properties or situations; and*
  - (c) *Complies with ORS 197.732(2), the provisions of OAR 660-004 and, if applicable, the provisions of OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040.*

The proposed exceptions are for a specific situation at this 20.46-acre property and do not establish planning and zoning policy generally. OAR 660-004-0005(1)(a) is met.

Applicant proposes residential uses not allowed or conditionally permitted on property designated Special Agriculture and zoned SA. OAR 660-004-0005(1)(b) is met.

5. Under ORS 197.732(2), a local government may adopt an exception to a goal if:
  - a. *The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;*
  - b. *The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or*
  - c. *The following standards are met:*
    - A. *Reasons justify why the state policy embodied in the applicable goals should not apply;*
    - B. *Areas that do not require a new exception cannot reasonably accommodate the use;*
    - C. *The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and*     *i*
    - D. *The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.*

Applicant does not propose physically developed or reasons exceptions under (a) or (c). Applicant requests irrevocably committed exceptions to Goals 3 only. ORS 197.732(2)(b) standards are addressed under OAR 660-004 for the Goal 3 exception.

### GOAL 3 EXCEPTION

6. Statewide Planning Goal 3, Agricultural Lands, which seeks to preserve and maintain agricultural lands, applies to the subject property. Applicant seeks an exception to Statewide Planning Goal 3, to remove Goal 3 restrictions. The Goal Exception process requires specific findings justifying why such lands are not available for resource use. There are three types of exceptions to Statewide Goals that may be granted. The first two are based on the concept that the subject property is "physically developed" or "irrevocably committed" to a certain use.

The third is a "reasons" exception where there is a demonstrated need for the proposed use or activity. Applicant posits that the proposal qualifies for an irrevocably committed exception. Residential uses are not allowed under Goal 3.

7. Goal exceptions are governed by Statewide Planning Goal 2. Goal 2 is implemented through Oregon Administrative Rule (OAR) 660-004. The rules applicable to irrevocably committed exceptions are set out in OAR 660-004-0028. Under OAR 660-004-0028(1), a local government may adopt an exception to a goal when the land is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impractical. Pursuant to OAR 660-004-0028(2), whether land is irrevocably committed depends on the relationship between the proposed exception area and the lands adjacent to it.

### OAR 660-004-0028 (Overview)

8. OAR 660-004-0028 provides exception requirements for land irrevocably committed to other uses:
- (1) *A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant/actors make uses allowed by the applicable goal impracticable:*
- (a) *A "committed exception" is an exception taken in accordance with ORS 197.732(2)(h), Goal 2, Part 1/(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).*
- (b) *For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken.*
- (c) *An "applicable goal," as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.*

- (2) *Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception must therefore address the following:*
- (a) *The characteristics of the exception area;*
  - (b) *The characteristics of the adjacent lands;*
  - (c) *The relationship between the exception area and the lands adjacent to it; and*
  - (d) *The other relevant factors set forth in OAR 660-004-0028(6).*
- (3) *Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(2)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule, except where other rules apply as described in OAR 660-004-0000(1). Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:*
- (a) *Farm use as defined in ORS 215.203;*
  - (b) *Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and*
  - (c) *Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).*
- (4) *A conclusion that an exception area is irrevocably committed shall be supported by findings of fact that address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.*
- (5) *Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands that are found to be irrevocably committed under this rule may include physically developed lands.*
- (6) *Findings of fact for a committed exception shall address the following/actors:*
- (a) *Existing adjacent uses;*
  - (b) *Existing public facilities and services (water and sewer lines, etc.);*
  - (c) *Parcel size and ownership patterns of the exception area and adjacent lands;*

- (A) *Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision. Past land divisions made without application of the goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other/actors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and non-resource parcels created and uses approved pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for the subject parcels or land adjoining those parcels.*
- (B) *Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations;*
- (d) *Neighborhood and regional characteristics;*
- (e) *Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;*
- (f) *Physical development according to OAR 660-004-0025; and*
- (g) *Other relevant factors.*
- (7) *The evidence submitted to support any committed exception shall, at a minimum, include a current map or aerial photograph that shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The*

*applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.*

OAR 660-004-0028(2)(a) and (b) (Characteristics)

9. The subject property is a 20.46-acre parcel located in the 2400 block of 62nd Avenue SE, Salem, Marion County, Oregon (TBS; R2.W; Section 04A; tax lot 2800). Applicant (Applicant's family) has owned the subject property since 1958. The property is located west of 62nd Avenue SE, south of Macleay Road SE, and north of Culver Drive SE. It is unimproved and has a small amount of frontage on an undeveloped right-of-way identified as Wickiup Street SE. The parcel is zoned SA, is currently being farmed with a cover crop, and is specially assessed for agriculture by the Marion County Tax Assessor's Office.

The site topography is generally flat, with a slight slope to the south. Soils on the subject parcel are composed of Amity (Am), Woodburn (WuA), Concord (Co), and Silverton (SuC) Class II and III silt loam soils that are defined as high value for agriculture. There is an electrical power line that runs along the eastern boundary of the subject property, and a small stand of scrub trees crossing the southern half of the parcel.

10. The subject property does not have water rights or a well for farm use. The subject property has a cover crop, but has not been actively farmed since 2005 because Applicant (and family) determined that it was not practical to farm the property. This determination was based upon conflicting uses with adjacent rural residential parcels, including trespass and damage to property from fires, size of the parcel, actual tillable acreage, and the presence of high voltage electrical power lines.

The lack of irrigation and unique location of the property amount neighboring residences, along with the testimony of Mr. Pfennig support the position that it is too onerous for Mr. Pfennig to continue the agricultural use of the land due to nearby nonfarm uses.

11. The subject property is surrounded by residential uses. The neighboring properties are primarily residential. There is a blueberry farm, Thank You Berry Much Farm at Tax Lot 200 on Map 8.2W.04B. The parcel is not contiguous to the subject property. There is, however, a parcel that is adjacent to the property that Friends of Marion County argue is managed by Thank You Berry Much Farm. Applicant states that this adjacent lot, Tax Lot 3000, was sold to someone who immediately tore out over an acre of blueberries to site a new home. Applicant states that there has been no harvesting of blueberries from the adjacent land in 2020, 2021, or 2022. It is recommended that Applicant present current evidence about farming of blueberries in the immediate area, as well as any evidence tending to indicate that farming in the immediate area is decreasing as a result of the difficulties of farming in a residential area.

There are six parcels immediately adjacent to the east of the subject property between the property and 62<sup>nd</sup> Avenue SE. These parcels are all one acre or less, are zoned AR, and each contain a non-farm dwelling. To the south is a 2.93 acre parcel that is zone SA with a non-farm dwelling. Immediately adjacent to the west are four parcels that are all zoned SA that range from one-half acre to four acres in size. All of these

parcels have non-farm dwellings. One of these parcels includes a blueberry operation, the size and scope of which is disputed. To the north of the property are two parcels owned by the Applicant that are 9.62 and 2 acres in size. These parcels are also zoned AR, and the 9.62 acre parcel includes a dwelling. These parcels were owned by Applicant prior to the acknowledgment of the Marion County Comprehensive Plan in 1987.

Beyond the immediately adjacent lands, surrounding properties to the west and south of the subject property are also zoned SA and are composed of small to medium sized lots in agricultural and rural residential use. Properties to the north and east are mostly zoned AR and developed with rural residential lots. The parcels north of the subject property, and separated by Macleay Road and zoned SA and are in farm deferral.

Most of the dwellings in the immediate vicinity of the subject property, in both the SA and AR zones, were built prior to the Marion County Comprehensive Plan, and are adjacent to a goal exception area. However, many of the larger parcels were partitioned into one to two acre residential lots after the acknowledgement of the MCCP.

The Oak Meadows Subdivision, which was platted in 1957, is a suburban residential subdivision of one-half acre lots, lies northwest of the subject property. The subject property is part of the Oak Dell Farm Subdivision which was platted in 1914 and includes hobby farms of less than twenty acres. Other parcels in the Oak Dell Farm were further divided to create the one-to-eight-acre rural residential lots located adjacent to 59<sup>th</sup> Avenue SE, between Macleay Road SE and Culver Drive SE.

12. In the original application, Applicant selected a study area on the basis of all the areas surrounding the subject property on the Assessor Maps. The study area included all property that encompassed 6.23 acres of agricultural, rural residential, and some commercial properties. Applicant notes that LUBA referred to the study area as being “large” but did not indicate how large a study area should be. In order to downsize the study area, Applicant considers only properties that are contiguous to the subject property. Applicant urges that the Department of Land Conservation and Development (DLCD), based on its interpretation of in the prior proceeding, *Scott v. Crook County*, 56 LUBA 691 (2008), that only contiguous properties be subject to the analysis. Applicant encourages that good land use planning requires a wider analysis that adjacent properties, Applicant defers to DLCD given the language of the LUBA remand. Applicant further states that OAR 660-004-0028 makes references to “adjacent uses.” Applicant states that according to [www.Merriam-Webster.com](http://www.Merriam-Webster.com), “adjacent” means having a common border and includes “contiguous” as a synonym.
13. The focus of an irrevocably committed exception must be preponderantly on the adjacent properties, rather than any limitations inherent in the subject property itself. *Friends of Linn County v. Linn County*, LUBA (2002-176). Applicant submits an evaluation of existing adjacent uses. The study area includes 13 parcels that total 29.91 acres, for an average parcel size of 2.3 acres. Eleven of the thirteen parcels have houses, and one of those vacant parcels is owned by Applicant. Four of the parcels have the SA zoning and seven have the AR zoning. Only one parcel has farm tax deferral status. Applicant submits a chart (Applicant’s Supplemental Justification on Remand) illustrating the status and use of adjacent properties. Applicant’s chart shows that there is only one

adjacent parcel in farm use. All but two of the adjacent parcels have existing dwellings and each of the dwellings were built prior to the application of comprehensive land use planning. Nine of the parcels have been zoned for Acreage Residential and four for Special Agriculture use. Only TL3000, with the small blueberry field qualified for farm tax deferral.

Applicant argues that the concern about the study area is resolved by use of the review of adjacent lands, but notes that the original study area stands for neighborhood and regional characteristics.

The selected study area is sufficient for the analysis required by OAR 660-004-0028(2). For purposes of the remand as it relates to OAR 660-004-0028, Applicant focuses on an evaluation of existing adjacent uses. This approach is reasonable given Applicant's description of the subject property as the "hole" of a doughnut – Applicant looks to the properties that create the "doughnut" around the subject property, the "hole." The physical features of the property and its uses, and the development pattern of the lands bordering the subject property support a determination that the study area is adequate to consider the property's relationship with adjacent lands.

14. The uses on adjacent properties irrevocably commit the subject property to nonresource use as supported by the statements submitted by Larry Pfennig. Larry Pfennig detailed both in his Affidavit and his testimony conflicts with surrounding uses that are not speculative: overspray, fire, trespass, and aquifer fragility caused by neighboring residential landscaping.

Further, Larry Pfennig does not and cannot rely on the subject parcel to support a commercial agricultural crop. Mr. Pfennig details that he lost an acre of property from irrigation overspray, he lost five acres of property from an actual fire caused trespass and use by surrounding neighbors, Mr. Pfennig details that neighbors have used the subject property to ride motorcycles. Because of the relationship with surrounding uses, not only can the subject property not support commercial agriculture, according to Mr. Pfennig, only a cover crop can be supported on the subject property with no expectation of any financial remuneration.

The size and location of the revised study area presented by Applicant complies with the mandates of OAR 660-004-0028 because it includes a thorough evaluation of adjacent and surrounding lands within a suitable geographic range. The testimony and declaration of Larry Pfennig addresses characteristics of the neighborhood, which in addition to the detailed examination of the study area shown in the analysis submitted in Applicant's Supplemental Justification on Remand, is sufficient to address the criterion.

Specifically, Mr. Pfennig details characteristics of the property that commit the subject property to nonresource use, including small size, lack of water rights for irrigation, access limitations, the presence of high voltage electrical power lines. However, the focus of the exception is with respect to the conflicts with the surrounding properties: irrigation and chemical overspray, trespass by neighbors and their animals, including motorcycles, and risk of fires.

Mr. Pfennig has planted cover crops on the subject property but has not obtained a financial benefit from doing so. Cover crops can be considered a sustainable agricultural practice that can benefit soil structure, pest and weed management. Mr. Pfennig's testimony that it is not cost effective to farm the property, and Mr. Pfennig stopped actively farming years ago. The presence of residential neighbors created economic challenges for Mr. Pfennig including increased costs of farming and increased risk of productivity. While Oregon has a Right to Farm law to protect farmers, Mr. Pfennig could face challenges and legal costs from impacts to residential neighbors.

It is recommended that Applicant provide additional evidence on the impact of the lack of irrigation and trespass by neighbors in his decision to stop farming, and proof that the neighbor's trespass is not the result of his not farming the subject property.

OAR 660-004-0028(2)(c) and (d) (Relationship to exception area and adjacent lands)

15. The LUBA Final Opinion and Order determined that the County misconstrued the law when it "declared the exception area irrevocably committed without undertaking the required analysis of adjacent lands." LUBA stated that the County explained that it determines whether the surrounding area irrevocably commits the subject property to nonresource use before it determines whether the relationship between the surrounding property make the resource use impracticable. LUBA directs that the 660-004-0028 factors must be analyzed before it is possible to conclude that the surrounding property commits the subject property to nonresource use.

OAR 660-004-0028(2)(c) and (d) require an analysis of the relationship between the exception area and the lands adjacent to it, and other relevant factors.

16. OAR 660-004-0028(3) states that local governments are not required to demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goal 3, local governments are required to demonstrate that under OAR 660-004-0028(3)(a) that farm use as defined in ORS 215.203 is impracticable.

As used in that section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. ORS 215.203(2)(a).

While there are other lands in farm use near the subject parcel, the "Thank You Berry Much Farm," there remains dispute whether there are adjacent lands currently in farm use.

Applicant originally stated that the subject property is not currently employed in any farm use, and has not been farmed for decades. In its written rebuttal, Applicant clarified that rather than a commercial crop, the subject property has had a cover crop for the past 20 years, maintained to retain the property's farm tax deferral status. However, there is no evidence that there has been any profitability from harvesting the property.

LUBA determined that to the extent that the County concluded that farming must be at a commercial scale in order to be protected, OAR 660-004-0028(2) and (6) do not include such a requirement. Again, OAR 660-004-0028(2) provides that it is the relationship with adjacent properties that is most relevant. While the characteristics of the proposed exception area must be examined, the focus of the irrevocably committed test is on the relationship between the exception area and adjoining uses, and why that relationship commits the subject property to uses not allowed by the applicable goals. *See Jackson County Citizens League v. Jackson County*, 38 Or LUBA 489, 504-05 (2000).

The subject property need not be able to support a successful commercial farm operation in order to be suitable for farm use. That farm use is not capable of supporting a self-sufficient or "commercial-scale" agricultural operation is not a basis to conclude that farm use of the property is impracticable. *Lovinger v. Lane County*, 36 Or LUBA 1, 17-18, *aff'd* 161 Or App 198, 984 P2d 958 (1999). The Land Use Board of Appeals (LUBA) has held at the term "profit in money" as used in ORS 215.203(2)(a) means "gross income" rather than "profit" in its ordinary sense of net profit. *Brown v. Jefferson County*, 33 Or LUBA 418, 433 (1997), *quoting 1000 Friends v. Benton County*, 32 Or App at 426. In *Brown*, LUBA noted that the appropriate standard for applying the definition of "farm uses" in the context of OAR 660-004-0028 is whether the subject property is "capable, now or in the future, of being 'currently employed' for agricultural production 'for the purpose of obtaining a profit in money.'" *Id.* at 433, *quoting 1000 Friends v. Benton County*, 32 Or App at 426.

Applicant submitted the Affidavit of Larry Pfennig, and Mr. Pfennig's testimony that indicates that the property has not been in commercial farm use since 2005, and that the reason for that is that farming for profit is not practicable based upon the trespass, overspray, irrigation issues, and the loss of acreage in the subject parcel as a result of these issues combined with the subject parcel's characteristics (size, tillable acres, lack of water rights and satisfactory irrigation).

To the extent that the Thank You Berry Much Farm is in current farm use, there is not sufficient evidence in the record to support a conclusive determination that the Thank You Berry Much Farm is actually adjacent to the subject property. Thank You Berry Much Farms is located at 5975 Culver Drive SE, Salem, Oregon. The actual, adjacent parcel at is located at 5989 Culver Drive. Applicant states that this is the adjacent property upon which over an acre of blueberries were removed and no harvest occurred in 2020, 2021, and 2022, which was supported by photographs submitted in Applicant's Open Record Submittal. Friends of Marion County (September 22, 2022 submission) states: "Our research shows that the expanded area could be used to grow another farm crop" and "no evidence that the property is irreparably damaged by the construction of the new dwelling and septic drain field." Friends of Marion County posit that there are other crops that would retain a high return on investment, including hazelnuts. While these suggestions are possible, what could be done on an adjacent (contiguous) property upon which there does not appear to be actual current farm use, is not the focus of the

inquiry. The evidence submitted by Applicant supports a determination that contiguous properties are not in farm use.

OAR 660-004-0018(2)(b)(B)

17. OAR 660-004-0018(2)(b)(B) requires that the proposed exception will not commit adjacent or nearby resource land to uses not allowed by Goal 3.

The property is 20.46 acres in size and is the largest parcel among the SA zoned properties located between Macleay Road SE and Culver Road. According to Tax records, in 2002 the property was being farmed for grass seed. Since 2005, the parcel has been planted in cover crop, but has not been actively farmed since that time. Nearly all of these farm-zoned properties in the adjacent area are currently specially assessed as farmland by the Assessor and are in various types of agricultural production.

Most of the dwellings in the immediate vicinity of the subject parcel, in both the SA zone and the AR zone, were built in the 1960s and early 1970s and review of historical air photos show that use of the farmland has not changed since the area was first developed. The subject parcel is adjacent to Goal Exception Area 21.1 - Macleay, identified in Appendix A of the Marion County Comprehensive Plan. This exception area was already developed with small residential lots at the time the Comprehensive Plan was acknowledged in 1987, although many of the larger parcels were partitioned during the 1980s and 1990s into one-to-two-acre residential lots. Oak Meadows Subdivision, composed of 59th Avenue SE, Tumalo Drive SE and Wickiup Street SE, was platted in 1957 as a suburban residential subdivision of one half acre lots. Oak Dell Farm Subdivision was platted in 1914 and composed of ten 16 to 20 acre hobby farm parcels. The subject parcel is a part of Oak Dell Farm, located at the western edge. The other parcels in Oak Dell Farm were later further divided to create the one-to-eight-acre rural residential lots located adjacent to 59<sup>th</sup> Avenue SE and east, between Macleay Road SE and Culver Drive SE/ Ganon Street SE, as can be seen on the Exception Area map. The parcel directly north of the subject parcel was originally a portion of Lot I of Oak Dell Farm and later included in the exception area because it was located in between the residentially developed areas of Oak Meadows and Oak Dell Farm, located on the south side of Macleay Road SE. This property has been owned by Applicant since acknowledgement of the Marion County Comprehensive Plan in 1987, and was partitioned in 2007 and again in 2015.

The original study area is considered with respect to whether the exception and implementing zone change would broaden the extent of acreage residential properties.

Applicant provides that 176 of the parcels in the study area are in residential use, and 20 are in commercial or industrial use. There are 160 single family dwellings in the study area. Across the entire study area, the average lot size is 3.45 acres, with the median lot size being just over 2 acres. 131 parcels are less than 2 acres in size, and 51 of those are one acre or less. According to Applicant, 74% of the parcels in the study area are at or under 2 acres in size. The proposal seeks to have two lots that are substantially larger than the adjacent

existing lots.

Of the seven properties west of the subject property on assessor's map 8-2W-04A, two are in farm deferral. Five of the seven are zoned SA, with the other two zoned AR. Moving farther west in Applicant's study area to assessor's map 08-2W-04B, the tax lot immediately west of the blueberry operation, TL 200, is also in farm deferral. Three other tax lots on this map are in farm deferral, and one is in partial deferral. There is insufficient evidence of why the lots are in farm deferral without being actively farmed. However, A property may be in farm deferral because of its zoning and meeting income requirements, even if the lots are idle. The majority of the properties on this map are zoned SA, with the exception of property across Culver Road, which is inside the Salem- Keizer UGB and is zoned IBC (Industrial Business Campus) (TL 700 is zoned SNAR, and Applicant lists "no information available" for TL 500).

Northerly of the subject property, across Macleay Road on assessor's map 7-2W-33, all three tax lots are in farm deferral and range in size from 19.94 to 94.95 acres. All are zoned SA. Heading south in Applicant's study area across the intersection of Culver Road and Deer Park Drive, onto assessor's map 8-2W-04D, 11 of the 19 properties on this map located south of this intersection are in farm deferral, and all are zoned SA. TL 2300 (11.60 acres) on assessor's map 8-2W-04C also lies south of this intersection, is included in Applicant's study area, and is in farm deferral. While the area east of the subject property, between the property and 62nd Ave SE, consists of parcels smaller than one acre containing non-farm dwellings, the areas to the west and south, and to some extent north, include a mixture of residential and small farm use.

The land outside the Macleay Exception Area in all directions was being farmed in the 1980s, when the Comprehensive Plan was acknowledged, and continues to be farmed. Applicant states that the rural residential properties in the adjacent Exception Area irrevocably commit the subject property to non-resource use. Again, Applicant argues that the property is akin to the hole of a doughnut, and based upon the location and lack of irrigation, it is reasonable to consider that this property is committed to nonresource use. The dwellings adjacent to the subject property were built in the early 1970s and the subject parcel has not been actively farmed for decades. Public water and sewer service is not available on the subject property nor could it be provided to the property.

It is essential to this inquiry that Applicant seeks the exception and implementing zone change to allow two parcels of over ten acres; significantly larger than any of the adjacent properties.

The size of the proposed parcels will retain the rural character of the lands and surrounding areas.

Numerous properties in the area are small lots on less than two acres of property. These properties are privately owned, and not available for or in agricultural production. In the study area, there are no true farms adjacent to the subject property. There is conflicting evidence of a blueberry farm operation and whether the blueberry farm is operating on adjacent property. Allowance of the two ten-acre parcels, again significantly larger than all adjacent properties, will not cause a change on the resource land in the area or change the rural character of the surrounding area.

If the subject parcel is approved for a zone change to Acreage Residential, the remaining farm parcels to the west and south will not be at any greater risk of impact from increasing rural residential densities. Opponents argue that removal of the largest farm parcel in that area will reduce the potential for the adjacent farmland to be farmed as a conglomerate. At 20.46 acres, the subject parcel is the largest of the farm parcels located between the Acreage Residential-zoned lands in Exception Area 21.1 and North Santiam Highway and the Salem-Keizer Urban Growth Boundary, providing a buffer between the residential development and the smaller farm parcels to the west and south of the subject parcel. If the subject parcel were to be converted to two ten-acre rural residential lots, the Special Agriculture-zoned farmlands to the west and south would not be at any greater risk of being irrevocably committed to residential use. Larger properties being farmed are too far away to be committed to non-farm use by the proposal.

The proposal meets the criteria for an irrevocably committed exception in OAR 660-004-00028.

### STATEWIDE PLANNING GOALS

18. The proposal to amend the Comprehensive Plan must be consistent with the Statewide Planning Goals or seek exemptions to them. The relevance of each goal in this proposal is addressed below.

*Goal 1: Citizen Involvement.* The notice and hearings process provides an opportunity for citizen involvement. The goal is satisfied.

*Goal 2: Land use Planning.* The subject application would change the zoning. The Hearings Officer makes a recommendation to the Marion County Board of Commissioners who will make the decision on behalf of the County. Marion County Planning division requested comments from various governmental agencies, and their comments are included. The goal is satisfied.

*Goal 3: Agricultural Lands.* Applicant seeks an exception, which is addressed in detail herein.

*Goal 4: Forest Lands.* Since the property is within an incorporated community and are not in MCCP identified forest lands, this goal no longer applies.

*Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources.* The Marion County Comprehensive Plan does not identify any significant open spaces, scenic and historic areas and natural resources on the subject property. The goal does not apply.

*Goal 6: Air, Water and Land Resources Quality.* The subject property is not within an identified air quality area. There is no indication that the property is in the sensitive groundwater overlay zone. The goal does not apply.

*Goal 7: Areas Subject to Natural Disasters and Hazards.* The subject property is not within an identified floodplain or geologic hazards area. This goal does not apply.

*Goal 8: Recreation Needs.* No recreational uses of the property are proposed in conjunction with this application. The goal does not apply.

*Goal 9: Economic Development.* Because this goal focuses on commercial and industrial development, primarily within an urban growth boundary, it does not apply to this proposal.

*Goal 10: Housing.* This goal applies to housing within an urban growth boundary and, therefore, does not apply to this proposal.

*Goal 11: Public Facilities and Services.* The subject parcel can be served by a well, and with a showing of feasibility, no urban water service would be necessary. A condition requiring septic permitting would eliminate the need for urban wastewater services. Goal 11 could be satisfied.

*Goal 12: Transportation.* Goal 12 is implemented through OAR 660.01200060. With an easement to use Whispering Way, the proposed parcels would be served by a single driveway onto Macleay Road. Applicant has also provided alternative access points. This goal can be satisfied with conditions of approval.

*Goal 13: Energy Conservation.* The energy use of the property will be minimal with the proposed use. This goal is satisfied.

*Goal 14: Urbanization.* This goal is to provide for an orderly and efficient transition from rural to urban land use and to accommodate an urban population. Applicant modified the request for the AR-2 zone to the AR-10 zone. Because 10 acres are not considered urban in nature, the requirement for a Goal 14 Exception is eliminated, and Goal 14 is satisfied.

*Goals 15-19* are not applicable because the subject property is not within the Willamette River Greenway, or near any ocean or coastal-related resources.

19. OAR 660-004-0040(8)(i)(B) permits zoning with as low as a two acre minimum parcel size to be applied to property designated as rural residential after October 4, 2000, if an exception to Goal 14 is taken. The minimum lot size adopted by the county must also be consistent with OAR 660-004-0018.
20. OAR 660-014-0030: The applicants calculate the average parcel size in the adjacent Acreage Residential area to be 3.45 acres and the median parcel size to be 2 acres. In 2000, DLCDC determined that parcels two acres and greater on rural residential land existing at that time was considered rural. Parcels smaller than two acres were determined to be urban. Since the average parcel size of the adjacent Acreage Residential land is greater than 2 acres, it appears to still be rural in nature. Since adjacent lands are still considered to be rural based on DLCDC's rules, that land cannot commit the subject property to urban development. This exception would appear to apply in other circumstances, such as rural residential development in subdivisions with existing smaller than two acres parcel sizes which DLCDC determined to be urban in nature. This circumstance may commit a nearby property to an urban level of development and permit a lot size of less than ten acres to be applied. This proposal retains the rural residential character as the two ten-acre parcels are significantly larger than all adjacent properties.

COMPREHENSIVE PLAN AMENDMENT

21. All Comprehensive Plan changes are subject to review by the State Department of Land Conservation and Development (DLCD). DLCD was notified as required by State Law and Irrevocably committed exception must demonstrate compliance with OAR 660-004-0018(2), which addresses planning and zoning for exception areas. Specifically, the applicant must demonstrate that approval of the exception meets the following requirements: The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and the rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses; and the applicant should address whether future residential uses will irrevocably commit adjacent lands zoned Special Agriculture and how it will be compatible with adjacent farm use. It is insufficient to rely on current compatibility with adjacent farm uses since the use of the subject property is proposed to change to residential.

The Marion County Comprehensive Plan (MCCP) establishes procedures to be used when considering plan amendments. Plan changes directly involving 5 or fewer properties will be considered a quasi-judicial amendment. The amendment will be reviewed by the zone change procedures established in MCC 17.123. A plan amendment of this type may be processed simultaneously with a zone change request with the zone change procedure outlined in Chapter 123 of the MCRZO. The subject property is comprised of one parcel of land and the proposal can therefore be considered under the quasi-judicial amendment process.

The proposal must be consistent with applicable policies for Rural Residential developed contained in the comprehensive plan. These policies include:

- a. *Since there is a limited amount of area designated Rural Residential efficient use of these areas shall be encouraged. The minimum lot size in Rural Residential areas existing on October 4, 2000, shall not be less than 2 acres allowing for a range of parcel sizes from 2 to 10 acres in size unless environmental limitations require a larger parcel. Areas rezoned to an Acreage Residential zone after October 4, 2000, shall have a 10 acre minimum lot size unless an exception to Goal 14 (Urbanization) is granted.*
- b. *When approving rural subdivisions and partitionings each parcel shall be approved as a dwelling site only if it is determined that the site: 1) has the capacity to dispose of wastewater; 2) is free from natural hazards or the hazard can be adequately corrected; 3) there is no significant evidence of inability to obtain a suitable domestic water supply; and 4) there is adequate access to the parcel.*
- c. *All residential uses in rural areas shall have water supply and distribution systems and sewage disposal systems which meet prescribed standards for health and sanitation.*

The applicant is proposing to rezone the subject parcel to an Acreage Residential zone with a minimum lot size of less than 10 acres. A Goal 14 exception is not required.

The proposal appears to be consistent with the Rural Residential policies in the Marion County Comprehensive Plan.

ZONE CHANGE CRITERIA

22. Applicant seeks a zone change from SA (Special Agriculture) to AR (Acreage Residential). The criteria for a zone change are found in the Marion County Code Chapter 17.123.060:
- A. *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies/or the applicable land use classification in the Comprehensive Plan; and*
  - B. *The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and*
  - C. *Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and*
  - D. *The other lands in the county already designated/or the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and*
  - E. *If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*
23. The proposed zone is appropriate for the Rural Residential Comprehensive Plan designation proposed by Applicant. Applicant has provided sufficient evidence to support a determination that the proposal is consistent with all applicable MCCP goals and policies. MCC 12.123.020(A) is met.
- Applicant's study of surrounding land uses, density, and pattern of development in the area is discussed above, and the findings are incorporated here. The zone change is appropriate considering the surrounding land uses and the density and pattern of development in the area. MCC 12.123.020(B) is met.
- LDEP included permitting requirements. Applicant has proven that public facilities at a rural level of development are either in place or can be obtained through the permitting process as commented by LDEP. MCC 12.123.020(C) is met.
- G. Utility work within the public right-of-way requires permits from MCPW Engineering.

MCC 12.123.020(D) can be met with an analysis of other lands that are unavailable or not well suited.

The six parcels immediately adjacent to the east of the subject property are one acre or less and are zoned AR. Applicant owns two parcels to the north that are 9.62 and 2 acres in size and are both zoned AR. Properties to the north and east are mostly zoned AR and are developed with rural residential lots. The proposed AR-10 zoning would be compatible with adjacent properties. Any adjacent SA-zoned properties would not likely be impacted by the proposed rezoning. With current code requirements, such as special setbacks, the proposed zone would not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses. MCC 12.123.020(E) is met.

The applicants address the zone change criteria and the proposal appears consistent with the density and pattern of development on nearby land zoned Acreage Residential. A zone change approval is recommended.

#### PARTITION

24. There are no specific approval criteria for partitions in the AR zone. MCC 17.128.070 requires a minimum lot size of two acres.

The two proposed new parcels will each be at least ten acres each and are consistent with this standard. In addition, the resulting undeveloped parcels, if they can obtain septic approval, appear to be of sufficient size and shape to meet the development standards in the AR zone. The access proposed for the initial two-acre lots would be via Whispering Way SE, a private easement serving two lots to the north of the subject parcel.

25. MCC 17.128.050 establishes special siting standards for dwellings near resource zones:

- (a) *Any new dwelling in an AR zone shall be required to maintain a special setback from any parcel in the EFU, SA, FT, or TC zones when necessary to minimize potential conflicts with farm or forest uses. A 100-foot setback is the standard adjacent for farm use and 200 feet is the standard adjacent to forest uses.*
- (b)
- (c) *The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, TC zones shall be required to concur in the filing of the Declaratory Statement prescribed in the respective resource zone.*

Planning requests a special setback of 300 feet. A special setback can be applied to any approval. Planning does not provide justification for why such a large setback is requested. Applicant opposes the imposition of a 300 foot setback based upon the size of the parcel. Applicant objects to a 300-foot setback because it greatly reduces the building envelope for any new dwelling. There is a 125-foot-wide power easement that runs along the eastern boundary and necessarily limits any construction in that area.

Setbacks are determined from property lines, not easements, but the 125 foot easement ensures a sufficient setback from the eastern boundary. Applicant states that the property is just over 500 feet in total width.

Given the limitations of the subject property, and insufficient factual support for an setback of 200 feet over the standard setback, the standard 100 feet setback is appropriate.

26. MCC 17.128.050 requires that a Declaratory Statement be recorded with the property deed because the subject property is near a resource zone. This serves to notify the applicant and subsequent owners that there are farm or timber operations in the area. Any approval can be conditioned to meet this criterion.
27. Both parcels would appear to have access to an existing private easement; therefore, no new easement should be required.

### VII. Recommendation

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval to change the comprehensive plan designation from Special Agriculture to Rural Residential and to change the zone from SA (Special Agriculture) to AR-10 (Acreage Residential), on a 20.46 -acre parcel, then partition that parcel into two lots of 10 and 10.46 acres, located in the 2400 block of 62nd Avenue SE, Salem (T8S; R2W; Section 4A; tax lot 2800).

Therefore, the Hearing Officer recommends that the Marion County Board of Commissioners **GRANT** the Application subject to the following conditions contained in Exhibit C, that are necessary for the public health, safety, and welfare.

**SUPPLEMENTAL FINDINGS AND CONCLUSIONS**

Pfennig File No. CP/ZC/P 19-005

The following findings are made in support of the approval decision and as supplement to the findings of Hearings Officer's Recommendation adopted on August 20, 2025 adopted to support the approval decision. In the event any findings or conclusions set forth here are different from or contradictory to the findings or conclusions in the Recommendation, the findings set forth here shall control.

1. The original application in this case seeking a rezone to AR-10 has been modified and the current request approved here is for the AR-2 zone. Given that 10 acre parcels are not considered urban in nature, the requirement for a Goal 14 Exception has been eliminated.
2. The subject property is separated to the east from 62<sup>nd</sup> Ave. by a series of small lots each with a non-farm dwelling, and all of which are one acre in size or smaller bordering on, and taking access from 62<sup>nd</sup> Ave. Along the southern boundary of the subject property is a single parcel that is less than 3 acres in size, which is wooded and has a non-farm dwelling and outbuildings on it. This parcel (TL3500, Map 8.2W.4D) encompasses the intersection of 62<sup>nd</sup> Ave. and Culver Road.
3. To the west of the subject property are 7 parcels, the largest of which is only 4.66 acres in size, 5 of which are 1.25 acres in size or less, and 1 parcel that is 3.17 acres in size. 6 of these 7 parcels have a non-farm dwelling located on them.
4. Property to the north of the subject property is also owned by the Applicant and consists of three non-farm parcels, one of which (TL2700) has the Applicant's dwelling. These parcels were created by PP2012-008, and are not farmed and not on any deferral program.
5. The land to the north and east is planned and zoned Acreage Residential (AR). The subject property, as well as the land to the south and west is planned and zoned Special Agriculture. The city limits of Salem run close to the subject property to south and west. Uses inside the nearby city limits include the Salem Industrial Park, and the Oregon State Correctional Institution.
6. A study of the entire area surrounding the subject property encompassing all tax lots on Assessor Maps 8.2W.04A, 7.2W.33, 8.2W.04D, 8.2W.04B, 8.2W.04C and 8.2W.04BA was performed. This inventory study determined there are 196 buildable Tax Lots, plus four non-buildable parcels. Of the 196 buildable parcels, there are 20 parcels in Commercial or Industrial use and 176 in residential use. There are 160 houses on the 176 residential parcels. This equates to 91% of the residential parcels are already developed with single family dwellings. The study area encompassed 676.23 acres, or 1.06 square miles. The average parcel size in the study area is 3.45 acres. The median parcel size is 2 acres. Of the 176 residential parcels, 131 are under 2 acres in size, and 51 of those are one acre or under in size, this equates to 74% of the parcels in the study are on parcels that are under 2 acres in size. Only 24 of the 196 total parcels are in a resource deferral

program, meaning only 12% of the parcels are in farm use sufficient to qualify for a tax break.

7. While the larger Study Area is helpful in understanding the neighborhood, the actual legal standard of review for an irrevocably committed exception is for a Study Area that involves only a review of parcels that are “adjacent” to the subject property.
8. The adjacent study area includes 13 parcels that total 29.91 acres, for an average parcel size of 2.3 acres. 11 of the 13 parcels have houses, and one of two vacant parcels is owned by the Applicant who will be selling it for the development of an additional rural residential dwelling. Four of these parcels have the SA zoning, and seven have the AR zoning. However, only one parcel has farm tax deferral status. All but two of these adjacent parcels have existing dwellings. With the exception of the replacement dwelling on TL3000, every dwelling on adjacent lands was built prior to the application of comprehensive planning regulations. Nine of the parcels have been zoned for Acreage Residential uses, and 4 for Special Agriculture use. Except for the Applicant owned land, there is only one parcel that exceeds 4 acres in size (TL 3000 which is 4.66 acres). The adjacent lands study includes sufficient information in order to make a determination of compliance with the law in this case.
9. The physical features of the property and its uses, and the development pattern of the lands bordering the subject property support a determination that the adjacent study area is adequate to consider the property’s relationship with adjacent uses. The combination of the larger Study Area for area analysis and the adjacent Study Area satisfies all review requirements for an irrevocably committed exception analysis.
10. The testimony and affidavit of Larry Pfennig are compelling, believed and adopted here as factual findings because Mr. Pfennig is the farmer who has attempted to keep the subject property in farm use, but based on several issues has determined that farming is simply impractical on the subject property. Mr. Pfennig is a long time farmer in Marion County, farming many properties in addition to the subject property. He is a generational farmer, working the land his entire life. His experience in Marion County is unchallenged, as is his testimony. Mr. Pfennig is a life long farmer in the Marion County area, farming here for over 50 years. He farmed for his father originally, and then as a partner with him, and now as the owner of the farm corporation, Pfennig Farms, Inc. During his career he has farmed in all phases of agriculture, including operation of all kinds of farm equipment, and engaged in field preparation, maintenance and harvesting. He has been a grass seed farmer, and over the years has grown all kinds of grains, clover, alfalfa and fruit trees. He has operated and owned and constructed grass seed cleaning plants. He has a commercial drivers license, and has been licensed over the years for application of pesticides and fertilizers. In addition to farming for himself, he has contracted out his equipment and services to other land owners for farming services.
11. The lack of water on the subject property as a critical issue for the impracticability of farming it, as well as overspray from neighboring properties and significant trespass due to the location adjacent to non-farm houses and busy streets. The risk of fire to dry land

crops is very high making liability a tremendous problem, and obtaining affordable liability and fire insurance impossible. Chemical overspray from adjoining properties presents an additional problem for growing any kind of crop on the subject property. Larry Pfennig's Affidavit addresses the subject property's relationship with surrounding parcels and presents sufficient evidence that farming is impracticable on the subject property. Mr. Pfennig's statements are based on his experience as a life-long farmer, and present sufficient factual support to approve the application.

12. When considering the compatibility criteria the irrevocably committed exception needs to focus on both the irrevocably committed aspect of the adjacent farm use, but also the converse, that is to say the future residential use of the subject property. The evidence and findings support the irrevocably committed exception as to farm use. There is little to no difference in this case, whether the subject property lies fallow as it has for the last 20 years, or it has two houses on it. It is the impact on the surrounding properties that is evaluated not the subject property itself. Therefore it doesn't really matter if the subject property is vacant or with 2 houses. The key is if that difference will have any adverse impact on the adjacent properties such that they would become also irrevocably committed. If two houses are built on the subject property, each on a 10 acre tract, and the houses are setback 100 feet from the property line, there will be sufficient separation between the two new homes and the adjacent uses. The subject property is 508 feet wide. That means that a house placed near the center of the property would have separation of at least 200 feet on each side with a 100 foot wide area for house, garage and outbuildings if desired. All of the adjacent properties to the east along 62nd Avenue are located very close to the property line, some as close of 20 feet. The home to the south is located approximately 175 feet from the property line. The new manufactured home on the property to the west is approximately 100 feet from the property line with the subject property. The only other home adjacent to the subject property is located to the north of TL3000 and it is approximately 125 feet from the property line. Based on these facts, no new house on the subject property would come within 120 feet of any other house, and many would be 200 - 275 feet away. The surrounding area is populated by a large number of small tract parcels, most with houses, and most developed prior to the imposition of zoning restrictions. Little land use has changed in the area, meaning that for decades small tract homesite have been compatible with adjacent farm tracts with no pressure for long term land use conversion. The parcels to the east between the subject property and 62nd Avenue are all one acre or smaller in size and with non-farm dwellings. There can be no issue with irrevocably committing those parcels. The same is true for the somewhat larger non-farm tracts to the north and south. That leaves only 2 parcels that need to be addressed. TL 2900 and 3000, both of which have houses and outbuildings and some open land adjacent. Since there is a power line across the middle of the subject property any house on the southern portion of the property will be located south of those lines, meaning the house will be in the same general area as the new manufactured home on TL3000, but at least 325 feet away. The house on the northerly parcel will be centrally located north of the power lines, and most likely 500 feet away from the house on TL2900. The two new homes will not irrevocably commit those two easterly parcels because each will be 10 acres, which is over twice as large as TL2900 (3.17 acres) and TL3000 (4.66 acres). The only two adjacent parcels that can be

considered here are those two parcels to the east, and TL3000 is too small even to be divided into two acre urban type parcels because it is not over 4 acres in size. The only intensification of uses that are possible from approval of this application is a zone change to AR-2. Where the intensification of zoning will not allow even a land division, the only conclusion that can be drawn is that the change approved here to AR-10 will not have any impact on the future of TL2900. TL3000 is slightly over four acres and therefore conceivably could be partitioned into two parcels if rezoned to AR-2. However, TL3000 is bordered already on three sides by small urban sized parcels, and if it were to be urged to partition, that would be because of the other adjacent parcels and not because of the creation of the much larger 10 acre parcels proposed here. This land use change and the associated partition will not irrevocably commit any adjacent property to non-farm uses. That is the case whether one looks at the subject property and its impacts presently, or in the future with two houses each one on a 10 acre tract.

13. For the last 20 years, the subject property has had a cover crop in order to keep the weeds down and the property looking halfway decent. During this period of time the Applicant has not intended to make money from the cover crop, and in fact has never received any money whatsoever from the cover crop. The definition of "farm use" is the current employment of land for the primary purpose of obtaining a profit in money. Profit is not defined in the normal sense of excess revenue over expenses, but the generation of any revenue at all. In this case there is no intent to use the land for the primary purpose of generating money, and in fact no money has been generated. Based on these facts, the law here clearly provides that the subject property is not in "farm use", and hasn't been for over 20 years.
14. The testimony and evidentiary facts submitted by Mr. Lien and Mr. Pfennig are adopted as findings to support the decision made herein, and any evidence or allegation that are contrary are not adopted as facts and are rejected here.
15. The ability to have water to irrigate crops is critical. Applicant has experienced many conflicts with neighbors, including impact of farm uses on the aquifer, both from the farm wells, and to the farm wells. The subject property does not have a farm well, and there are no current water rights associated with it. Water also comes into play when neighbors overspray their own landscaping irrigation onto the farm field and damage or retard crops. These issues are particularly prevalent along the eastern boundary where the parcels are very small and landscaping, decks and house are within just a few feet from the boundary line of the subject property. If it were just one parcel, the impact might not be so bad, but here, we have 6 parcels along the eastern boundary and another on the southwestern boundary. Water conflicts of availability and overspray are real and not speculative.
16. Evidence in the record demonstrates that trespass on the subject property is prevalent. The trespassers almost always have dogs that have to be walked or get loose, utilizing the property as a public open space. Trespass creates additional liability that increases risk and add to the cost of insurance.

17. The size of the proposed parcels (10+ acres) will retain the rural character of the lands and surrounding areas, and will act as a continuing buffer between the small parcels to the east and the Special Agriculture zoned properties to the west.
18. Allowance of the two ten-acre parcels, again significantly larger than all adjacent properties, will not cause a change on the resource land in the area or change the rural character of the surrounding area.
19. Two ten-acre rural residential lots approved here will not be at any greater risk of being irrevocably committed to residential use because of this approval.
20. There is no active viable blueberry operation on lands adjacent to the subject property operated by Thank You Berry Farm. The Thank You Berry Farm is located further to the west and is not on adjacent property. There is no active viable blueberry farm production on any adjacent parcel.

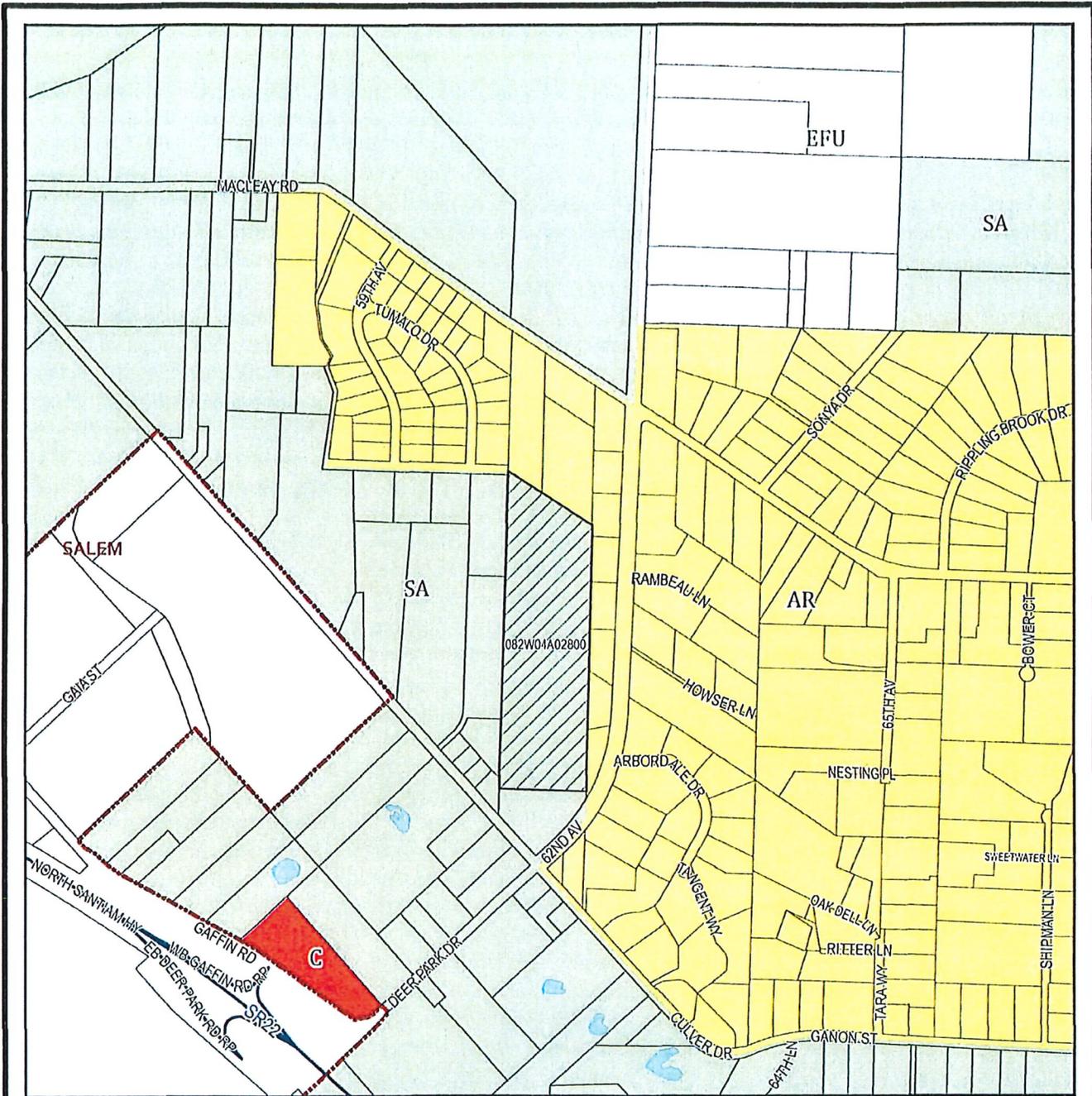
### Conditions of Approval

- 1) The applicant shall submit a final partition plat to the County Surveyor's Office (5155 Silverton Road NE; (503) 588-5036) and shall contain the notation that the survey is the result of Partition Case 19-001. Following plat approval it shall be recorded with the Marion County Clerk.
- 2) Prior to submitting the final partition plat, the applicant shall obtain an approved septic site evaluation from the Marion County Building Inspection Division on all undeveloped parcels. The applicant is strongly encouraged to contact Building Inspection, (503) 588-5147, regarding septic sites before having the property surveyed. Septic site requirements may affect the proposed property line or lot locations.
- 3) The applicant is advised that a Partition Plant Service Report from a title company will be required upon submission of the final mylar to the County Surveyor.
- 4) Prior to recording the plat all taxes due must be paid to the Marion County Tax Department (contact the Marion County Tax Department at 503-588-5215 for verification of payments).
- 5) On the plat, show sufficient right-of-way dedication to serve the future AR-10 lots.
- 6) Prior to plat approval, provide a notarized Road Maintenance Agreement (RMA) regarding the proposed shared access easement.

Prior to the issuance of building permits on the parcels:

- 7) The partition plat shall be recorded.
- 8) The applicant shall sign and submit a Farm/Forest Declaratory Statement to the Planning Division. This statement shall be recorded by the applicant with the Marion County Clerk after it has been reviewed and signed by the Planning Director.
- 9) Any dwelling shall maintain 100-foot setback from land in farm use to the west and southwest.
- 10) In accordance with Marion County Code 11.10, a driveway "Access Permit" for access to the public right-of-way will be required upon application for a building permit for a new dwelling. Driveways must meet sight distance, design, spacing, and safety standards.

- 11) The subject property is within the unincorporated area of Marion County and will be assessed Transportation & Parks System Development Charges (SDCs) upon application for building permits, per Marion County Ordinances #00-1 OR and #98-40R, respectively.
- 12) Utility work within the public right-of-way requires permits from MCPW Engineering.
- 13) The subject property is situated within Marion County's DEQ-defined Stormwater Management Area (SMA). Marion County has been delegated authority by DEQ to operate a NPDES 1200-CN program for ground disturbing activities of 1 to under 5 acres. An Erosion Prevention & Sediment Control (EPSC) Permit will be required to put in the access easement. Individual lot home construction will also require a permit for each lot unless done under an aggregate EPSC Permit.
- 14) The resulting parcels shall significantly conform to the site plan submitted with the proposal. Minor variations are permitted upon review and approval by the Planning Director. All parcels shall be a minimum ten acres in size, prior to any right-of-way dedication.
- 15) It is recognized that the final partitioning may vary from the proposed plan due to topography or surveying. Minor variations are permitted; however, each resulting parcel shall be a minimum 10.0 acres prior to any required right-of-way dedication.
- 16) After the final Partition plat has been recorded no alteration of property lines shall be permitted without first obtaining approval from the Planning Director.
- 17) The applicant should contact Marion County Fire District to obtain a copy of the District's Recommended Building Access and Premise Identification regulations and the Marion County Fire Code Applications Guide. Fire District access standards may be more restrictive than County standards.
- 18) The applicants should contact Marion County Land Development and Engineering (503-584-7714) for additional Engineering Requirements and Advisories that may be required.



### ZONING MAP

Input Taxlot(s): 082W04A02800

Owner Name: HENRY O & LOIS M PFENNIG TR &  
 Situs Address: ( No Situs Address )  
 City/State/Zip: SALEM, OR, 97317  
 Land Use Zone:  
 School District: SALEM-KEIZER  
 Fire District: MARION COUNTY #1

<p><b>Legend</b></p> <ul style="list-style-type: none"> <li> Input Taxlots</li> <li> Lakes &amp; Rivers</li> <li> Highways</li> <li> Cities</li> </ul>		
<p>N</p>  <p>scale: 1 in = 846 ft</p>	<p><small>DISCLAIMER This map was produced from Marion County Assessor's geographic database. This database is maintained for assessment purposes only. The data provided hereon may be inaccurate or out of date and any person or entity who relies on this information for any purpose whatsoever does so solely at his or her own risk. In no way does Marion County warrant the accuracy, reliability, scale or timeliness of any data provided on this map.</small></p>	



MARION COUNTY BOARD OF COMMISSIONERS

**Board Session Agenda Review Form**

Meeting date: September 17, 2025

Department: Tax Office

Title: Property tax refund for Ripe LLC

Management Update/Work Session Date: \_\_\_\_\_ Audio/Visual aids

Time Required: 15 min. Contact: Austin Fowler, Tax Collector Phone: ext. 2244

Requested Action: Adopt order authorizing property tax refund for Ripe LLC.

Issue, Description & Background: The Assessor remedied a clerical error for account 512162, effective in the 2024-25 tax year. ORS 311.806(1) requires the county governing body to issue refunds in situations like this. The total amount of the refund due (plus statutory interest) is \$56,506.77. The Board has delegated authority to issue tax refunds under \$20,000 to the tax collector; all others must go to the Board for approval.

Financial Impacts: The amount of the refund (with interest through 9/15/25) is \$56,506.77.

Impacts to Department & External Agencies: None, beyond the processing of the refund itself.

List of attachments: 1. Property tax petition for refund of Ripe LLC, with supporting documentation. 2. Board Order.

Presenter: Austin Fowler, Tax Collector

Department Head Signature: Natasha McVey

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

In the matter of approving property)  
tax refund as submitted by the        )  
Marion County Tax Collector.         )

**Order No.**

This matter came before the Board of Commissioners upon the recommendation of the Marion County Tax Collector regarding a tax refund petition on account no. 512162, attached hereto and incorporated herein by this reference; and

WHEREAS, the Board finds that the petitioner has demonstrated that a tax refund, including interest, is due in the amount set forth on the petition; and

WHEREAS, the Board finds that the Marion County Tax Collector approved the refund, including interest, as to the amount; and

WHEREAS, the Board finds that Marion County Legal Counsel has approved the refund, including interest, as to legal form,

NOW, THEREFORE, IT IS HEREBY ORDERED that a refund, including interest, be made to the petitioner on account no. 512162 in the amount indicated on the petition.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

MARION COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner



Tax Account: **512162**

MARION COUNTY BOARD OF COMMISSIONERS  
C/O MARION COUNTY TAX COLLECTOR  
PO BOX 2511  
SALEM, OR 97308-2511

**REFUND PETITION**

**PETITIONER:** RIPE LLC  
PO BOX 171  
SAINT PAUL OR 97137

Petitions the Board of County Commissioners for a refund under ORS 311.806 of taxes paid on Real property.

Tax Account	Tax Year	Tax Amount	Interest through 09/15/2025	Refund Amount
512162	2020-21 THROUGH 2024-25	\$42,554.03	\$13,952.74	\$56,506.77

**REASON FOR REFUND:**

MC 37,500 SQFT PR 3,750 SQFT AND CD 9,000 SQFT WERE DUPLICATED AND PICKED UP IN ERROR WITH EXCEPTION IN 2019.

Signed: See Attached File

Petition verified and refund recommended:

[Signature], Marion County Tax Collection Dept. Date 8/26/2025

Approved as to Form <u>[Signature]</u> 8/29/25 Legal Counsel
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**Marion County Tax Collector  
Refund #13739 Summary**

Tax Id 512162

Account # 512162 Roll R Code Area 45570

Owner  
RIPE LLC  
PO BOX 171  
SAINT PAUL OR 97137

Payee  
RIPE LLC  
PO BOX 171  
SAINT PAUL OR 97137

Lender

Situs 7257 ST PAUL HWY NE SAINT PAUL OR 97137

Reason ADJ TO TAX ROLL

**Refund Details**

Year	Refund Amount	Refund Interest	Refund Total
2020	\$7,567.46	\$4,389.13	\$11,956.59
2021	\$8,282.40	\$3,809.90	\$12,092.30
2022	\$8,490.97	\$2,886.93	\$11,377.90
2023	\$8,712.13	\$1,916.67	\$10,628.80
2024	\$9,501.07	\$950.11	\$10,451.18
<b>Total</b>	<b>\$42,554.03</b>	<b>\$13,952.74</b>	<b>\$56,506.77</b>

Check # Comment ADJ TO TAX ROLL; 2024-25 PROP TAXES

**Tax History**

Year	Tax Type	Total Due	Current Due	Original Due	Due Date
2024	ADVALOREM	(\$9,794.92)	(\$9,794.92)	\$58,383.14	15-Nov-2024
2023	ADVALOREM	(\$8,981.57)	(\$8,981.57)	\$53,543.51	15-Nov-2023
2022	ADVALOREM	(\$8,753.58)	(\$8,753.58)	\$52,256.68	15-Nov-2022
2021	ADVALOREM	(\$8,538.55)	(\$8,538.55)	\$50,975.60	15-Nov-2021
2020	ADVALOREM	(\$7,801.51)	(\$7,801.51)	\$46,577.70	15-Nov-2020

Balance As Of 8/19/2025 (\$43,870.13)

**Tax Adjustments**

Year	Discount	Adv Interest	Tax Credit
2020	(\$234.05)	\$0.00	\$7,801.51
2021	(\$256.15)	\$0.00	\$8,538.55
2022	(\$262.61)	\$0.00	\$8,753.58
2023	(\$269.44)	\$0.00	\$8,981.57
2024	(\$293.85)	\$0.00	\$9,794.92

**Payment History**

R #	Year	Date	Payer	Amount
-----	------	------	-------	--------

Comments R0826; DECREASE W/ INTEREST 25-26: Per WW, MC 37,500 sqft PR 3,750 sqft and CD 9,000 sqft were duplicated and picked up in error with exception on 512162 in 2019. No taxable change to 512159.

*Robalo*  
8/19/2025 12:32 PM

**SUMMARY OF TAX ACCOUNT**  
**MARION COUNTY TAX COLLECTOR**  
**P.O. BOX 2511**  
**SALEM, OR 97308**  
**(503) 588-5215**

19-Aug-2025

RIPE LLC  
 PO BOX 171  
 SAINT PAUL OR 97137

Tax Account #	512162	Lender Name	
Account Status	A	Lender ID	
Roll Type	Real	Property ID	45570 LEGACY I-41821000
Situs Address	7257 ST PAUL HWY NE SAINT PAUL OR 97137	Interest To	Aug 19, 2025

**Tax Summary**

Tax Year	Total Due *	Taxes	Fees	Interest	Discount	Original Due	Due Date	Date Paid
2024	(\$9,794.92)	(\$9,794.92)	\$0.00	\$0.00	\$0.00	\$58,383.14	Nov 15, 2024	Nov 16, 2024
2023	(\$8,981.57)	(\$8,981.57)	\$0.00	\$0.00	\$0.00	\$53,543.51	Nov 15, 2023	Nov 2, 2023
2022	(\$8,753.58)	(\$8,753.58)	\$0.00	\$0.00	\$0.00	\$52,256.68	Nov 15, 2022	Nov 17, 2022
2021	(\$8,538.55)	(\$8,538.55)	\$0.00	\$0.00	\$0.00	\$50,975.60	Nov 15, 2021	Oct 29, 2021
2020	(\$7,801.51)	(\$7,801.51)	\$0.00	\$0.00	\$0.00	\$46,577.70	Nov 15, 2020	Nov 13, 2020
2019	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$53,128.47	Nov 15, 2019	Nov 14, 2019
2018	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$44,343.83	Nov 15, 2018	Nov 6, 2018
2017	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$34,086.60	Nov 15, 2017	Oct 27, 2017
2016	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$32,787.56	Nov 15, 2016	Nov 15, 2016
2015	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$29,717.66	Nov 15, 2015	Oct 27, 2015
2014	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$27,742.72	Nov 15, 2014	Oct 28, 2014
2013	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$29,090.13	Nov 15, 2013	Oct 28, 2013
2012	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$25,601.77	Nov 15, 2012	Nov 2, 2012
2011	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$29,416.14	Nov 15, 2011	Nov 10, 2011
2010	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$29,866.35	Nov 15, 2010	Nov 2, 2010
2009	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$30,857.52	Nov 15, 2009	Nov 10, 2009
2008	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$29,864.00	Nov 15, 2008	Nov 12, 2008
2007	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$28,281.02	Nov 15, 2007	Nov 14, 2007
2006	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$22,380.26	Nov 15, 2006	Nov 16, 2006
2005	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$11,504.35	Nov 15, 2005	Nov 1, 2005
2004	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$11,294.20	Nov 15, 2004	Oct 27, 2004
2003	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$11,241.84	Nov 15, 2003	Nov 17, 2003
2002	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$10,162.22	Nov 15, 2002	Nov 13, 2002
2001	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,427.56	Nov 15, 2001	Nov 8, 2001
2000	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$8,918.85	Nov 15, 2000	Nov 13, 2000
1999	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$7,892.62	Nov 15, 1999	Nov 10, 1999
1998	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$7,843.35	Nov 15, 1998	Oct 14, 1998
1997	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$8,127.13	Dec 15, 1997	Aug 29, 1998
1996	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$7,693.82	Nov 15, 1996	Aug 29, 1998
1995	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,445.91	Nov 15, 1995	Aug 29, 1998
<b>Total</b>	(\$43,870.13)	(\$43,870.13)	\$0.00	\$0.00	\$0.00	\$812,452.51		

Minimum Payments  
 Due On

1/1/0001

\* Taxes + Fees + Interest - Discount

MARION COUNTY, OREGON

2024-25 PROPERTY TAX STATEMENT

JULY 1, 2024 TO JUNE 30, 2025

REAL PROPERTY DESCRIPTION

MARION COUNTY TAX COLLECTOR

TAX ACCOUNT NO.

CODE: 45570 PCL: 551 ACRES: 128.86
MAP: 042W220000100
LEGAL: PP 1998-078 (L:1)
SITUS: 7257 ST PAUL HWY NE SAINT PAUL

555 COURT ST NE, RM 2242
SALEM, OR 97301
(503) 588-5215

512162

Payment Due by November 15, 2024

RIPE LLC
PO BOX 171
SAINT PAUL OR 97137

Table listing tax items: ST PAUL SCHOOL (18,903.15), WILLAMETTE REG ESD (1,174.25), CHEMEKETA COM COL (2,477.12), EDUCATION TOTAL: (22,554.52), MARION COUNTY (11,972.82), MARION SOIL & WTR (197.88), MC EXT & 4-H SERV DIST (197.88), ST PAUL FD (4,203.87), ST PAUL FD LOCAL OPT 21 (3,364.04), REGIONAL LIBRARY (323.74), GENERAL GOVT TOTAL: (20,260.23), ST PAUL SCHL BOND (14,614.19), CHEMEKETA COM COL BOND (954.20), BONDS - OTHER TOTAL: (15,568.39)

Table with columns: VALUES, LAST YEAR, THIS YEAR. Rows include LAND, STRUCTURES, TOTAL RMV, TAXABLE ASSESSED VALUE (EXEMPTIONS APPLIED), TAX LEVIED.

QUESTIONS ABOUT THE ASSESSED VALUE? CONTACT THE ASSESSOR'S OFFICE: (503) 588-5144.

\*\*\* CORRECTED STATEMENT \*\*\*
FARM/FOREST/OTHER DEFERRAL -POTENTIAL ADD'L TAX LIAB

\*\*IF A MORTGAGE CO. PAYS YOUR TAXES THEN THIS STATEMENT IS ONLY FOR YOUR RECORDS\*\*
REFUNDS FOR DUPLICATE PAYMENTS MAY TAKE SEVERAL MONTHS TO PROCESS

Paystation logo and text: You can also pay Online: www.co.marion.or.us/AO/TAX Or by Phone: 1-877-254-7870. Includes logos for VISA, Discover, American Express, and Debit.

Payment Schedule table with columns: Payment Schedule, 11/15/24, 02/18/25, 05/15/25, Savings. Rows include Full Payment (56,631.65), 2/3 Payment (38,143.65), and 1/3 Payment (19,461.05).

TOTAL DUE by 11/15/24 \$56,631.65 (After 3% Discount and Prepayments and Including Any Delinquent Taxes)

↑ Tear Here PLEASE INCLUDE THIS COUPON WITH YOUR PAYMENT — NO STAPLES, PAPER CLIPS, OR TAPE Tear Here ↑

2024-2025 Marion County Real Property Taxes

SITUS: 7257 ST PAUL HWY NE SAINT PAUL ACRES: 128.86

TAX ACCOUNT NO.

512162

Payment Options table with columns: Payment Options, Net Amount Due by November 15, 2024. Rows include Full Payment (56,631.65), 2/3 Payment (38,143.65), and 1/3 Payment (19,461.05).

Form for entering payment amount with a dollar sign and a warning: Discount is Lost & Interest Applies After Due Date

Payment Due by November 15, 2024

Mailing Address Change on Back

MAKE CHECK PAYABLE TO:
MARION COUNTY TAX COLLECTOR
PO BOX 2511
SALEM OR 97308-2511

2003 - 000002 - 5663165
RIPE LLC
PO BOX 171
SAINT PAUL, OR 97137



MARION COUNTY BOARD OF COMMISSIONERS

**Board Session Agenda Review Form**

Meeting date: September 17, 2025

Department: Treasurer's Office

Title: Establish Petty Cash Funds for the Marion County Human Resources Department

Management Update/Work Session Date: September 2, 2025 Audio/Visual aids

Time Required: 5 Min Contact: Jessica Paler Phone: 503-584-7750

Requested Action: Approve an order to establish a Petty Cash Fund within the Marion County Human Resources Department in the amount of \$100.00.

Issue, Description & Background: The Marion County Human Resources Department would like to establish a petty cash fund to reimburse employees from Human Resources and from other Marion County departments attending meetings at Courthouse Square for parking fees paid at parking pay stations since the City of Salem eliminated all free street parking in downtown Salem. The petty cash fund will also be used to reimburse Human Resources employees for other small departmental purchases of \$50.00 or less.

Financial Impacts: None

Impacts to Department & External Agencies: The petty cash fund would enable employees to be reimbursed for parking fees and other small departmental purchases of \$50.00 or less

List of attachments: Board Resolution

Presenter: Samuel A. Brentano

Department Head Signature: Samuel A. Brentano

BEFORE THE BOARD OF COMMISSIONERS  
FOR MARION COUNTY, OREGON

In the matter of Establishing a Petty Cash )  
Fund for the Marion County Human Resources )  
Department. )

**ORDER No.**

This matter came before the Marion County Board of Commissioners at its regularly scheduled public meeting on Wednesday, September 17, 2025.

WHEREAS, the Marion County Human Resources Department has identified the need for a petty cash fund to make minor reimbursements to employees for parking fees paid at parking pay stations and other small departmental purchases of \$50.00 or less; and,

WHEREAS, the Marion County Human Resources Department has made provisions to assure control of the requested petty cash fund and the Marion County Treasurer, and the Marion County Controller have reviewed and approved the proposed control measures in accordance with Marion County Administrative Policy 903; and,

WHEREAS, the Marion County Administrative Policy 903 requires the approval of the County Administrative Officer and the Board of Commissioners to establish petty cash funds; and,

WHEREAS, it appears in the best public interest to establish the petty cash fund for the Marion County Human Resources Department; now, therefore,

1. IT IS HEREBY ORDERED that a petty cash fund be established for the Marion County Human Resources Department in the amount of \$100.00.

DATED at Salem, Oregon, this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

MARION COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

Approved:

\_\_\_\_\_  
Chief Administrative Officer



MARION COUNTY BOARD OF COMMISSIONERS

# Board Session Agenda Review Form

Meeting date: Wednesday, September 17, 2025

Department: Sheriff's Office

Title: Approve IGA with MCFD #1 to add Certified Paramedics to the Marion County SWAT Team

Management Update/Work Session Date: Tuesday, July 22, 2025 Audio/Visual aids

Time Required: 5 minutes Contact: Kristy Witherell Phone: x4402

Requested Action: Staff is requesting the board to consider approval of an Intergovernmental Agreement with Marion County Fire District #1 (MCFD1) to add certified paramedics to the Marion County Special Weapons and Tactics (SWAT) Team through December 31, 2029.

Issue, Description & Background: The Marion County Sheriff's Office reached out to MCFD1 to provide certified paramedics to the SWAT team. This agreement establishes the terms and conditions of incorporating certified paramedics, which includes testing, training, compensation responsibilities, equipment responsibilities, and chain of command.  
  
The Original SWAT Agreement with law enforcement agencies (SO-5562-23) is still active.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: Agenda Review Form, IGA

Presenter: Sheriff Hunter and Chief McMann - MCFD #1

Department Head Signature:

# Contract Review Sheet

Intergovernmental Agreement

**SO-6748-25**

Title: Agreement to add Certified Paramedics to SWAT

Contractor's Name: Marion County Fire District #1

Department: Sheriff's Office

Contact: Kristy Witherell

Analyst: Sandra Fixsen

Phone #: (503) 373-4402

Term - Date From: July 1, 2025

Expires: December 31, 2029

Original Contract Amount: \$ - Previous Amendments Amount: \$ -

Current Amendment: \$ - New Contract Total: \$ - Amd% 0%

No Funds Exchanged  Federal Funds  Reinstatement  Retroactive  Amendment greater than 25%

Source Selection Method: ORS190 Intergovernmental Agreement

Description of Services or Grant Award

This agreement establishes the terms and conditions under which the Marion County Fire District #1 will provide certified paramedics as members of the SWAT Team.

Desired BOC Session Date: 9/17/2025

Contract should be in DocuSign by: 8/27/2025

Agenda Planning Date: 9/4/2025

Printed packets due in Finance: 9/2/2025

Management Update: 9/2/2025

BOC upload / Board Session email: 9/3/2025

BOC Session Presenter(s) Sheriff Hunter, Chief McMann

Code: Y

## REQUIRED APPROVALS

Finance - Contracts \_\_\_\_\_ Date \_\_\_\_\_

Contract Specialist \_\_\_\_\_ Date \_\_\_\_\_

Legal Counsel \_\_\_\_\_ Date \_\_\_\_\_

Chief Administrative Officer \_\_\_\_\_ Date \_\_\_\_\_

**INTERGOVERNMENTAL AGREEMENT**  
**Between**  
**MARION COUNTY SHERIFF'S OFFICE**  
**and**  
**MARION COUNTY FIRE DISTRICT NO. 1**

**1. PARTIES TO AGREEMENT**

This Agreement between Marion County Fire District No. 1, hereafter called MCFD1, and Marion County Sheriff's Office, a political subdivision of the state of Oregon, hereafter called County, is made pursuant to ORS 190.010 (Cooperative Agreements).

**2. PURPOSE/STATEMENT OF WORK**

The purpose of this Agreement is to establish the terms and conditions under which the MCFD1 will provide certified Paramedics to train with and act on call as members of the Special Weapons and Tactics (SWAT) team. These services are further described in Section 4.

- 2.1 Prior to the execution of this Agreement, County has previously developed, trained, and equipped a law enforcement SWAT team to respond to law enforcement situations where special tactical operations and equipment are needed. The purpose of this Agreement is to combine County and MCFD1 resources so that the public is better served.

**3. TERM AND TERMINATION**

- 3.1 This Agreement shall be effective from the date it is signed by all parties through December 31, 2029, unless sooner terminated or extended as provided herein.
- 3.2 This Agreement may be extended for an additional period of five years by written agreement, signed by both parties. Such extension shall also set forth any modifications to the terms of this Agreement.
- 3.3 This Agreement may be terminated by mutual written consent of both parties at any time or by either party upon 60 days' notice in writing and delivered by mail or in person. Any such termination of this Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

**4. OBLIGATIONS UNDER THE TERMS OF THIS AGREEMENT**

- 4.1 The County and the MCFD1 recognize that incidents of serious criminal nature occur which require a specially trained and equipped law enforcement response. These incidents place demands on both County's and MCFD1's respective resources. The parties believe their respective resources and the public will be economically and operationally served by entering into this Agreement.
- a. This Agreement is intended to allow cooperation between the parties and the most efficient use of public resources. It does not create a separate governmental entity.

4.2 UNDER THE TERMS OF THIS AGREEMENT, MCFD1 SHALL:

- a. If certified and approved by County per Section 4.2.a of this Agreement, MCFD1 shall provide those Paramedics to train with and act on call as members of the County's SWAT team. Except as specially limited or particularly provided in this Agreement, such Paramedics shall be regarded as full members of the SWAT team without regard to their employer agency.
- b. Notwithstanding the foregoing, MCFD1 shall remain the respective employer of the Paramedics it provides under this Agreement although MCFD1 shall have no authority to direct, control, or supervise such Paramedics during their SWAT training or SWAT activation.
- c. MCFD1 may provide Paramedics as candidates for the SWAT team assigned to tactical duties. SWAT team candidates proposed by MCFD1 shall meet the same physical, background, and psychological qualifications required by the County for SWAT team members. If the SWAT team candidates proposed by MCFD1 are found to be qualified by the County, their names shall be forwarded to the MCFD1 Fire Chief for assignment to SWAT duty under Section 4.2.a of this Agreement. Once the Fire Chief or the Chief's designee makes a written assignment of an approved MCFD1 SWAT team candidate to SWAT duty, County shall accept that candidate as a SWAT team member.
- d. MCFD1 shall retain responsibility to compensate its Paramedic SWAT team members for time spent in training and SWAT activations in accordance with applicable MCFD1 employee policies, benefit plans, and collective bargaining agreements. County shall not be responsible for directly or indirectly compensating MCFD1 SWAT team members, including benefits.
- e. With the exception of County provided equipment under Section 4.3.b of this Agreement, MCFD1 shall furnish its SWAT team members' personal gear and equipment, per County specifications to be provided by the County SWAT Commander in writing to MCFD1 on or before January 1, annually. Such gear may include, but is not limited to uniforms, duty belts, utility pouches, medical supplies, eye protection, gloves, boots, ballistic helmets, and ballistic vests. MCFD1 shall only furnish gear and equipment approved by the County SWAT Commander.
- f. Subject to the following sentence, MCFD1 shall make its SWAT team members available for SWAT team duty and training as scheduled by the County. Notwithstanding the prior sentence, the MCFD1 Fire Chief or their designee may remove or reassign a MCFD1 SWAT team member from SWAT team duty at any time, in MCFD1's sole discretion.

4.3 UNDER THE TERMS OF THIS AGREEMENT, COUNTY SHALL:

- a. The County shall provide all mandated, required, and necessary training to MCFD1 SWAT team members to maintain their qualification to participate in Marion County's SWAT.
- b. The County shall furnish equipment not provided by MCFD1 under Section 4.2.e of this Agreement for use by MCFD1 SWAT team members including, but not limited to headsets, ammunition, firearms, and night vision devices.
- c. The County shall direct and supervise all SWAT team members while MCFD1 Paramedics are acting in the course and scope of their SWAT assignments, including training.
- d. The County shall examine, test, and screen candidates nominated by MCFD1 pursuant to Section 4.2.c of this Agreement under the same standards applied to County candidates. The County shall use its best efforts to include MCFD1 leadership in the selection process as testing and screening evaluators. The County, in consultation with the MCFD1 Fire Chief or the Chief's designee, shall have the authority to decline the participation of any MCFD1 SWAT team candidate and, after consultation with the MCFD1 Fire Chief, may inactivate or remove any MCFD1 Paramedic assigned under 4.2.a from the SWAT team.
- e. The Parties agree that, when the SWAT team is activated and responds, the jurisdiction in which the SWAT activities take place will assume responsibility for the overall management of law enforcement activities under the Incident Command System. Notwithstanding the prior sentence, all tactical decisions of the SWAT team shall be made by the County SWAT team Commander or that Commander's designee and not by the jurisdiction's Incident Commander.
- f. The County shall have no authority to impose discipline on SWAT team members not employed by the County.

4.4 UNDER THE TERMS OF THIS AGREEMENT, COUNTY AND MCFD1 SHALL:

- a. All MCFD1 Paramedics assigned to the SWAT team, when acting as a County SWAT team member, shall comply with County policies and procedures, including but not limited to, physical standards, use of force, custody authority, code of ethics, oath of office, and firearms qualifications.
- b. Notwithstanding Section 4.4.a of this Agreement, all MCFD 1 Paramedics assigned to the SWAT team shall comply with MCFD1 policies and procedures regarding a patient's standard of care, personnel administration, payroll reporting, overtime eligibility, off-duty conduct, discipline, internal affairs reporting, and other administrative matters.

**5. COMPLIANCE WITH APPLICABLE LAWS**

The parties agree that both shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this agreement. The parties agree that this agreement shall be administered and construed under the laws of the state of Oregon.

**6. NONDISCRIMINATION**

The parties agree to comply with all applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations in the performance of this agreement.

**7. INDEMNIFICATION**

To the extent permitted by the Oregon Constitution, and to the extent permitted by the Oregon Tort Claims Act, each party agrees to indemnify, defend, and hold harmless the other party and its officers, employees, and agents from and against all damages, losses and expenses, including but not limited to attorney fees and costs related to third party litigation, and to defend all third party claims, proceedings, lawsuits, and judgments arising out of or resulting from the indemnifying party's actions in the performance of or failure to perform under this Agreement.

**8. INSURANCE**

Each party shall be insured or self-insured. Subject to the immunities and privileges of the Oregon Tort Claims Act (ORS 30.260 to 30.295), County assumes all liability for SWAT team activities of county employees, including but not limited to training, responses, policies, and orders.

- 8.1 **REQUIRED INSURANCE.** MCFD1 shall carry and maintain, throughout the term of this agreement and at its sole expense, adequate insurance coverage specifically addressing the risks and liabilities arising from the services provided under this agreement, ensuring protection against any claims, damages, or losses resulting from MCFD1's performance of its obligations under this agreement.
- 8.2 **NOTICE OF CANCELLATION OR CHANGE.** Each party shall provide at least thirty (30) days' written notice to the other prior to any cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s). Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by the non-breaching party.
- 8.3 **CERTIFICATE(S) OF INSURANCE.** Each party shall provide to the other Certificate(s) of Insurance for all required insurance before performing any Services required under this Contract. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Each party is responsible for its own deductibles.

**9. MERGER CLAUSE**

Parties concur with and agree that this Agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change to the terms of this Agreement shall bind either party unless in writing and signed by both parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The parties, by the signatures below of their authorized representatives, hereby agree to be bound by this Agreement’s terms and conditions.

**10. NOTICES**

Any notice required to be given MCFD1 or County under this Agreement shall be sufficient if given, in writing, by first class mail or in person, as follows:

For Marion County Fire District 1:  
Fire Chief Kyle McMann  
300 Cordon Rd NE.  
Salem, OR 97317  
Email: [kylem@mcfdl.com](mailto:kylem@mcfdl.com)

For County:  
Sheriff Nick Hunter  
Marion County Sheriff's Office  
PO BOX 14500  
Salem, OR 97309  
Email: [SO-Contracts@co.marion.or.us](mailto:SO-Contracts@co.marion.or.us)

Notwithstanding Section 9 of this Agreement, either party may designate a new authorized representative by written notice to the other.

**11. MISCELLANEOUS PROVISIONS**

**11.1 Dispute Resolution.** The parties are required to exert every effort to cooperatively resolve any disagreements that may arise under this Agreement. This may be done at any management level, including at a level higher than the persons directly responsible for administration of the Agreement. In the event that the parties alone are unable to resolve any conflict under this Agreement, they are encouraged to resolve their differences through mediation or other cooperative dispute resolution process.

**11.2 Waiver.** Failure of either party to enforce any provision of the Agreement does not constitute a waiver or relinquishment by the party of the right to such performance in the future nor of the right to enforce that or any other provision of this Agreement.

**11.3 Severability.** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions are not affected; and the rights and obligations of the parties are to be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

**11.4 Governing Law, Forum, and Venue.** All matters in dispute between the parties to this Agreement arising from or relating to the Agreement, including without limitation alleged tort or violation, are governed by, construed, and enforced in accordance with the laws of the State of Oregon without regard to principles of conflict of laws. This section does not constitute a waiver

by County of any form of defense or immunity, whether governmental immunity or otherwise, from any claim or from the jurisdiction of any court. All disputes and litigation arising out of this Agreement will be decided by the state or federal courts of Oregon. Venue for all disputes and litigation will be in Marion County, Oregon.

**11.5 No Third-Party Beneficiaries.** County and MCFD1 are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives or may be construed to give or provide any benefit or right to third persons, either directly or indirectly, that is greater than the rights and benefits enjoyed by the general public, unless that party is identified by name in this Agreement.

**11.6 Headings.** The headings and captions in this Agreement are for reference and identification purposes only and may not be used to construe the meaning or to interpret the Agreement.

**11.7 Force Majeure.** Neither party will be held responsible for delay or default due to force majeure acts, events, or occurrences, including but not limited to fires, riots, wars, and epidemics, unless such delay or default could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party.

**11.8 Multiple Counterparts.** This Agreement and any subsequent amendments may be executed in several counterparts, facsimile or otherwise, all of which when taken together will 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 will constitute an original.

**INTERGOVERNMENTAL AGREEMENT**  
**Between**  
**MARION COUNTY SHERIFF'S OFFICE**  
**and**  
**MARION COUNTY FIRE DISTRICT NO. 1**

**12. SIGNATURES**

This agreement and any changes, alterations, modifications, or amendments will be effective when approved in writing by the authorized representative of the parties hereto as of the effective date set forth herein.

In witness whereof, the parties hereto have caused this agreement to be executed on the date set forth below.

**MARION COUNTY SIGNATURE:**

\_\_\_\_\_  
Chair Date

\_\_\_\_\_  
Commissioner Date

\_\_\_\_\_  
Commissioner Date

Authorized Signature: \_\_\_\_\_  
Undersheriff Date

Authorized Signature: \_\_\_\_\_  
Chief Administrative Officer Date

Reviewed by Signature: \_\_\_\_\_  
Marion County Legal Counsel Date

Reviewed by Signature: \_\_\_\_\_  
Marion County Contracts & Procurement Date

**MARION COUNTY FIRE DISTRICT NO. 1**

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 9/17/2025

Department: Sheriff's Office

Title: Jail-Based Medications for Opioid use Disorder (JMOUD) medication purchase- Purchase Order# 941044

Management Update/Work Session Date: 9/2/2025 Audio/Visual aids [ ]

Time Required: 5 minutes Contact: Beth Johnston Phone: 503-589-3261

Requested Action: Staff recommends considering approval to spend \$153,720.00 with vendor Henry Schein, Inc. to place a one time 400 unit Brixadi subcutaneous injection medication order.

Issue, Description & Background: The Sheriff's Office requests approval to purchase Brixadi, a pharmaceutical drug, for the jail by a standard purchase order referencing State Price Agreement (SPA) # PO-10700-00024580 and the Minnesota Multi-state Contracting Alliance (MMCAP) MMS2200734 that conforms to Marion County Public Contracting Rules, Section 10-0400. This medication is used to provide treatment to persons in custody with an opioid disorder. This purchase will give the Sheriff's Office the ability to keep medication on hand to help mitigate barriers of providing treatment to persons in custody with an opioid disorder. CMS Record Number: SO-6817-25

Financial Impacts: FY 25-26 budgeted purchase using incoming awarded funds from the Criminal Justice Commission JMOUD Grant. Costing String: 250.31.33.333.3309.521120.033029

Impacts to Department & External Agencies: N/A

List of attachments: BOC packet with Purchase Order and Quote

Presenter: Commander Jacob Ramsey

Department Head Signature: Signed by: Nicholas Hunter 574858902EE148C...

# Contract Review Sheet

Purchase Order **941044/ SO-6817-25**

Title: **Jail-based Medications of Opioid Use Disorder (JMOUD) Medication**

Contractor's Name: **Henry Schein, Inc.**

Department: **Sheriff's Office**

Contact: **Bethany Johnston**

Analyst: **Sandra Fixsen**

Phone #: **(503) 589-3261**

Term - Date From: **Upon signatures**

Expires: **December 31, 2025**

Original Contract Amount: **\$ 153,720.00**

Previous Amendments Amount: **\$ -**

Current Amendment: **\$ -**

New Contract Total: **\$ 153,720.00**

Amd% **0%**

Outgoing Funds  Federal Funds  Reinstatement  Retroactive  Amendment greater than 25%

Source Selection Method: **10-0400 Cooperative**

Cooperative# **00024580**

Description of Services or Grant Award

Criminal Justice Commission awarded the Marion County Sheriff's Office the Jail-based Medications of Opioid Use Disorder (JMOUD) grant which allows adults in custody with an opioid disorder to receive medication treatment.

Purchase Order request with vendor Henry Schein, Inc. to purchase 400 units of Brixadi Subcutaneous Injections for a one-time purchase totaling \$153,720.00 during fiscal year 2025-2026.

Desired BOC Session Date: **9/17/2025**

Contract should be in DocuSign by: **8/27/2025**

Agenda Planning Date: **9/4/2025**

Printed packets due in Finance: **9/2/2025**

Management Update: **9/2/2025**

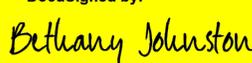
BOC upload / Board Session email: **9/3/2025**

BOC Session Presenter(s) **Commander Jacob Ramsey**

Code: **Y**

## REQUIRED APPROVALS

DocuSigned by:  
  
 C5E72231E6E54E3  
 8/26/2025  
 Finance - Contracts Date

DocuSigned by:  
  
 D69BA3AA80AC4BE  
 8/3/2025  
 Contract Specialist Date

Signed by:  
  
 60C98A6E708240B...  
 8/27/2025  
 Legal Counsel Date

DocuSigned by:  
  
 DC16351248DE4EE...  
 8/3/2025  
 Chief Administrative Officer Date



**MARION COUNTY  
FINANCE DEPARTMENT**

PO Box 14500  
555 Court St NE #4247  
Salem, OR 97309-5036

Henry Schein, Inc.  
135 Duryea Road  
Melville, NY 11747

Purchase Order		
Purchase Order No	Revision	Page
941044/ SO-6817-25		1
<b>Ship To:</b>		
Marion County Sheriff's Office-Medical 4000 Aumsville Hwy SE Salem, OR 97317 United States		
<b>Bill To:</b>		
Marion County Sheriff's Office PO Box 14500 Salem, OR 97309-5036 United States		

Customer Acct No	Supplier No 504094	Order Date / Buyer	Revised Date / Buyer
Payment Terms Net 30 days	Ship Via Best method	F.O.B Destination	
Freight Terms Prepaid	Request Or Deliver To	Confirm To / Telephone ( )	

Line #	Description	Delivery Date	Quantity	Unit	Unit Price	Total
1	Item# 147-7984 Brixadi Subcutaneous Injection 24mg Weekly Prefilled Syringe 0.48mL each		400		384.30	\$153,720.00
<p>THIS PURCHASE IS PLACED AGAINST STATE OF OREGON PRICE AGREEMENT #PO-10700-00024580. THE CONTRACT TERMS AND CONDITIONS AND SPECIAL CONTRACT TERMS AND CONDITIONS (T'S &amp; C'S) CONTAINED IN THE PRICE AGREEMENT ARE HEREBY INCORPORATED BY REFERENCE AND SHALL APPLY TO THIS PURCHASE AND SHALL TAKE PRECEDENCE OVER ALL OTHER CONFLICTING T'S &amp; C'S. EXPRESS OR IMPLIED.</p>						
<b>Total</b>						\$153,720.00

INSTRUCTIONS TO VENDOR

1. Please direct any questions concerning this purchase order to invoiced department.
2. Purchase Order Number must appear on all invoices, packages and shipping documents relating to this order.
3. Separate invoices must be submitted for each Purchase Order.
4. Do not overship or substitute.
5. If you cannot supply the items requested, please notify issuing authority at once.

**Note : Please notify department contact (above) for all inquiries regarding this Purchase Order**

**Authorized By:** \_\_\_\_\_  
**MARION COUNTY PURCHASING**  
NOT VALID Unless Signed By Purchasing

**MARION COUNTY TERMS AND CONDITIONS**

**1. INSPECTIONS:** County may inspect and test the Goods and related Services (collectively, Goods). County may reject non-conforming Goods and require Contractor to correct them without charge or deliver them at a reduced price, as negotiated. If Contractor does not cure any defects within a reasonable time, County may reject the Goods and cancel the PO in whole or in part. This paragraph does not affect or limit County's rights, including its rights under the Uniform Commercial Code, ORS chapter 72 (UCC).

**2. DELIVERY:** Deliveries will be F.O.B destination. Contractor shall pay all transportation and handling charges. Contractor is responsible and liable for loss or damage until final inspection and acceptance of the Goods. Contractor remains liable for latent defects, fraud, and warranties.

**3. PAYMENT:** County shall pay Contractor within 30 days from (i) the date the Goods are delivered and accepted or (ii) the date the invoice is received, whichever is later

**4. COUNTY PAYMENT OF CONTRACTOR CLAIMS:** If Contractor does not pay promptly any claim that is due for Goods or Services furnished to the Contractor by any subcontractor in connection with this PO, the County may pay such claim and charge that payment against any payment due to the Contractor under this PO. The County's payment of a claim does not relieve the Contractor or its surety, if any, from their obligations for any unpaid claims.

**5. WARRANTIES:** Contractor agrees to perform its services with that highest standard of care, skill and diligence normally provided by a professional individual in the performance of similar services. Contractor represents and warrants that the Goods are new, current, and fully warranted by the manufacturer. Delivered Goods will comply with specifications and be free from defects in labor, material and manufacture. All UCC implied and expressed warranties are incorporated in this PO. Contractor shall transfer all warranties to the County.

**6. TERMINATION OF PO:** The PO may be terminated under the following conditions: a. By written mutual agreement of both parties. Termination under this provision may be immediate. b. Upon fifteen (15) calendar days written notice by either Party to the other of intent to terminate. c. The County may terminate all or part of this PO for the following reasons: (1) If the consultant fails to provide services, or fails to meet the performance standards as specified in this PO (or subsequent modifications of this PO), within the time specified herein or any extension thereof. Termination under this provision may be immediate; (2) If the consultant fails to start services on the date specified by Marion County in this PO or subsequent modifications to this contract. Termination under this provision may be immediate. (3) Failure of the consultant or Marion County to comply with the provisions of this PO and all applicable federal, state, and local laws and rules may be cause for termination of this contract. Such termination shall be without prejudice to any obligations or liabilities of either party accrued prior to such termination. If this PO is terminated by either party, for reasons other than breach of contract, the County agrees to pay to the consultant all costs and expenses associated with services satisfactorily provided to the effective date of termination.

**7. INDEMNIFICATION.** The Contractor shall save harmless, indemnify, and defend the County for any and all claims, damages, losses and expenses including but not limited to reasonable attorney's fees arising out of or resulting from Contractor's performance of or failure to perform the obligations of this PO to the extent same are caused by the negligence or misconduct of Contractor or its employees or agents.

**8. GOVERNING LAW, VENUE:** This PO shall be governed by the laws of the State of Oregon. Any action commenced in connection with this PO shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing

is without limitation to or waiver of any other rights or remedies of the County according to law.

**9. FORCE MAJEURE:** Neither party is responsible for delay or default caused by an event beyond its reasonable control. County may terminate this PO without liability to Contractor upon written notice after determining the delay or default reasonably prevents performance of this PO.

**10. SUBCONTRACTING/NONASSIGNMENT.** No portion of the PO may be contracted or assigned to any other individual, firm or entity without the express and prior approval of the County.

**11. MAINTENANCE, RETENTION, AND CONFIDENTIALITY OF RECORD.** The Contractor agrees to establish and maintain records and statistics as follows: Financial records, which indicate the number of hours of service provided under this contract and other appropriate records pertinent to this contract shall be retained for a minimum of three (3) years after the end of the contract period. If there are unresolved audit questions at the end of the three-year period, the records must be maintained until the questions are resolved. To the extent applicable, client records shall be kept confidential in accordance with ORS 179.505, OAR 309-11-020, 45 CFR 205.50 and 42 CFR Part 2.

**12. COMPLIANCE WITH APPLICABLE LAWS:** The Contractor shall comply with all applicable Federal, State and local laws, rules and regulations. All provisions of ORS 279B (Public Contracts and Purchasing) are incorporated herein to the extent applicable to POs.

**13. WORKERS' COMPENSATION:** Contractor shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless exempt under ORS 656.126(2). Contractor shall ensure that its Subcontractors, if any, comply with these requirements.

**14. SAFETY AND HEALTH REQUIREMENTS:** Contractor represents and warrants that the Goods comply with all federal and Oregon safety and health requirements.

**15. MATERIAL SAFETY DATA SHEET:** Contractor shall provide County with a Material Safety Data Sheet for any Goods which may release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use (OAR 437- 002-0360 and 29 CFR 1910.1020). Contractor shall label, tag or mark such Goods.

**16. AMENDMENTS:** All amendments to this PO must be in writing, signed by County.

**17. SEVERABILITY:** If a court of competent jurisdiction declares any provision of this PO to be invalid, the other provisions and the rights and obligations of the parties remain in effect.

**18. WAIVER:** Failure of either party to enforce any provision of this PO is not a waiver or relinquishment of that party's rights to such performance in the future or to enforce any other provisions.

**19. TAX CERTIFICATION:** Contractor hereby certifies under penalty of perjury: (a) the number shown on this form is the correct Federal Employer Identification Number; (b) it is not subject to backup withholding because (i) it is exempt from backup withholding, (ii) it has not been notified by the IRS that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that it is no longer subject to backup withholding; and (c) it is not in violation of any Oregon tax laws.

**Brixadi Subcutaneous Injection 24mg Weekly Prefilled Syringe 0.48mL Each**

**Brixadi Subcutaneous Injection 24mg Weekly Prefilled Syringe 0.48mL Each**

**1477984** | Braeburn Inc. - 58284022401

**DESCRIPTION:**

Brixadi Subcutaneous Injection 24mg Weekly Prefilled Syringe 0.48mL Each

**PACKAGING OPTIONS (1)**

\$427.00  
**1 @ \$384.30**      **EA**  
EACH

This product is Non-Returnable.

This product is a Class 3, 3N, 4, or 5 drug. Please ensure that HSI has your DEA number for the corresponding class on file.



Compare |  Save to Shopping List

**CATEGORY:**

Pharmacy / Rx / Analgesics / Opioid Use Disorder

**UNSPSC:**

51000000

**BILLING NDC#**

58284022401

**NDC#**

5828422401

ADDITIONAL ATTRIBUTES



**Specifications**

Product specifications and dimensions

**ADDITIONAL ATTRIBUTES**

Weekly

**CONTAINER SIZE**

0.48mL

**CONTAINER TYPE**

Prefilled Syringe

**DOSAGE FORM**

Subcutaneous Injection



[Home](#) / [Supplies & Small Equipment](#) / [Browse Supplies](#) / [Category: Pharmacy](#) /



**SIGNATURE PAGE FOR  
HENRY SCHEIN**

**JAIL-BASED MEDICATIONS FOR OPIOID USE DISORDER (JMOUD)**

**PO# 941044/SO-6817-25**

**MARION COUNTY SIGNATURES  
BOARD OF COMMISSIONERS:**

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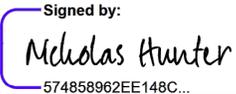
Chair \_\_\_\_\_ Date \_\_\_\_\_

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Commissioner \_\_\_\_\_ Date \_\_\_\_\_

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Commissioner \_\_\_\_\_ Date \_\_\_\_\_

Authorized Signature:  Signed by:   
574858962EE148C... 8/27/2025  
Department Director or designee \_\_\_\_\_ Date \_\_\_\_\_

Authorized Signature:  DocuSigned by:   
DC16351248DE4EC... 9/3/2025  
Chief Administrative Officer \_\_\_\_\_ Date \_\_\_\_\_

Reviewed by Signature:  Signed by:   
80C98A6F708240B... 8/27/2025  
Marion County Legal Counsel \_\_\_\_\_ Date \_\_\_\_\_

Reviewed by Signature:  DocuSigned by:   
C5F72231E6F54E3... 8/26/2025  
Marion County Contracts & Procurement \_\_\_\_\_ Date \_\_\_\_\_



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 9/24/2025

Department: Community Services

Title: The 4th Dimension Recovery Center Grant Agreement

Management Update/Work Session Date: 8/19/2025 Audio/Visual aids [ ]

Time Required: 10 minutes Contact: Chip Bury Phone: 503-585-3225

Requested Action: Approve a contract with the The 4th Dimension Recovery Center to provide \$175,399.30 in Opiod funding for the Salem Teen and Family Recovery Program Launch.

Issue, Description & Background: This agreement is to provide The 4th Dimension Recovery Center funding to support operational launch of a comprehensive adolescent and family addiction treatment program in Salem. The program will deliver integrated clinical treatment, peer-based recovery services, and education directly addressing a critical gap in adolescent substance use treatment.

Financial Impacts: The agreement allocates Opiod settlement funds in the amount of \$175,399.30. The agreement is set to expire one year from execution.

Impacts to Department & External Agencies: The approval of this grant will provide funding for The 4th Dimension Recovery Center to support teens and families in Marion County suffering from addiction.

List of attachments: Contract CS-6810-25

Presenter: Chip Bury

Department Head Signature: DocuSigned by: Kelli Wase A8574B4B9ECB492...

# Contract Review Sheet

Grant Agreement

**CS-6810-25**

Title: Grant to The 4th Dimension Recovery Center

Contractor's Name: The 4th Dimension Recovery Center

Department: Community Services Department

Contact: Ashley Jackson

Analyst: Kathleen George

Phone #: (503) 584-7722

Term - Date From: Upon Execution

Expires: One year from effective date

Original Contract Amount: \$ 175,399.30 Previous Amendments Amount: \$ -

Current Amendment: \$ - New Contract Total: \$ 175,399.30 Amd% 0%

Outgoing Funds  Federal Funds  Reinstatement  Retroactive  Amendment greater than 25%

Source Selection Method: 50-0010 General Exemptions (IGAs Grants QRFs) Department Department

Description of Services or Grant Award

This agreement provides start-up funds that assist 4D Recovery in launching family-centric services that help adolescents overcome substance use and mental health challenges.

Desired BOC Session Date: 9/24/2025

Contract should be in DocuSign by: 9/3/2025

Agenda Planning Date: 9/11/2025

Printed packets due in Finance: 9/9/2025

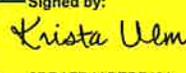
Management Update: 9/9/2025

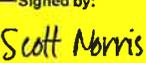
BOC upload / Board Session email: 9/10/2025

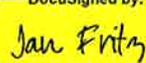
BOC Session Presenter(s) Kelli Weese Code: Y

## REQUIRED APPROVALS

DocuSigned by:  
  
8/25/2025  
 Finance - Contracts Date

Signed by:  
  
9/3/2025  
 Contract Specialist Date

Signed by:  
  
8/26/2025  
 Legal Counsel Date

DocuSigned by:  
  
9/3/2025  
 Chief Administrative Officer Date

**MARION COUNTY  
EEOP GRANT TO THE 4TH DIMENSION RECOVERY CENTER  
GRANT AGREEMENT CS-6810-25**

This Grant Agreement (this "Agreement") is entered into by and between Marion County (a political subdivision of the State of Oregon), acting by and through its Community Services Department, hereinafter called "County" and The 4th Dimension Recovery Center, a Nonprofit, hereinafter referred to as "Grantee".

**1. INFORMATION**

This Agreement includes the following exhibits which are incorporated herein:

- A. Exhibit A (The Application)
- B. Exhibit B (Grant Project Report Requirements)

**2. TERM OF AGREEMENT**

Unless terminated or extended, this Agreement is effective on the date it has been signed by all parties and all required County approvals have been obtained. This Agreement expires one year from the effective date. The remedies available to County and Grantee shall survive the termination of the agreement, whether upon expiration or termination pursuant to Section 11 herein.

**3. SCOPE OF WORK**

Grantee shall perform the work described in Exhibit A, The Application (the "Work") in accordance with the terms and conditions of this Agreement and other applicable law whether or not described in this Agreement. Grantee shall perform its obligations hereunder efficiently, effectively and within applicable grant timelines, all to the satisfaction of the County.

**4. GRANT FUNDING**

- A. County has agreed to make a conditional award of funds to the Grantee in the not-to-exceed amount of \$175,399.30 (the "Grant"). Disbursements are considered an advance of funds to Grantee which Grantee may retain only if properly expended, in accordance with the terms and conditions of this Agreement, prior to the termination of this agreement.
- B. Grant distributions will be made by County to Grantee upon Grantees request and compliance with the requirements set forth in Exhibit A.

**5. USE OF FUNDS**

- A. The County shall make an award of funds to the Grantee not-to-exceed amount of \$175,399.30. Disbursement of funds shall be made to Grantee, based on the budget submitted in Exhibit A and County's receipt of all required reports.
- B. Recipients may use funds for direct administrative costs for administering the project, as identified in the approved budget of the Work. Direct Administrative Costs are identified as specific costs of implementing the project, such as contract or project management and personnel costs directly associated with complying with legal and reporting requirements. Indirect Costs or general overhead costs as approved in the budget.
- C. Any desired use of funds by Grantee that differs from the Work must first be approved in writing, by the County. 100% of the funds must be used to provide services as indicated in the Work.
- D. Recognition of Funding: Grantee shall clearly state in any marketing, communication, publications, or

public materials related to any project or program funded under this Agreement, that the project was funded, in whole or in part, by the Marion County Economic Development Program. Where applicable, the Grantee shall also include the Marion County Economic Development Program logo in such materials.

- E. County Inclusion in Media Events: The Grantee shall provide the County with prior written notice of any media events or public ceremonies related to the project, including but not limited to groundbreaking events, ribbon cuttings, or dedication ceremonies. Such notice shall be provided to the County no less than fourteen (14) calendar days in advance of the event, or as soon as reasonably practicable if earlier notice is not feasible. The Grantee shall invite the County and provide an opportunity for County officials to participate in any such events in recognition of funding support and contribution to the project.

**6. REPORTING REQUIREMENTS**

Grantee must complete and submit all required progress and financial reports to County as set forth in Exhibit B and below:

- A. Initial Funding Request Report: Upon execution of grant agreement and funding disbursement request, Grantee shall submit an initial funding request report including:
  - Budget Narrative, and
  - Activity Report.
- B. Grant Funding Completion Report: Prior to, or upon project completion, the Grantee shall be required to provide a project completion report including:
  - Budget Narrative,
  - Activity Report,
  - Request to Marion County Staff to Schedule Board of Commissioners Presentation, and
  - Project Picture(s)

**7. GRANT MONITORING**

- A. County may monitor the activities of each Grantee as it deems necessary or appropriate to determine whether grant funds are used in accordance with this Agreement.
- B. Grantee shall cooperate fully with all County monitoring activities and shall promptly respond to all requests. Failure by Grantee to fully cooperate or promptly respond will be considered a material breach of this Agreement.
- C. Grantee shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Grantee shall maintain any other records pertinent to this agreement in such a manner as to clearly document Grantee's use of funds, activities, and performance.
- D. The County, the State of Oregon, or the applicable audit agencies of the U.S. Government shall have free access to and the right to copy all or any part of the books, documents, papers, audits and records of Grantee.

**8. MISEXPENDITURES, UNDEREXPENDITURES AND EXCESS PAYMENTS**

- A. It is the responsibility of Grantee to monitor expenses and ensure funds are expended in compliance with this agreement.

- B. Upon County's identification of a misexpenditure or excess payment, County shall notify Grantee thereof. Upon Grantee's identification of a misexpenditure or excess payment, Grantee shall notify County thereof.
- C. Within 30 days of identifying a misexpenditure or excess payment, Grantee shall make full payment to County. Within 30 days of receiving notice of a misexpenditure or excess payment, Grantee shall make full payment to County.
- D. Grantee shall return any underexpenditure to County within 30 days of Agreement termination.

**9. WITHHOLDING AND REDISTRIBUTION OF GRANT FUNDS**

- A. County may withhold any and all Grant funds from Grantee if County, in its sole discretion, determines that Grantee has failed to timely satisfy any material obligation arising under this Agreement including, but not limited to, providing complete, accurate and timely reports satisfactory to County detailing Grantee performance under this Agreement.
- B. If Grant funds are not obligated for reimbursement by Grantee in a timely manner as determined by County at its sole discretion, County may reduce Grantee funding as it determines to be appropriate in its sole discretion and redistribute such funds to other Grantees or retain such Grant funds for other County use.
- C. Nothing in this section limits the County's ability or authority to pursue any or all legal or equitable remedies for Grantee's breach of this Agreement.

**10. FUNDING APPROPRIATION**

In the event the Board of Commissioners of the County reduces, changes, eliminates, or otherwise modifies funding in a manner that reduces this grant award, the Grantee agrees to abide by any such decision including termination of this Agreement.

**11. TERMINATION**

- A. County may immediately terminate this Agreement as set forth below:
  - 1. For its convenience upon thirty (30) days' prior written notice from County;
  - 2. Immediately upon written notice by County to Grantee, or at such later date as County may establish in such notice, if Grantee is in default.
- B. Grantee may, upon thirty (30) days written notice, terminate this Agreement in whole or in part, if the County unreasonably fails to provide timely funding hereunder and does not correct such failure within the thirty (30) day notice period.
- C. In the event of termination of this Agreement by either party, all unexpended money, property, finished or unfinished documents, data, financial reports, audit reports, program reports, studies and reports purchased or prepared by Grantee under this Agreement shall be delivered to County within thirty (30) days of the date of termination or upon such date as requested by County.
- D. Termination of this Agreement shall not impair or invalidate any remedy available to County or to Grantee hereunder, at law, or otherwise.
- E. Agreement may be terminated at any time by mutual consent of both parties upon 30 days' notice, in writing and delivered by certified mail or in person.

**12. GOVERNING LAW; VENUE; CONSENT TO JURISDICTION**

This Agreement shall be governed by the laws of the State of Oregon without regard to principles of conflicts of law.

**13. COMPLIANCE WITH APPLICABLE LAW**

Grantee shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Agreement.

**14. NO THIRD-PARTY BENEFICIARIES**

County and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

**15. NOTICES**

Any notice of termination or other communication having a material effect on this Agreement shall be served by U.S. Mail on the signatories listed.

County Contact Person: Chip Bury  
Contact Telephone Number: 503-585-3235  
E-Mail Address: cbury@co.marion.or.us  
Mailing Address: 555 Court St. NE Salem, OR 97301 Ste 1236

**16. INSURANCE AND WORKERS COMPENSATION**

The Grantee shall maintain at all times commercial general liability insurance, property damage insurance, and professional if applicable, covering its activities and operations under this Agreement. Grantee agrees to provide County with a copy of required insurance upon request.

**17. GRANTEE STATUS**

The Grantee is a separate and independently established business, retains sole and absolute discretion over the manner and means of carrying out the Grantee's activities and responsibilities for the purpose of implementing the provisions of this contract, and maintains the appropriate license/certifications, if required under Oregon Law. This Agreement shall not be construed as creating an agency, partnership, joint venture, employment relationship or any other relationship between the parties other than that of independent parties. The Grantee is acting as an "independent contractor" and is not an employee of County, and accepts full responsibility for taxes or other obligations associated with payment for services under this contract. As an "independent contractor", Grantee will not receive any benefits normally accruing to County employees unless required by applicable law. Furthermore, Grantee is free to contract with other parties for the duration of the contract.

**18. INDEMNITY**

The Grantee shall defend, indemnify, and hold harmless the County, its officers, agents, and employees from damages arising out of the tortious acts of the Grantee, its officers, agents, and employees acting within the scope of their employment and duties in performance of this agreement.

**19. TIME IS OF THE ESSENCE**

Time is of the essence in the performance of all under this Agreement.

**20. MERGER CLAUSE**

This Agreement and attached exhibits constitute the entire agreement between the parties on the subject

matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind all parties unless in writing and signed by both parties and all necessary County approvals have been obtained. The failure of County to enforce any provision of this Agreement shall not constitute a waiver by County of that or any other provision.

**21. CERTIFICATIONS AND SIGNATURE OF GRANTEE'S AUTHORIZED REPRESENTATIVE**

The undersigned certifies under penalty of perjury both individually and on behalf of Grantee that by signature on this Agreement for Grantee, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Grantee and that Grantee is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

**GRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT GRANTEE HAS READ THIS AGREEMENT, UNDERSTANDS IT, HAS THE LEGAL AUTHORITY TO BIND, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**THE 4<sup>th</sup> DIMENSION RECOVERY CENTER SIGNATURE**

Authorized Signature: \_\_\_\_\_ Date \_\_\_\_\_

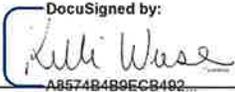
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**MARION COUNTY SIGNATURES  
BOARD OF COMMISSIONERS:**

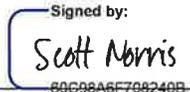
\_\_\_\_\_  
Chair Date

\_\_\_\_\_  
Commissioner Date

\_\_\_\_\_  
Commissioner Date

Authorized Signature:  \_\_\_\_\_ 8/25/2025  
Department Director or designee Date

Authorized Signature:  \_\_\_\_\_ 9/3/2025  
Chief Administrative Officer Date

Reviewed by Signature:  \_\_\_\_\_ 8/26/2025  
Marion County Legal Counsel Date

Reviewed by Signature:  \_\_\_\_\_ 8/25/2025  
Marion County Contracts & Procurement Date



### Exhibit A - The Application

## Emergent Economic Opportunity Program (EEOP) Request Form

<b>Organization Name:</b>	The 4th Dimension Recovery Center, DBA 4D Recovery		
<b>Executive Officer Name:</b>	Tony Vezina	<b>Contact Person / Title:</b> <i>(If different from Executive Director):</i>	
<b>Address:</b> <i>(Principal Administrative Office)</i>	300, Portland, OR 97216	<b>Mailing Address:</b> <i>(if different)</i>	
<b>Contact Email:</b>	tony.vezina@4drecovery.org	<b>Contact Phone Number:</b>	971-323-5977

<b>Project Name:</b>	Salem Teen and Family Recovery Program Launch		
<b>Purpose of Funding Request:</b>	To provide start-up funds that assist 4D Recovery in launching family-centric services that help adolescents overcome substance use and mental health challenges. See supplemental documents for more information.		
<b>Please indicate how the project / program meets ORS 461.540 requirements.</b>	<input checked="" type="checkbox"/> Create Jobs <input checked="" type="checkbox"/> Further Economic Development <input checked="" type="checkbox"/> Finance Public Education Explain: See supplemental document.		
<b>Total Project / Program Cost:</b>	\$875,000	<b>Amount Requested:</b>	\$175,399.30
<b>Geographic Area(s) Served:</b>	Marion County		
<b>Other Partners:</b>	Discover Academy Recovery High School, Punx's with Purpose, Marion County Juvenile Justice, OHA, DHS, and Bridgeway Community Health.		
<b>Project or Program Start Date:</b>	10/1/25	<b>Project or Program End Date:</b>	10/1/26

#### Additional Submittal Information

Written Invitation from representative(s) of Marion County:	<input checked="" type="checkbox"/>	Budget Narrative - <i>Examples: Outlining project / program's costs by category including personnel services, materials &amp; equipment</i>	<input checked="" type="checkbox"/>	Supplemental Materials - <i>Examples: Project / program description, maps, etc.; Letter(s) of support; or other information that helps to describe the purpose and need of the program funds</i>	<input checked="" type="checkbox"/>
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<b>Name of Applicant:</b>	Tony Vezina	<b>Signature:</b>	<i>Tony Vezina</i>
---------------------------	-------------	-------------------	--------------------

#### For Community Services Department Use Only:

Date Received: \_\_\_\_\_ Director Review (Initial & Date): \_\_\_\_\_

Authorization to Award:

Commissioner Willis:		Commissioner Cameron:		Commissioner Bethell:	
Discussion Summary:					

ORS 461.540 & ORS 285B.410	
<b>'Creating Jobs'</b>	<ul style="list-style-type: none"> <li>• Supporting the creation of or helping prevent the loss of new jobs in Marion County.</li> <li>• Assisting with work transition to new jobs in Marion County.</li> <li>• Training or retaining workers in Marion County.</li> </ul>
<b>'Furthering Economic Development'</b>	<ul style="list-style-type: none"> <li>• Services or financial assistance to for-profit and nonprofit businesses located or anticipating location in Marion County.</li> <li>• Services or financial assistance for facilities, physical environments or development project that benefit the Marion County economy.</li> </ul>
<b>'Development Project'</b>	A project for the acquisition, improvement, construction, demolition, or redevelopment of municipally owned utilities, buildings, land, transportation facilities or other facilities that assist the economic and community development of the municipality, including planning project activities that are necessary or useful as determined by the Oregon Finance Authority.
<b>'Planning Project'</b>	<ul style="list-style-type: none"> <li>• A project related to potential development project for preliminary, final or construction engineering.</li> <li>• A survey, site investigation or environmental action.</li> <li>• A financial, technical, or other feasibility report, study, or plan.</li> <li>• An activity that the authority determines to be necessary or useful in planning for a potential development project.</li> </ul>
<b>'Education'</b>	<p>Specific programs that support the following:</p> <ul style="list-style-type: none"> <li>• Prekindergartens,</li> <li>• Elementary and secondary schools,</li> <li>• Community Colleges,</li> <li>• Higher education,</li> <li>• Continuing Education,</li> <li>• Workforce Training and Education programs, or</li> <li>• Financial Assistance to Oregon Students.</li> </ul>

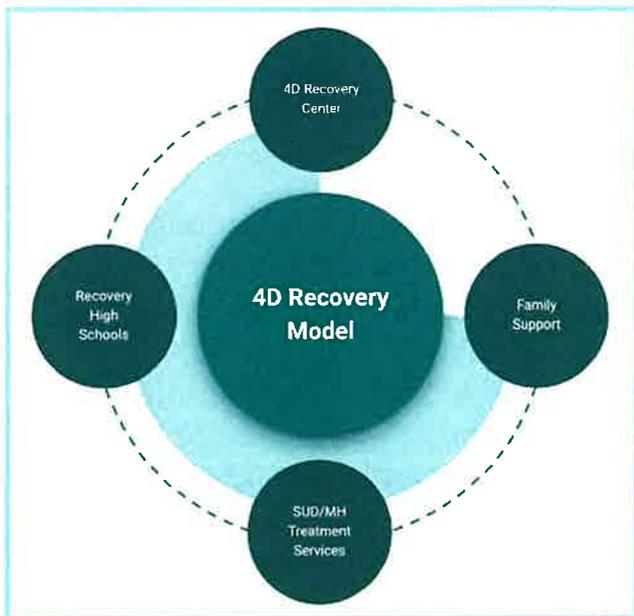
TO: Marion County Behavioral Health Department  
FROM: 4D Recovery (4D)  
RE: Emergent Economic Opportunity Grant (EEOP)

**Project Name:** Adolescent & Family Addiction Treatment and Recovery Program – Salem Launch

**Purpose of Funding Request:**

4D Recovery seeks EEOP funds to support the operational launch of a comprehensive adolescent and family addiction treatment program in Salem. The program will deliver integrated clinical treatment, peer-based recovery services, and education, directly addressing a critical gap in adolescent substance use treatment caused by the closure of Bridgeway’s program.

**BACKGROUND INFORMATION**



4D Recovery’s comprehensive model of care provides substance use and mental health treatment services, family therapy, prescribing, and on-going peer support for clients after treatment completion. Additionally, 4D Recovery has formed strong partnerships with the three current Recovery High Schools.

In Salem, 4D Recovery has the strongest partnership concept with the Recovery High School, Discovery Academy, due to its co-location in one facility. This will likely be the only partnership in the nation with this level of integration.

4D Recovery has received its Certificate of Approval for co-occurring treatment from Oregon Health Authority and has applied with Pacific Source CCO to become a credentialed provider. While 4D has made great strides towards this program, funding for initial treatment operations are non-existent.

Statewide, adolescent substance use trends rank above the national average with 14% of teens 12-17 needing substance use treatment, and 65% of them not receiving any. Additionally, the five-year drug death growth rate for teens 15-19 years of age increased by 625% from 2020-2024, the largest among any U.S. State. The recent closure of Bridgeway’s adolescent program creates a critical gap in care 4D Recovery intends to fill.

<i>Prevalence %/Mortality/Growth Oregon's rank vs. other U.S. states</i>	<b>Oregonians Age 12-17</b>	<b>Oregonians Age 18-25</b>
<b>Substance use past month (excl. alcohol/tobacco)</b>	<b>10%</b> #7	<b>39%</b> #3
<b>Needing substance use treatment past year</b>	<b>14%</b> #6	<b>40%</b> #2
<b>Needing treatment but not receiving past year</b>	<b>~65%</b>	<b>~83%</b>
<b>2023 drug death rate/100K (Age 15-19, 20-24)</b>	<b>11.4</b> #3	<b>27.0</b> #7
<b>5 Year drug death growth (Age 15-19, 20-24)</b>	<b>+625%</b> #1	<b>+169%</b> #3

**ORS 461.540 Requirements Alignment.** 4D believes we are a strong applicant for the grant requirements due to the following.

**Create Jobs:** The project will create two new permanent positions (1.5 FTE Certified Alcohol & Drug Counselors and 0.5 FTE Office Manager) with competitive wages and benefits, along with contracted clinical supervision and support roles. These positions will become self-supporting through reimbursable services at the end of the grant period. In addition to the direct hires, the program will provide internship opportunities for local students seeking employment in social service industries. Overall, this will help Marion County retain residents who may seek employment opportunities elsewhere.

**Further Economic Development:** By establishing sustainable, insurance-billable services for adolescents and families, the program strengthens Marion County’s behavioral health infrastructure, improving long-term workforce readiness and family stability. Additionally, early intervention for substance use and mental health reduces taxpayer burdens related to the criminal justice system, emergency healthcare, and child welfare services, while increasing economic contributions through employment and educational achievement. This investment will also help retain young residents in the community by providing needed resources locally, reducing the need for costly out-of-county placements or services. By building capacity for long-term service delivery, the program creates a lasting positive impact on the local economy.

**Finance Public Education:** Through close partnership with Discovery Academy (Recovery High School), 4D Recovery is supporting secondary education by increasing the likelihood that students complete high school. The program also delivers recovery-focused education, prevention workshops, and family support services that complement traditional academics, helping students maintain both sobriety and school engagement. These educational supports contribute to better graduation rates, reduced dropout risks, and improved readiness for post-secondary education or workforce training. By

embedding recovery resources within an educational environment, the program strengthens both the academic and life outcomes of youth in Marion County.

**Demonstrated Effectiveness and Expected Outcomes**

4D Recovery has demonstrated its ability to manage grant funds, including start up funds. Most recently, we were awarded a sizable grant from CareOregon for treatment start up funds in Multnomah County for both young adult and adolescent services. Our treatment services accept same day assessments, with many referred to higher levels of care. Below is a chart demonstrating our client services since opening.

<b>Gresham Young Adult Treatment</b>	<b>Portland Adolescent Treatment</b>
Opening Date: November 11th, 2025 Time Period: November, 2025 – July, 2026. Total Assessments: 211 Total Enrolled Clients: 104	Opening Date: March 12th, 2026 Time Period: March 2026 – July, 2026. Total Assessments: 48 Total Enrolled Clients: 45

**Salem Client Projection**

4D expects a similar—if not more substantial—level of service engagement in Salem due to the current gap in providers. We anticipate serving **50–75 clients** during the first year of operations and plan to receive referrals through targeted outreach with local high schools, the Juvenile Corrections Department, and public awareness campaigns during Recovery Month.

**Client Outcomes**

4D has consistently collected outcome data on clients, going above and beyond grant requirements. This includes tracking sobriety, which we have maintained as a central goal of our programming, even during periods of dissent from extreme harm reduction approaches. We have provided examples of data already collected; however, we are especially excited about Dr. Nick Crapser’s expertise in bringing a more rigorous, evidence-based approach to our organization. He is currently finalizing empirical surveys designed to strengthen our ability to measure, analyze, and continually improve client outcomes.

### FUNDING REQUEST

Total Funding Requested: \$175,000

4D seeks opioid settlement funding from Marion County to temporarily support salaries for licensed adolescent addiction counselors. This support will cover the initial 12 months of program launch, during which insurance credentialing and billing systems will be established. Once operational, these services will transition to a sustainable, insurance-reimbursable model.

<b>Treatment Start Up Rough Timeline</b>			
<b>1-3 Months</b>	<b>3-6 Months</b>	<b>6-9 Months</b>	<b>9-12 Months</b>
<ul style="list-style-type: none"> <li>•Hire and Train Staff</li> <li>•Establish Program Practices</li> <li>•Conduct Outreach &amp; Education</li> <li>•Finalize CCO and other Insurance Contracts</li> </ul>	<ul style="list-style-type: none"> <li>•Solidify Referral Pathways</li> <li>•Begin Providing Services</li> </ul>	Review Financial Stability of Insurance Based Services & Report to Marion County.	Program Stability with Insurance and Grant Funding.

#### 4D Recovery Marion County Funding Request One Year Budget

<b>FTE</b>		<b>Annual</b>
	1.5 CADC	\$95,000
	0.5 Office Manager	\$23,000.00
	Payroll Taxes	\$12,980.00
	Worker's Comp	\$1,581.20
	Payroll Processing Fees	\$2,860.00

	Health Insurance	\$14,600.00
	Mileage	\$2,500.00
	4013b	\$5,900.00
<b>Total Personnel</b>		<b>\$152,521.20</b>
<b>Total Expenses</b>		<b>\$152,521.20</b>
10% Admin		\$22,878.18
<b>Grand Total</b>		<b>\$175,399.38</b>

# 4D RECOVERY SERVICE MAP

4D Recovery provides a variety of recovery supportive services in Multnomah, Wasco, and Clackamas counties in OR, and Clark County in WA.

YOUNG ADULT CLINICAL SERVICES



ADOLESCENT SERVICES



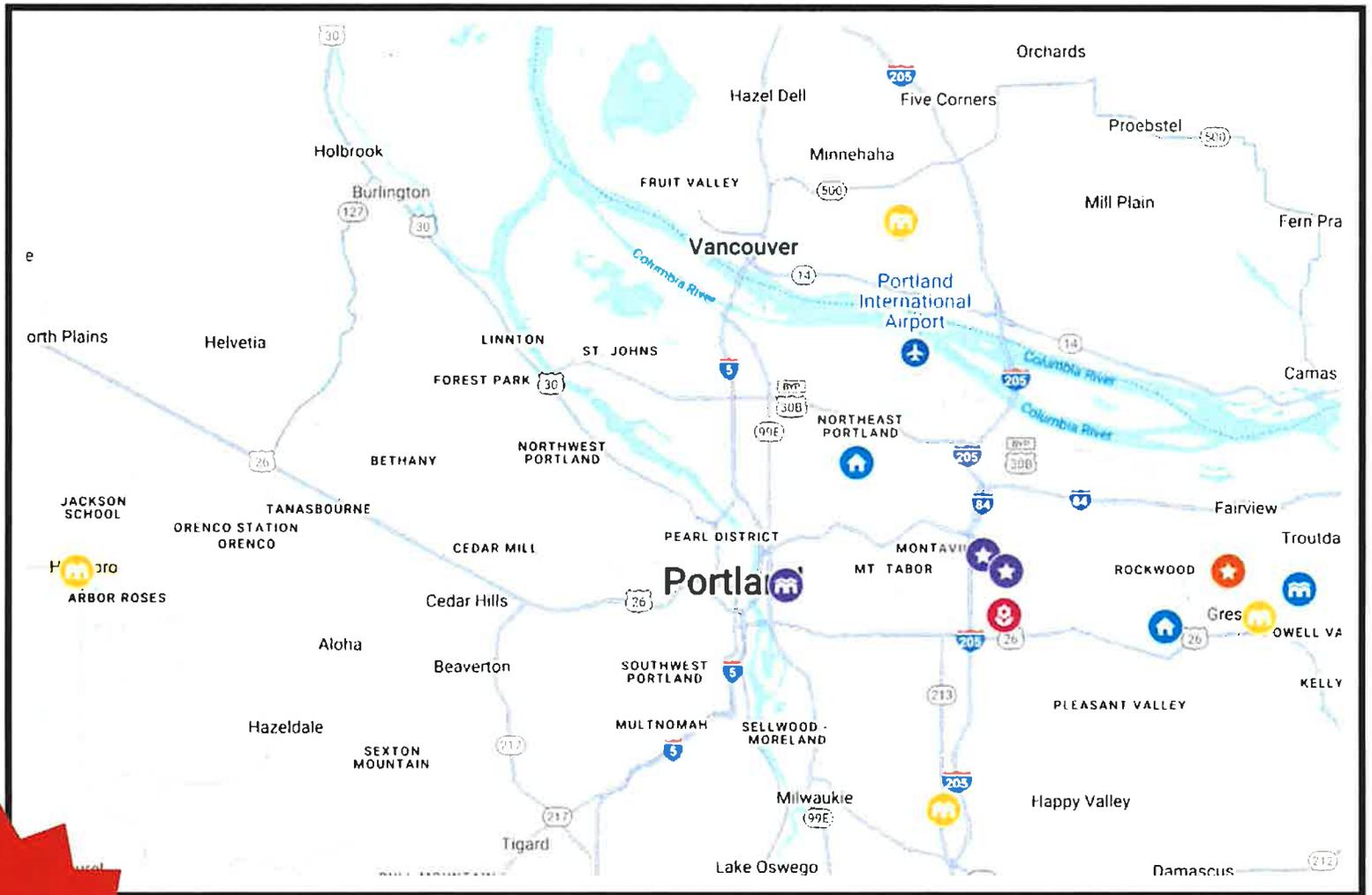
RECOVERY HOUSING



COMMUNITY CENTERS



ADMIN BUILDING



**ADOLESCENT RECOVERY CENTER**  
In Marion County

**YOUNG ADULT RECOVERY CENTER**  
In Jackson & Dechutes County





4D Recovery is a Recovery Community Organization (RCO) in the greater Portland, Oregon, area whose mission is providing a variety of substance use recovery support services to young people ages 18 to 35.

4D Recovery partners with systems, communities, and individuals to deliver age-specific recovery services that are sensitive to race, ethnicity, culture, and gender identity.

4D Recovery supports all pathways to recovery and offers a variety of services to support consumer needs, including peer mentoring, recovery meetings and events, community center spaces, leadership development, and housing supports.

## EVALUATION TAKEAWAYS

- ★ 4D Recovery services help young people make progress on recovery outcomes and improve recovery capital.
- ★ 4D Recovery complements traditional treatments for substance use disorder.
- ★ Investments in recovery services, like 4D Recovery, saves avoidable costs for communities.

**untreated substance use**  
costs Oregonians  
**\$6.7 billion a year**  
and causes  
**6 deaths every day**





## PRIMARY SERVICES

COVID-19's impact on substance use disorders is yet to be understood, but preliminary reports paint a devastating picture. The social isolation and economic distress have been linked to **increased substance use, overdose, and relapse** among those in recovery.

IN 2020, DESPITE THE PANDEMIC, 4D RECOVERY

**expanded** from **1** recovery center **program** to **3**  
**served 285 clients** and met with them **2,295 times**  
and **increased peer-delivered services**

4D Recovery hosts various meetings, including 12-Step, LGBTQ, Men's, Open Recovery, SMART, and Medication Assisted Recovery. Meeting attendance ranges from 5 to 100 participants. Before COVID-19 stay-at-home orders went into effect in March 2020, 4D Recovery hosted over 200 meetings with more than 10,000 participants in January and February.

4D Recovery's pandemic response included digital recovery meetings; street outreach; and education and advocacy efforts. Meeting and participation numbers have not yet rebounded but 4D Recovery continues to be culturally and situationally responsive to serve clients and benefit the community during the ever changing pandemic and substance use disorder landscape.

4D Recovery has contributed to the expansion of peer-delivered services through the development of the following best practices manuals created in partnership with the Metro Association of Addiction Peer Professionals:

**SUD Transition Age Youth Peer Delivered Services manual**, which details a series of competencies programs providing peer services to young adults.

**SUD Recovery smartphone app**, which outlines an e-recovery technology demonstration project conducted through 4D Recovery.

**Reopening Community Recovery Center**, which was developed during COVID-19 to ensure safe recovery support operations during the pandemic.

## FINDINGS

Participants described **8 factors** that **facilitated engagement and satisfaction** with 4D Recovery services

- ★ Opportunities to engage in **fun, healthy recovery activities**
- ★ A **welcoming, nonjudgmental** space
- ★ A focus on providing recovery services **targeted to youth and young adults**
- ★ Opportunities to start a career at 4D Recovery and build **paths to employment opportunities**
- ★ Staff who promote **client-tailored goals** to support goal attainment
- ★ **Staff who stay connected** and are available to talk when needed
- ★ **Staff who have lived experience** and are positive roles models
- ★ **Opportunities to be innovative** within the organization and participate in community advocacy efforts



My feedback to any agency that is considering partnering with [4D Recovery]: they have nothing to lose. It will only make your program better.

STAKEHOLDER AGENCY STAFF



The 4D means hope for young people in recovery to find a way to recover together and to learn how to be young in recovery while having a social life.

4D RECOVERY CONSUMER

A background image featuring a colorful graffiti-style design with the word "RESPECT" written in large, bold, black letters.



[My peer mentor] helped me get my life back in order by first teaching me how to set realistic goals, getting me into sober housing, and then provided transportation to enroll into school. ... I think having a mentor keeping me accountable and pushing me to achieve my goals was the best tool I've had in my recovery.

4D RECOVERY PEER CLIENT

# IMPACTS

## Participants described 3 ways 4D Recovery is unique compared to other organizations

More flexible, less punitive approach to supporting consumers and clients

Ability to leverage time and resources across staff and organizations

Focus on empowerment and diversity

## Other agencies described 3 ways 4D Recovery impacts other treatment and recovery agencies

Opportunities for consumers and clients to build community-based supports

Facilitation of a network of organizations to provide unique supports for consumers and clients

Promotion of cross-organizational learning opportunities

Participants **agreed or strongly agreed** that 4D Recovery services helped them **make progress on recovery outcomes and improve recovery capital.**

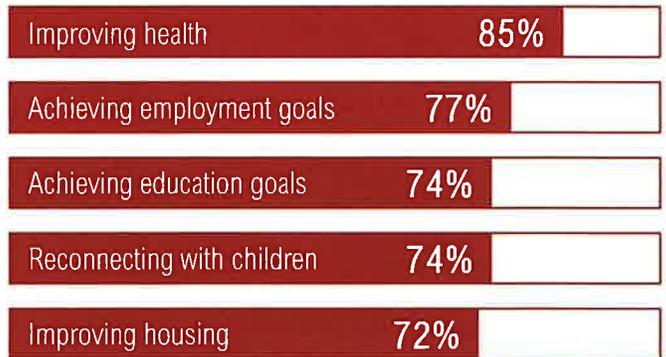


**recovery capital** is the combined total of resources and skills needed to support long-term sustained recovery— especially during occurrences of heightened stress

### RECOVERY OUTCOMES



### RECOVERY CAPITAL



Participants who responded "Not Applicable" were not included in the percentage for that goal

127-216



# IMPACT REPORT

JAN24-DEC24

Ages 18-35

# YOUNG ADULT PEER SERVICES



**1062** TOTAL CLIENTS SERVED

**18,240** HOURS OF ENGAGEMENT

**133** CLIENTS CELEBRATED 1 YEAR OF ABSTINENCE

**117** AVERAGE DAYS SOBER

**19%** RECONNECTED W/ THEIR CHILDREN

**16.5%** IMPROVED THEIR EDUCATION

**31.2%** IMPROVED THEIR EMPLOYMENT

**42.7%** IMPROVED THEIR HOUSING

**91.9%** of clients who participated in our annual survey agreed that they could talk to their

# CLIENT SATISFACTORY SURVEY

We asked our clients, "What was most helpful about having a mentor?"  
Their response:

01

## **My mentor understands.**

"My mentor gives me support that I can't find anywhere else. She understands and has life experiences such as mine. She is easy to talk to and motivates me to be a better me. She is also inspiring. To see that she was able to get her child back motivates me to know I can do the same. She helps me find services and meets me

02

## **Recovery can be FUN!**

"My mentor is amazing. He helped me with housing, college-related issues & he also showed me that I can be sober & still have FUN!!! He's invited me to meetings & other recovery-related events & also encourages me to define my recovery."

03

## **Building self efficacy.**

"I find it helpful that my mentor supports and pushes me to complete my personal goals. She help me set my goals, frame them, and accomplish them. It helps a lot to have someone that can support me stay sober, create and complete goals. I have things to look forward to, and skills to cope with life's obstacles and challenges. Overall, having my 4D mentor has helped me

Ages 14-17

# ADOLESCENT PEER SERVICES



**72** TOTAL CLIENTS SERVED

**3930** HOURS OF ENGAGEMENT

**10** TEENS COMPLETED TREATMENT

**126** AVERAGE DAYS SOBER

**77.8%** RECONNECTED W/ FAMILY

**18%** IMPROVED THEIR EDUCATION

**88.8%** IMPROVED THEIR EMPLOYMENT

**33%** IMPROVED THEIR HOUSING

4D RECOVERY LAUNCHED ADOLESCENT  
PEER SERVICES & OPENED IT'S YOUTH



# DISCOVERY ACADEMY

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08/16/2025

To Whom It May Concern:

I am writing on behalf of Discovery Academy Recovery High School, a program of the Willamette Education Service District, to express our full support for 4D Recovery and their adolescent recovery and mental health services program.

4D Recovery and Discovery Academy share physical space in the same building, which has allowed our staff and students to develop a close working relationship with their team. Even prior to the official launch of their adolescent program, scheduled for October 1, 2025, 4D Recovery has already been engaging with and supporting our students. Their staff have demonstrated professionalism, compassion, and expertise in working with youth in recovery, and we have seen firsthand the positive impact they have on the young people we serve.

As the only recovery high school in the region, Discovery Academy is dedicated to creating a safe, supportive environment for students pursuing both academic success and sustained recovery. We believe that 4D Recovery's formal launch of adolescent-specific services will be a critical asset to our students and to the community at large. We anticipate continued close collaboration, including warm handoffs, shared resources, and integrated support to ensure our students receive the best possible care.

We strongly endorse 4D Recovery's proposal and look forward to building on our existing relationship to create a comprehensive, recovery-oriented campus for youth and families in our community.

If you require additional information regarding our collaboration or support, please feel free to contact me at [max.preminger@wesd.org](mailto:max.preminger@wesd.org), (503) - 385-4843.

*Max Preminger*

Max Preminger (He/Him)  
Discovery Academy Principal  
Office: (503) 385-4840  
Cell: (503) 385-4843



**Ideal Option**

www.idealoption.com  
877.522.1275

5615 Dunbarton Ave.  
Pasco WA 99301

08/14/2025

To Whom It May Concern,

I am writing on behalf of Ideal Option to express our strong support for 4D Recovery's expansion of services for adolescents in Salem, Oregon. As a provider of medication-assisted treatment (MAT) across the state, Ideal Option understands the critical need for accessible, evidence-based services for individuals and families impacted by substance use disorder.

4D Recovery has demonstrated a strong commitment to meeting people where they are, providing compassionate, person-centered care that aligns closely with our own values and approach. Their new Adolescent Recovery Center and the integration of mental health and substance use disorder services for youth will address a significant service gap in our community.

We anticipate a collaborative relationship between Ideal Option and 4D Recovery, including mutual referrals, coordinated care for families, and shared efforts to improve access to comprehensive treatment options. Our combined efforts will ensure that young people in the Salem area have access to the full continuum of care—from harm reduction and MAT to counseling, peer support, and recovery services—necessary for long-term success.

We fully support this project and look forward to working closely with 4D Recovery to improve the lives of adolescents and their families in our community.

Sincerely,

  
Brian Dawson (Aug 14, 2025 15:47:20 PDT)

Dr. Brian Dawson  
Chief Medical Officer  
Ideal Option

# IdealOption\_LOS 4D Recovery

Final Audit Report

2025-08-14

Created:	2025-08-14
By:	Haleyanne Hess (haleyannehess@idealooption.net)
Status:	Signed
Transaction ID:	CBJCHBCAABAAtDaO0s42zofPsY3b-8ksTHTw4_v9eDkh

## "IdealOption\_LOS 4D Recovery" History

-  Document created by Haleyanne Hess (haleyannehess@idealooption.net)  
2025-08-14 - 9:59:52 PM GMT
-  Document emailed to Brian Dawson (briandawson@idealooption.net) for signature  
2025-08-14 - 9:59:56 PM GMT
-  Email viewed by Brian Dawson (briandawson@idealooption.net)  
2025-08-14 - 10:00:04 PM GMT
-  Document e-signed by Brian Dawson (briandawson@idealooption.net)  
Signature Date: 2025-08-14 - 10:47:20 PM GMT - Time Source: server
-  Agreement completed.  
2025-08-14 - 10:47:20 PM GMT

## Exhibit B Grant Project Report Requirements



<b>Grantee Name:</b>			
<b>Executive Officer Name:</b>		<b>Contact Person / Title:</b> <i>(If different from Executive Officer):</i>	
<b>Contact Email:</b>		<b>Contact Phone Number:</b>	
<b>Project / Program Name:</b>			
<b>Type of Report Submittal:</b>	<input type="checkbox"/> Initial Funding Request Report (Due upon funds request)	<input type="checkbox"/> Grant Funding Completion Report (Due at project completion)	
<b>Items Required for Submittal</b> <i>(For both Initial Funding Request and grant funding completion):</i>	<input type="checkbox"/>	Budget Narrative describing the total project / program cost including both grant-funded and non-grant-funded portions. Detail to include: <ul style="list-style-type: none"> <li>- <u>Revenue Sources</u>: Identify all funding sources contributing to the project, including other grants, private contributions, in-kind support, and / or organizational funds.</li> <li>- <u>Expenditures</u>: Itemized list of expenses by category, such as personnel services, contractual services, materials and supplies, equipment, and/or other direct program costs.</li> </ul> <p><b>*Note:</b> Level of detail should provide sufficient explanation for each item to demonstrate the feasibility and sustainability of the project and that funds are spent in alignment with the stated goals.</p>	
	<input type="checkbox"/>	Activity report detailing: <ul style="list-style-type: none"> <li>• The establishment and progress on the project / program</li> <li>• Any changes or significant challenges to the project / program</li> <li>• If available, quotes or narratives from impacted participants of the project / program</li> </ul>	
<b>Additional items Required for project completion report:</b>	<input type="checkbox"/>	Completion report including a narrative on the success of the project / program including how the project / program met goals of the funding application.	
	<input type="checkbox"/>	Request to Marion County Staff to Schedule Board of Commissioners Presentation <ul style="list-style-type: none"> <li>• Note: Completion of short (no more than 10 minutes) presentation before Marion County Board of Commissioners at a regularly scheduled meeting or work session is required at project completion.</li> </ul>	
	<input type="checkbox"/>	Project Picture(s) <ul style="list-style-type: none"> <li>• Please include at least 1 picture of the completed project or work to date</li> <li>• Please attach proof of recognition of funding and/or County logo placement, such as photos, screenshots or copies of promotional materials</li> </ul>	
<b>Report Completed By:</b>		<b>Signature:</b>	

## **Grant Award Reporting Requirements**

Grantee awarded funds will be required to complete two sets of reports as outlined below.

1. **Initial Funding Request Report:** The Grantee shall submit a written report upon execution of grant agreement and funding disbursement request. This report shall contain the following:
  - a. **Budget Narrative:** To ensure accountability and transparency in the use of grant funds, applicants are required to provide a detailed budget clearly outlining the total cost of the proposed project or program, including both grant-funded and non-grant funded components.
    - i. **Revenue:** Applicants must identify all sources of revenue that will contribute to the project, including other grants, private contributions, in-kind support, and any organizational funds being leveraged.
    - ii. **Expenditures:** Applicants must itemize expenditures to show how funds will be allocated across key categories such as personnel services, contractual services, materials, supplies, equipment, and other direct program costs. Each line item should include sufficient detail to demonstrate the necessary and reasonableness of the expense in relation to the project’s objectives. Where applicable, indirect or administrative costs should be separately identified.
    - iii. **Billable Hours:** Applicants shall provide a detailed report of estimated revenue based on potential billable hours, reflecting what would have been generated if the grantee had been able to bill for those hours.
    - iv. **Sustainability:** The level of detail shown above is required to evaluate the feasibility and sustainability of the project to ensure that funds are spent in alignment with the stated goals of the application.
  - b. **Activity report:** Provide a brief summary of the funded project or program, including objectives and intended outcomes and description of the target population or community served. Include the following:
    - i. **Activities Completed:** Applicants must detail the activities conducted (or anticipated to be conducted), the timeline of when major milestones, events, or deliverables occurred, and explanation of any deviations from the original plan and reasons for changes.
    - ii. **Participation & Engagement:** Applicants must provide information detailing the number of individuals served or reached by the project, demographics (age, grade, school) and geographic distribution (i.e. zip codes) of participants, and partnerships or collaborations developed to support activities
    - iii. **Outcomes & Impact:** Applicants must describe the outcomes achieved (or anticipated to be achieved) related to the stated goals including any measurable indicators of progress (e.g. performance metrics, qualitative feedback, success stories), and any challenges encountered and strategies used to address them.
    - iv. **Future Plans:** Applicants must discuss next steps for the project or program including any sustainability plans beyond the grant period, if applicable.
2. **Grant Funding Completion Report:** Prior to, or upon project completion, the Grantee shall:
  - a. prepare a written project / program completion report detailing the information required within the activity report (see above) as well as narrative on the success of the project / program including how the project / program met goals of the funding application.,
  - b. provide at least one picture of the completed project or work to date,
  - c. attach proof of recognition of County funding and/or Marion County logo placement, and
  - d. Request / schedule presentation before the Marion County Board of Commissioners at a regularly scheduled meeting or work session to present a short report (no more than 10 minutes) on the results of the project / program.



# Contract Review Sheet

Contract for Services

**IT-6765-25**

Title: Splunk Cloud Services

Contractor's Name: Carahsoft Technology Corp.

Department: Information Technology Department

Contact: Sandra Fixsen

Analyst: Sandra Fixsen

Phone #: (503) 373-4479

Term - Date From: Upon signatures

Expires: December 31, 2025

Original Contract Amount: \$ 163,369.34 Previous Amendments Amount: \$ -

Current Amendment: \$ - New Contract Total: \$ 163,369.34 Amd% 0%

Outgoing Funds  Federal Funds  Reinstatement  Retroactive  Amendment greater than 25%

Source Selection Method: 10-0400 Cooperative Cooperative# 9412

Description of Services or Grant Award

Implementation of Splunk Cloud Services for County ERP project.

Desired BOC Session Date: 9/17/2025 Contract should be in DocuSign by: 8/27/2025

Agenda Planning Date: 9/4/2025 Printed packets due in Finance: 9/2/2025

Management Update: 9/9/2025 BOC upload / Board Session email: 9/3/2025

BOC Session Presenter(s) Gary Christofferson Code: Y

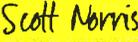
### REQUIRED APPROVALS

DocuSigned by:  
  
C5E72231E6E54E3  
8/27/2025  
Date

Finance - Contracts

DocuSigned by:  
  
C5E72231E6E54E3  
8/29/2025  
Date

Contract Specialist

Signed by:  
  
B0C98A6E708240B  
8/28/2025  
Date

Legal Counsel

DocuSigned by:  
  
DC18351248DE4EC  
8/29/2025  
Date

Chief Administrative Officer