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DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

April 30, 2026

BCC Agenda Item: _____

Board of County Commissioners
Clackamas County

Approval of a Resolution authorizing the County Administrator to sign for a Special Public Works Fund loan and a related Intergovernmental Agreement Amendment with the Fair Board for the fairgrounds multi-purpose event center. Loan Value is \$2,500,000 for 15 years. No County General Funds are involved.

Previous Board Action/Review: Briefed at Issues 4/28/2026

Performance Clackamas: Vibrant Economy

Counsel Review: Yes

Procurement Review: N/A

Contact Person: Laura Edmonds

Contact Phone: 503-742-4366

EXECUTIVE SUMMARY: On May 23, 2024, the County and the Fair Board entered into an IGA related to the construction of a new multi-purpose event center at the fairgrounds. The IGA stipulated that the County would provide \$4,800,000 in ARPA funds and \$277,777 in Business Oregon grant funds. In addition, the IGA indicated that a loan/line of credit of up to \$2,500,000 would be necessary to complete the project. On July 15, 2025, the BCC authorized staff to apply for an SPWF loan in an amount of \$2,500,000 to be administered by the County to complete the project.

The County's SPFW loan application has been approved. The SPFW loan contract would be between the Oregon Business Development Department (OBDD) and the County. The loan would be in the amount of \$2,500,000 with a 4% annual interest rate and a 15-year term. The attached resolution would authorize the County Administrator to sign the loan contract.

The attached IGA Amendment #1 provides that Transient Lodging Taxes (TLT) proceeds will be the primary source of funds to repay the SPFW loan and requires the Fair Board to maintain a minimum balance of \$250,000 in the County Fair Fund to cover annual loan payments if TLT proceeds are insufficient.

RECOMMENDATION: Staff recommends Board approve the attached IGA Amendment #1 and resolution.

Respectfully submitted,

Dan Johnson

Dan Johnson
Director, Department of Transportation and Development

For Filing Use Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of Authorizing a Loan from the Special Public Works Fund by Entering into a Financing Contract with the Oregon Infrastructure Finance Authority



Resolution No.

Page 1 of 2

Whereas, this matter coming before the Board of County Commissioners (“Governing Body”) of Clackamas County (“Recipient”) at this time, and it appearing that Recipient is a “municipality” within the meaning of ORS 285B.410(9); and

Whereas, ORS 285B.410 to 285B.482 (the “Act”) authorize any municipality to file an application with the Oregon Infrastructure Finance Authority of the Business Development Department (“OBDD”) to obtain financial assistance from the Special Public Works Fund; and

Whereas, Recipient has filed an application with OBDD to obtain financial assistance for a “development project” within the meaning of the Act; and

Whereas, OBDD has approved Recipient’s application for financial assistance from the Special Public Works Fund pursuant to the Act; and

Whereas, Recipient is required, as a prerequisite to the receipt of financial assistance from OBDD, to enter into a Financing Contract with OBDD, number B26004, substantially in the form attached hereto as Exhibit 1; and

Whereas, notice relating to Recipient’s consideration of the adoption of this Resolution was published in full accordance with Recipient’s laws for public notification;

NOW, THEREFORE, the Clackamas County Board of Commissioners does hereby resolve as follows:

Section 1: The Governing Body authorizes the County Administrator (the “Authorized Officer”) to execute on behalf of Recipient the Financing Contract and such other documents as may be required to obtain financial assistance (the “Financing Documents”), including a loan from OBDD, on such terms as may be agreed upon between the Authorized Officer and OBDD, on the condition that the principal amount of the loan from OBDD to Recipient is not in excess of \$2,500,000 and an interest rate of 4.0% per annum. The proceeds of the loan from OBDD will be applied solely to the “Costs of the Project” as such term is defined in the Financing Contract.

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BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of Authorizing a Loan from the
Special Public Works Fund by Entering into a
Financing Contract with the Oregon
Infrastructure Finance Authority



Resolution No.

Page 2 of 2

Section 2: Amounts payable by Recipient are payable from the following sources:

- (a) Amounts withheld under ORS 285B.449(1); or
- (b) Revenues of the County Fair Fund maintained pursuant to ORS 565.325 after payment of operation and maintenance costs of the County Fair Grounds and Event Center.

DATED this ____ day of _____ 2026

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

SPECIAL PUBLIC WORKS FUND DEVELOPMENT PROJECT
INTERIM FINANCING CONTRACT

Project Name: Clackamas County Fair Multi-Purpose Building Construction

Project Number: B26004

This interim financing contract (“Contract”), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through its Oregon Infrastructure Finance Authority of the Oregon Business Development Department (“OBDD”), and Clackamas County (“Recipient”) for financing of the project referred to above and described in Exhibit C (“Project”). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

This Contract less any Exhibits	
Exhibit A	General Definitions
Exhibit B	Loan Security
Exhibit C	Project Description
Exhibit D	Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

“Estimated Project Cost” means \$8,112,056.

“Interest Rate” means 4.0% per annum.

“Loan Amount” means \$2,500,000.

“Maturity Date” means 3 years after the Project Completion Date or the Project Completion Deadline, whichever comes first, or the receipt of Refunding Proceeds by either party.

“Project Closeout Deadline” means 90 days after the earlier of the Project Completion Date or the Project Completion Deadline.

“Project Completion Date” means the date on which Recipient completes the Project.

“Project Completion Deadline” means 36 months after the date of this Contract.

SECTION 2 - FINANCIAL ASSISTANCE

OBDD shall provide Recipient, and Recipient shall accept from OBDD, financing for the Project a non-revolving loan (the “Loan”) in an aggregate principal amount not to exceed the Loan Amount.

Notwithstanding the above, the aggregate total of Financing Proceeds disbursed under this Contract cannot exceed the Costs of the Project.

SECTION 3 - DISBURSEMENTS

A. Reimbursement Basis. The Financing Proceeds will be disbursed to Recipient on an expense reimbursement or costs-incurred basis. Recipient must submit each disbursement request for the

Financing Proceeds on an OBDD-provided or OBDD-approved disbursement request form (“Disbursement Request”).

- B. Financing Availability. OBDD’s obligation to make, and Recipient’s right to request, disbursements under this Contract terminates on the Project Closeout Deadline.
- C. Payment to Contractors. OBDD, in its sole discretion, may make direct payment to suppliers, contractors and subcontractors and others for sums due them in connection with construction of the Project, instead of reimbursing Recipient for those sums.

SECTION 4 - LOAN PAYMENT; PREPAYMENT

- A. Promise to Pay. Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. Payments required under this Contract are, without limitation, payable from the sources of repayment described in the Act and this Contract, including but not limited to Exhibit B, and the obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.
- B. Interest. Interest accrues at the Interest Rate on each disbursement from the date of disbursement until the Loan is fully paid. Interest is computed by counting the actual days occurring in a 360-day year.

Recipient authorizes OBDD to calculate interest accrued under the Loan, including as necessary to determine the loan amortization schedule, a loan prepayment, or a loan payoff amount. Absent manifest error, such calculations will be conclusive.
- C. Loan Payment. The entire outstanding balance of the Loan, including all accrued unpaid interest, is due and payable in full on the Maturity Date.
- D. Loan Prepayments.
 - (1) Mandatory Prepayment. The Refunding Proceeds shall be applied to repay the outstanding balance of the Contract. Further, Recipient shall prepay all or part of the outstanding balance of the Loan as may be required by this Contract.
 - (2) Optional Prepayment. Recipient may prepay all or part of the outstanding balance of the Loan on any day except a Saturday, Sunday, legal holiday or day that banking institutions in Salem, Oregon are closed.
- E. Application of Payments. Regardless of any designation by Recipient, payments and prepayments by Recipient under this Contract or any of the Financing Documents will be applied first to any expenses of OBDD, including but not limited to attorneys’ fees, then to unpaid accrued interest (in the case of prepayment, on the amount prepaid), then to the principal of the Loan. In the case of a Loan prepayment that does not prepay all the principal of the Loan, OBDD will determine, in its sole discretion, the method for how the Loan prepayment will be applied to the outstanding principal

payments. A scheduled payment received before the scheduled repayment date will be applied to interest and principal on the scheduled repayment date, rather than on the day such payment is received.

SECTION 5 - CONDITIONS PRECEDENT

- A. Conditions Precedent to OBDD's Obligations. OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its Counsel:
- (1) This Contract duly signed by an authorized officer of Recipient.
 - (2) A copy of the ordinance, order or resolution of the governing body of Recipient authorizing the borrowing and the contemplated transactions and the execution and delivery of this Contract and the other Financing Documents.
 - (3) An opinion of Recipient's Counsel.
 - (4) Such other certificates, documents, opinions and information as OBDD may reasonably require.
- B. Conditions to Disbursements. As to any disbursement, OBDD has no obligation to disburse funds unless all following conditions are met:
- (1) There is no Event of Default.
 - (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
 - (3) OBDD, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Special Public Works Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.
 - (4) Recipient has delivered to OBDD (in form and substance satisfactory to OBDD) an estimated schedule of Disbursement Requests, including anticipated number, submission dates and amounts.
 - (5) OBDD (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as OBDD may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.
 - (6) Recipient has delivered documentation satisfactory to OBDD that, in addition to the Financing Proceeds, Recipient has available or has obtained binding commitments for all funds necessary to complete the Project.
 - (7) Any conditions to disbursement elsewhere in this Contract or in the other Financing Documents are met.

SECTION 6 - USE OF FINANCIAL ASSISTANCE

- A. Use of Proceeds. Recipient shall use the Financing Proceeds only for the activities described in Exhibit C and according to the budget in Exhibit D. Recipient may not transfer Financing Proceeds among line items in the budget without the prior written consent of OBDD.
- B. Costs of the Project. Recipient shall apply the Financing Proceeds to the Costs of the Project in accordance with the Act and Oregon law, as applicable. Financing Proceeds cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-Award Costs of the Project, unless permitted by Exhibit C.
- C. Costs Paid for by Others. Recipient may not use any of the Financing Proceeds to cover costs to be paid for by other financing for the Project, whether from OBDD or from another State of Oregon agency or any third party.

SECTION 7 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to OBDD:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded. Recipient will have adequate funds available to repay the Loan, and the Maturity Date does not exceed the usable life of the Project.
- B. Organization and Authority.
 - (1) Recipient is a Municipality under the Act, and validly organized and existing under the laws of the State of Oregon.
 - (2) Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract and the other Financing Documents, (b) incur and perform its obligations under this Contract and the other Financing Documents, and (c) borrow and receive financing for the Project.
 - (3) This Contract and the other Financing Documents executed and delivered by Recipient have been authorized by an ordinance, order or resolution of Recipient's governing body, and voter approval, if necessary, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings.
 - (4) This Contract and the other Financing Documents have been duly executed by Recipient, and when executed by OBDD, are legal, valid and binding, and enforceable in accordance with their terms.
- C. Full Disclosure. Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents. Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract and the other Financing Documents is true and accurate in all respects.
- D. Pending Litigation. Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.

E. No Events of Default.

- (1) No Events of Default exist or occur upon authorization, execution or delivery of this Contract or any of the Financing Documents.
- (2) Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.

F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract and the other Financing Documents will not: (i) cause a breach of any agreement, indenture, mortgage, deed of trust, or other instrument, to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) cause the creation or imposition of any third party lien, charge or encumbrance upon any property or asset of Recipient; (iii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iv) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.

G. Governmental Consent. Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the other Financing Documents, for the financing or refinancing and undertaking and completion of the Project.

SECTION 8 - COVENANTS OF RECIPIENT

Recipient covenants as follows:

- A. Notice of Adverse Change. Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to make all payments and perform all obligations required by this Contract or the other Financing Documents.
- B. Compliance with Laws. Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract or the other Financing Documents, and the Project. In particular, but without limitation, Recipient shall comply with the following, as applicable:
 - (1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.
 - (2) Prevailing Wage Requirements.
 - (a) Recipient shall comply with state prevailing wage law as set forth in ORS 279C.800 through 279C.870, and the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) (collectively, state “PWR”). This includes but is not limited to imposing an obligation that when PWR applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage for workers in each trade or occupation in each locality as determined by the Commissioner of the Bureau of Labor and Industries (“BOLI”) under ORS 279C.815.
 - (b) When the federal Davis-Bacon Act (“DB”) applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage as determined by the United States Secretary of Labor under the Davis-Bacon Act (40 USC 3141 *et seq.*).

- (c) Notwithstanding (2)(a) and (2)(b) above, when both PWR and the federal Davis-Bacon Act apply to the Project, contractors and subcontractors on the Project must pay a rate of wage that meets or exceeds the greater of the rate provided in (2)(a) or (2)(b) above.
 - (d) When PWR applies, Recipient and its contractors and subcontractors shall not contract with any contractor on BOLI's current List of Contractors Ineligible to Receive Public Works Contracts.
 - (e) When PWR applies, Recipient shall be responsible for both providing the notice to the BOLI Commissioner required by ORS 279C.835 and the payment of any prevailing wage fee(s) required under ORS 279C.825 and BOLI's rules, including OAR 839-025-0200 to OAR 839-025-0230. For avoidance of any doubt, Recipient contractually agrees to pay applicable prevailing wage fees for the Project rather than OBDD, the public agency providing Financing Proceeds under this Contract.
 - (f) Pursuant to ORS 279C.817, Recipient and any contractors or subcontractors may request that the BOLI Commissioner make a determination about whether the Project is a public works on which payment of the prevailing rate of wage is required under ORS 279C.840 (i.e. whether PWR applies).
- (3) OAR 123-042-0165 (5) requirements for signs and notifications.

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

C. Project Completion Obligations. Recipient shall:

- (1) Provide OBDD with copies of all plans and specifications relating to the Project, and a timeline for the bidding/award process, at least ten (10) days before advertising for bids.
- (2) Provide a copy of the bid tabulation, notice of award, and contract to OBDD within ten (10) days after selecting a construction contractor.
- (3) Permit OBDD to conduct inspection of the Project at any time.
- (4) Complete the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.
- (5) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by OBDD in writing.
- (6) Obtain and maintain as-built drawings for all facilities constructed as part of the Project.

D. Ownership of Project. During the term of the Loan, the Project is and will continue to be owned by Recipient. The Project will be operated by Recipient or by a person under a management contract or operating agreement with Recipient.

E. Operation and Maintenance of the Project. Recipient shall operate and maintain the Project in good repair and operating condition so as to preserve the long term public benefits of the Project, including making all necessary and proper repairs, replacements, additions, and improvements during term of the Loan. On or before the Project Closeout Deadline, Recipient shall adopt a plan acceptable to OBDD for the on-going operation and maintenance of the Project without reliance on OBDD financing and furnish OBDD, at its request, with evidence of such adoption. The plan must include measures for generating revenues sufficient to assure the operation and maintenance of the Project during the usable life of the Project.

- F. Insurance, Damage. Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by governmental units constructing, operating and maintaining similar facilities. Nothing in this provision precludes Recipient from asserting a defense against any party other than OBDD, including a defense of immunity. If the Project or any portion is destroyed, any insurance proceeds will be paid to OBDD and applied to prepay the outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees in writing that the insurance proceeds may be used to rebuild the Project.
- G. Sales, Leases and Encumbrances. Except as specifically described in Exhibit D, Recipient shall not sell, lease, exchange, abandon, transfer or otherwise dispose of any substantial portion of or interest in the Project or any system that provides revenues for payment or is security for the Loan, unless worn out, obsolete, or, in the reasonable business judgment of Recipient, no longer useful in the operation of the Project. Nevertheless, OBDD may consent to such disposition if it has received 90 days' prior written notice from Recipient. Such consent may require assumption by transferee of all of Recipient's obligations under the Financing Documents and payment of OBDD's costs related to such assumption. In the case of sale, exchange, transfer or other similar disposition, Recipient shall, within 30 days of receipt of any proceeds from such disposition, prepay the entire outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees otherwise in writing. If Recipient abandons the Project, Recipient shall prepay the entire outstanding balance of the Loan immediately upon demand by OBDD.
- H. Condemnation Proceeds. If the Project or any portion is condemned, any condemnation proceeds will be paid to OBDD and applied to prepay the outstanding balance of the Loan in accordance with section 4.D.(1).
- I. Financial Records. Recipient shall keep accurate books and records for the revenues and funds that are the source of repayment of the Loan, separate and distinct from its other books and records, and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.
- J. Inspections; Information. Recipient shall permit OBDD and any party designated by OBDD: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. Recipient shall supply any related reports and information as OBDD may reasonably require. In addition, Recipient shall, upon request, provide OBDD with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of Recipient that are issued after the date of this Contract.
- K. Records Maintenance. Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project, or the Financing Proceeds until the date that is three years following the later of the final maturity or earlier retirement of all of the bonds (including the final maturity or redemption date of any obligations issued to refund the bonds) or such longer period as may be required by other provisions of this Contract or applicable law. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.

- L. Economic Benefit Data. OBDD may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion Date. Recipient shall, at its own expense, prepare and submit the data within the time specified by OBDD.
- M. Disadvantaged Business Enterprises. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, veteran-owned businesses and emerging small businesses...” OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at https://www.oregonlegislature.gov/bills_laws/ors/ors200.html. Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/SearchCertifiedDirectory.asp?XID=2315&TN=oregon4biz>.
- N. Professional Responsibility. A professional engineer or architect, as applicable, registered and in good standing in Oregon, will be responsible for the design and construction of the Project. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty. Recipient shall follow standard construction practices, such as bonding requirements for construction contractors, requiring errors and omissions insurance, and performing testing and inspections during construction.
- O. Notice of Default. Recipient shall give OBDD prompt written notice of any Default as soon as Recipient becomes aware of its existence or reasonably believes a Default is likely.
- P. (1) Contributory Liability and Contractor Indemnification—Tort Claims.
- (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 Tort Claim”) against a party to this Contract (the “Notified Party”) with respect to which the other party may have liability, the Notified Party must promptly notify the other party in writing and deliver a copy of the claim, process, and all legal pleadings related to the Third-Party Tort Claim. Either party is entitled to participate in the defense of a Third-Party Tort Claim, and to defend a Third-Party Tort Claim with counsel of its own choosing. The foregoing provisions are conditions precedent for either party’s liability to the other in regards to the Third-Party Tort Claim.
- If the parties are jointly liable (or would be if joined in the Third-Party Tort Claim), the parties 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 in such proportion as is appropriate to reflect their respective relative fault. The relative fault of the parties 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. Each party’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if that party had sole liability in the proceeding. This Section shall survive termination of this Contract.
- (b) Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (“Indemnitee”) from and against

any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Contractor Tort Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Contractor Tort Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Contractor Tort Claims. This Section shall survive termination of this Contract.

(2) Indemnity; Release—Claims Other Than Torts.

(a) Except for Third-Party Tort Claims and Contractor Tort Claims as provided in Section 8P.(1) above, to the extent authorized by law, Recipient shall defend, indemnify, save and hold harmless and release the State, OBDD, and their officers, employees and agents from and against any and all claims, demands, suits, actions, proceedings, losses, damages, liability and court awards including but not limited to costs, expenses, and reasonable attorneys' fees incurred (collectively, "Non-Tort Claims"), related to any actual or alleged act or omission by Recipient, or its officers, employees, contractors, or agents in connection with this Contract, or the Project, PWR or Davis-Bacon Act requirements, including without limitation, any expenses incurred or amounts paid in connection with an inquiry, investigation, audit or similar proceeding by BOLI, the U.S. Department of Labor, the Internal Revenue Service, Treasury and any other federal, state, governmental or quasi-governmental body with regulatory jurisdiction arising from the Project or the actions or omissions of Recipient, or its officers, employees, contractors, or agents.

(b) Notwithstanding the foregoing, neither Recipient nor any attorney engaged by Recipient may defend any Non-Tort Claim in the name of the State of Oregon, nor purport to act as legal representative for the State of Oregon, without first receiving from the Oregon Attorney General in a form and manner determined appropriate by the Oregon Attorney General, authority to act as legal counsel for the State of Oregon, nor may Recipient settle any Non-Tort Claim on behalf of the State of Oregon without the approval of the Oregon Attorney General. If the State of Oregon assumes its own defense, Recipient will be liable for the attorney fees of the State of Oregon, including but not limited to any fees charged by the Oregon Department of Justice. The provisions of this section are not to be construed as a waiver by the State of Oregon, OBDD, of any immunity, defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon. If attorney fees are awarded to Recipient, such attorney fees shall not exceed the rate charged to OBDD by its attorneys.

Q. Further Assurances. Recipient shall, at the request of OBDD, authorize, sign, acknowledge and deliver any further resolutions, conveyances, transfers, assurances, financing statements and other instruments and documents as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Contract and the other Financing Documents.

SECTION 9 - DEFAULTS

Any of the following constitutes an "Event of Default":

A. Recipient fails to make any Loan payment when due.

- B. Recipient fails to make, or cause to be made, any required payments of principal, redemption premium, or interest on any bonds, notes or other material obligations, for any other loan made by the State of Oregon.
- C. Any false or misleading representation is made by or on behalf of Recipient in this Contract, in any other Financing Document or in any document provided by Recipient related to this Loan or the Project.
- D. (1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;
- (2) Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
- (3) Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;
- (4) Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or
- (5) Recipient takes any action for the purpose of effecting any of the above.
- E. Recipient defaults under any other Financing Document and fails to cure such default within the applicable grace period.
- F. Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through E of this section 9, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 10 - REMEDIES

- A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract or any other Financing Document, and any other remedies available at law or in equity to collect amounts due or to become due or to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:
 - (1) Terminating OBDD's commitment and obligation to make any further disbursements of Financing Proceeds under the Contract.
 - (2) Declaring all payments under the Contract and all other amounts due under any of the Financing Documents immediately due and payable, and upon notice to Recipient the same become due and payable without further notice or demand.
 - (3) Barring Recipient from receiving future awards.
 - (4) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract, including as provided in ORS 285B.449.
 - (5) Foreclosing liens or security interests pursuant to this Contract or any other Financing Document.

(6) Terminating the Contract.

- B. Application of Moneys. Any moneys collected by OBDD pursuant to section 10.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; then, to pay interest due on the Loan; then, to pay principal due on the Loan; and last, to pay any other amounts due and payable under this Contract or any of the Financing Documents.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract or any of the Financing Documents will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 9 of this Contract.
- D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's sole remedy will be for disbursement of Financing Proceeds for Costs of the Project, not to exceed the Loan Amount, less any claims OBDD has against Recipient.

SECTION 11 - MISCELLANEOUS

- A. Time is of the Essence. Recipient agrees that time is of the essence under this Contract and the other Financing Documents.
- B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.
- (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.
 - (2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
 - (3) This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and permitted assigns.
 - (4) Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract or any other Financing Document without the prior written consent of OBDD. OBDD may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OBDD, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OBDD's Counsel. Any approved assignment is not to be construed as creating any obligation of OBDD beyond those in this Contract or other Financing Documents, nor does assignment relieve Recipient of any of its duties or obligations under this Contract or any other Financing Documents.
 - (5) Recipient hereby approves and consents to any assignment, sale or transfer of this Contract and the Financing Documents that OBDD deems to be necessary.
- C. Disclaimer of Warranties; Limitation of Liability. Recipient agrees that:
- (1) OBDD makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.
 - (2) The liability of OBDD under this Contract is contingent upon the availability of moneys in the Special Public Works Fund for use in the project, and in no event are OBDD or its agents

liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.

- D. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OBDD at the addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to OBDD: Deputy Director
Oregon Business Development Department
775 Summer Street NE Suite 310
Salem, OR 97301-1280

If to Recipient: Economic Development Manager
Clackamas County
2051 Kaen Road
Oregon City, OR 97045

- E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.
- F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.
- G. Amendments, Waivers. This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and executed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OBDD by its attorneys. Recipient shall, on demand, pay to OBDD reasonable expenses incurred by OBDD in the collection of Loan payments.
- I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for

Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

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

- J. Integration. This Contract (including all exhibits, schedules or attachments) and the other Financing Documents constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.
- K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Infrastructure Finance Authority of the
Oregon Business Development Department

CLACKAMAS COUNTY

By: _____
Edward Tabor, Infrastructure and
Program Services Director

By: _____
Gary Schmidt, County Administrator

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ David Berryman as per email dated 10 March 2026
David Berryman, Assistant Attorney General

EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

“Act” means ORS 285B.410 through 285B.482, as amended.

“Award” means the award of financial assistance to Recipient by OBDD dated 13 February 2026.

“Costs of the Project” means Recipient’s actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Financing Proceeds under applicable state or federal statute and rule.

“Counsel” means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, OBDD or Recipient.

“Financing Documents” means this Contract and all agreements, instruments, documents and certificates executed pursuant to or in connection with OBDD’s financing of the Project.

“Financing Proceeds” means the proceeds of the Loan.

“Municipality” means any entity described in ORS 285B.410(9).

“ORS” means the Oregon Revised Statutes.

“Refunding Proceeds” means the proceeds of any subsequent short- or long-term financing, whether resulting from the sale of tax-exempt bonds or otherwise, issued to refund the Loan or to finance the Project.

EXHIBIT B – LOAN SECURITY

- A. Full Faith and Credit Pledge. Recipient pledges its full faith and credit and taxing power within the limitations of Article XI, sections 11 and 11 b, of the Oregon Constitution to pay the amounts due under this Contract. All amounts due under this Contract are payable from all legally available funds of Recipient.
- B. Refunding Proceeds. The outstanding principal of and accrued, but unpaid, interest on the Loan shall be payable from any Refunding Proceeds. Recipient hereby grants to OBDD a security interest in and irrevocably pledges the Refunding Proceeds to pay all of the obligations owed by Recipient to OBDD under this Contract. The Refunding Proceeds pledged and hereafter received by Recipient will be immediately subject to the lien of this pledge without physical delivery or further act, and the lien of this pledge will be superior to all other claims and liens to the fullest extent permitted by ORS 287A.310. Recipient represents and warrants that this pledge of Refunding Proceeds complies with, and is valid and binding from the effective date of this Contract as described in, ORS 287A.310.
- B. Pledge of Net Revenues of the County Fair Fund
- (1) All payment obligations under this Contract and the other Financing Documents are payable from the revenues of Recipient’s County Fair Fund after payment of operation and maintenance costs of Recipient’s County Fair Grounds and Event Center (“Net Revenues”). Recipient irrevocably pledges and grants to OBDD a security interest in the Net Revenues to pay all of its obligations under this Contract and the other Financing Documents. The Net Revenues pledged pursuant to the preceding sentence and received by Recipient will immediately be subject to the lien of this pledge without physical delivery, filing or any other act, and the lien of this pledge is superior to and has priority over all other claims and liens, except as provided in subsections 2 and 3 of this section B, to the fullest extent permitted by ORS 287A.310. Recipient represents and warrants that this pledge of Net Revenues is valid and binding from the date of this Contract as permitted by ORS 287A.310. The lien of the pledge made under this subsection 1 is hereinafter referred to as the “OBDD Lien”.
 - (2) Recipient shall not incur, without the prior written consent of OBDD, any obligation payable from or secured by a lien on and pledge of the Net Revenues that is on parity or superior to the OBDD Lien.
 - (3) Notwithstanding the requirements of subsection 2 of this section B, loans previously made and loans made in the future by OBDD to Recipient that are secured by the Net Revenues may have a lien on such Net Revenues on parity with the OBDD Lien; provided that nothing in this paragraph will adversely affect the priority of any of OBDD’s liens on such Net Revenues in relation to the lien(s) of any third party(ies).

EXHIBIT C - PROJECT DESCRIPTION

Recipient will, with the assistance of a professional engineer licensed in Oregon, design and construct a new 43,000 square foot multipurpose event center, located at 694 NE 4th Avenue, in Canby, Oregon (“Center”). The Center will include, but is not limited to, the following components:

- 38,000 square foot main hall;
- Women’s restroom with 20 stalls, three showers, and a wellness room;
- Men’s restroom with six stalls, seven urinals and three showers;
- Family restroom;
- Office space; and
- Vestibules and a lobby.

EXHIBIT D - PROJECT BUDGET

Line Item Activity	OBDD Funds	Other / Matching Funds
Construction	\$2,500,000	\$5,612,056
Total	\$2,500,000	\$5,612,056

SUMMARY OF AWARD

Project Number: B26003 **Date of Award:** 02/13/2026

Recipient: Clackamas County

Project Name: Clackamas County Fair Multi-Purpose Building Construction

Source of Funding (Grant/Loan/Forgivable Loan)	Award Amount
SPWF – Standard Loan	\$2,500,000
Bond Issuance Fee (estimated), to be included with permanent financing contract	\$20,750
Match – Local	\$5,612,056
Total	\$8,132,806

General Description of Loan	
Interest Rate (Interim Contract)	4%
Estimated Term (Interim Contract)	3 years
Interest Rate (Permanent Financing Contract)	*4%
Term (Permanent Financing Contract)	15 years

* Rate is the current OBDD direct loan rate. Actual rate will be determined at time of bond sale.

Approved Project Description
<p>The Recipient will, with the assistance of a professional engineer licensed in Oregon, design and construct a new 43,000 square foot multipurpose event center, located at 694 NE 4th Avenue Canby, that can accommodate live events, meetings, livestock shows, and tourism related activities. Built with durable infrastructure and modern amenities, the building will enhance the County Fairgrounds’ ability to host year-round events while also serving as a critical community resiliency resource. During emergencies and disasters, the center can be activated as a reunification site, shelter, mass vaccination site, warming/cooling center, or emergency operations hub—providing a safe, accessible, and dependable space for residents of Clackamas County and surrounding areas. The multipurpose event center will include, but is not limited to, the following components:</p> <ul style="list-style-type: none"> • 38,000 square foot main hall • Women’s restroom with 20 stalls, three showers, and a wellness room • Men’s restroom with six stalls, seven urinals and three showers • Family restroom • Office space • Vestibules and a lobby

Note: The full terms and conditions will be contained in the contract.

**AMENDMENT NO. 1 TO THE
INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CLACKAMAS COUNTY FAIR BOARD**

THIS AMENDMENT NO. 1 (this “Amendment”) is entered into by and between Clackamas County (“County”), a political subdivision of the State of Oregon, and the Clackamas County Fair Board (“Agency”), an entity formed under ORS 565.210, collectively referred to as the “Parties” and each a “Party.”

RECITALS

On May 23, 2024, County and Agency entered into an Intergovernmental Agreement (the “Agreement”) related to the construction of a new fairground and event center multiuse building (the “Project”).

Under the Agreement, County will provide up to \$4,800,000 received through the American Rescue Plan Act (ARPA), and up to \$277,777 received through a grant from Business Oregon, for the Project.

The Parties desire to amend the Agreement to provide for the possibility that County will obtain a Special Public Works Fund (SPWF) loan from Business Oregon for the Project.

In consideration of the above Recitals, which are incorporated into this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

TERMS

1. **Term.** This Amendment shall be effective upon execution and, unless otherwise specified herein, shall remain in effect until full repayment of the SPWF loan.
2. **Termination.** This Amendment shall be terminated immediately if Business Oregon does not approve, or if the Board of County Commissioners does not accept, the SPWF loan.
3. Section 3 of the Agreement is deleted in its entirety and replaced with the following:
 3. **Funding Sources.** Agency will complete the Project using the following funding sources, in the amounts estimated below, and will comply with all funding source requirements.

FUNDING SOURCE	AMOUNT
State ARPA	\$ 4,790,800.00
County ARPA	\$ 4,800,000.00
Business Oregon Grant	\$ 277,777.00
City ARPA	\$ 250,000.00
Fair Foundation	\$ 335,000.00
Business Oregon Loan (15-yr Payback, TLT Secured)	\$ 2,500,000.00
County Fair TLT	\$ 200,000.00
Donations, Sponsorships, Naming Rights, etc.	\$ 100,000.00
Interest Earned, ARPA Checking Account	\$ 100,000.00
Fund Balance	\$ 500,000.00
Total	\$ 13,853,577.00
Current Project Estimate (08/04/2025)	\$ (13,849,522.27)
(Gap) Surplus	\$ 4,054.73

Agency will use funding sources in the following order, using all of the funds from one source before using funds from the next source:

- A. State ARPA: \$4,790,800 (Complete)
- B. Business Oregon Grant: \$277,777 (Complete)
- C. County ARPA: \$4,800,000 (In Progress)
- D. Business Oregon Loan (SPWF Loan): \$2,500,000
- E. Other available funding sources

If any portion of the foregoing funding sources fails to materialize, or if Project costs increase, Agency is responsible for securing all additional funding sources necessary to complete the Project.

4. Section 4 of the Agreement is deleted in its entirety and replaced with the following:

4. **County-Provided Funds.** Contingent upon confirmation, in a form acceptable to County, that all other funding sources described in Section 3, above, are available or otherwise committed to the Project, County will provide an amount not to exceed \$4,800,000 in County ARPA funds; \$277,777 in Business Oregon grant funds; and \$2,500,000 in SPWF loan funds (collectively, the “Funds”) towards construction of the Project. Payment of the Funds shall be made in accordance with Exhibit A.

Agency shall use the Funds solely for the following eligible purposes: payment to a third-party contractor for construction of the Project under a construction contract to be executed between Agency and the third-party contractor (the “Construction Contract”).

5. The following is added as a new Section 4.5 of the Agreement:

4.5 SPWF Loan Funds.

- A. County shall apply for an SPWF loan from Business Oregon in an aggregate principal amount not to exceed \$2,500,000.
- B. During the debt service period, County shall withhold Transient Lodging Tax (TLT) revenue that would otherwise be distributed to Agency and use it to repay the SPWF loan.
- C. During the debt service period, Agency shall maintain a minimum balance of \$250,000 in the County Fair Fund maintained pursuant to ORS 565.325 (the "Reserve").
- D. If TLT revenue is insufficient to repay the SPWF loan, Agency shall pay County the difference from the Reserve.

6. Section 13(A) of the Agreement is deleted in its entirety and replaced with the following:

- A. Sarah Eckman or their designee will act as liaison for County.

Contact Information:

Sarah Eckman
Assistant Director of Community Services
Department of Transportation and Development
sarahste@clackamas.us
503-742-4303
150 Beaver Creek Road, Suite 325
Oregon City, OR 97045

Fiscal Contact:

Elizabeth Comfort
Finance Director
Clackamas County Finance Department
ecomfort@clackamas.us
503-936-5345
2051 Kaen Road, Suite 490
Oregon City, OR 97045

Brian Crow or their designee will act as liaison for Agency.

Contact Information:

Brian Crow
Executive Director
Clackamas County Fair & Event Center
brianc@ccfairevents.com
503-266-1136
694 NE 4th Ave.
Canby, OR 97013

7. Section 2(c)(ii) of Exhibit A to the Agreement is deleted in its entirety and replaced with the following:
 - ii. When funding opportunities require a formal County application, Agency shall complete the County Financial Assistance Application Lifecycle form, complete any funder/lender application forms (including all financial and budget reports), and obtain appropriate approval from County prior to pursuing the funding. County shall make the application and receive funds to administer on Agency's behalf.
8. Section 2(d) of Exhibit A to the Agreement is deleted in its entirety and replaced with the following:
 - d. Agency shall adhere to County reporting requirements and any requests for information related to the County ARPA funding distribution, or any other grant or loan funds related to the Project.
9. Section 2(f) of Exhibit A to the Agreement is deleted in its entirety and replaced with the following:
 - f. Agency shall support County requests for modifications to Agency accounting structures, reporting or information related to the County ARPA funding distribution, or any other grant or loan funds related to the Project.
10. The following are added as new Sections 2(g) to (j) of Exhibit A to the Agreement:
 - g. Agency has provided County with all facts that materially adversely affect the Project, or the ability of Agency to make all payments and perform all obligations required by this Agreement or any other agreement related to the Project. Agency has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained this Agreement and any other agreement related to the Project is true and accurate in all respects.
 - h. Agency shall promptly notify County of any adverse change in the activities, prospects, or condition (financial or otherwise) of Agency or the Project

related to the ability of Agency to make all payments and perform all obligations required by this Agreement or any other agreement related to the Project.

- i. Agency shall prominently place the following statement on all plans, reports, bid documents and advertisements relating to the Project: "This project was funded in part with a financial award from the Special Public Works Fund, funded by the Oregon State Lottery and administered by the Oregon Infrastructure Finance Authority."
- j. Agency shall:
 - i. Provide County with copies of all plans, contracts, change orders, and other documents related to the Project.
 - ii. Maintain compliance with the terms of the Construction Contract, or amend the same.
 - iii. Permit County and/or Business Oregon to inspect the Project at any time.
 - iv. Complete the Project no later than the Project Completion Deadline in the financing contract between County and Business Oregon for the SPWF loan, unless otherwise permitted by County and Business Oregon in writing.
 - v. Obtain and maintain as-built drawings for all facilities constructed as part of the Project.

11. Section 3 of Exhibit A to the Agreement is deleted in its entirety and replaced with the following:

- 3. Construction Contract. The parties agree to the following with respect to the Construction Contract:
 - a. Contract management. The parties will jointly manage the Construction Contract. This includes, but is not limited, review and negotiation of any contract amendments, and any other project management tasks, as defined above, that may be associated with the Construction Contract. Agency shall be the primary point of contact under the Construction Contract but shall coordinate directly with County with respect to project management tasks.
 - b. Invoices.
 - i. County will pay any invoices due under the Construction Contract that have been jointly approved by the parties directly to the third-party

contractor until all County ARPA funds are expended. County ARPA funds must be expended, and all materials and services purchased therewith must be received or provided, by December 31, 2026.

- ii. After the County ARPA funds are exhausted, County will continue paying such invoices from the County Fair Fund maintained pursuant to ORS 565.325, requesting reimbursement from the SPWF loan funds, until the remaining balance of the SPWF loan funds is insufficient to reimburse County for any particular invoice.
 - A. Agency will not submit invoices to Business Oregon for SPWF loan funds.
 - B. When County pays an invoice which is to be reimbursed from the SPWF loan funds, County will transfer an amount into the County Fair Fund that is equal to the amount due under the invoice (the "Float Loan").
 - C. The purpose of the Float Loan is to protect County's credit rating and ensure that Agency does not incur negative interest between when the invoice is paid and the reimbursement from the SPWF loan funds is received. The Float Loan shall not be available for Agency's use.
 - D. Upon receipt of the reimbursement from the SPWF loan funds, County will transfer the Float Loan back out of the County Fair Fund.
- iii. After the County ARPA funds are exhausted, and when the remaining balance of the SPWF loan funds is insufficient to reimburse County for any particular invoice, County will transfer responsibility for paying all remaining consultants, contractors, and suppliers back to Agency. Agency is responsible for covering all other expenses necessary to complete the Project.
- c. Meetings. The parties will meet no less than weekly to review the status of the Project and address any issues that may arise under the Construction Contract.

IN WITNESS WHEREOF, the Parties have executed this Amendment on the dates set forth beneath their names below.

Clackamas County

Clackamas County Fair Board



Craig Roberts, Chair
Board of County Commissioners

By: _____

Its: _____

Date: _____

Date: _____

Approved as to form:

Approved as to form:



County Counsel

N/A

Counsel for the Fair Board

Date: 4/20/26

Date: _____

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CLACKAMAS COUNTY FAIR BOARD**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County ("County"), a political subdivision of the State of Oregon, and the Clackamas County Fair Board ("Agency"), an entity formed under ORS 565.210, collectively referred to as the "Parties" and each a "Party."

RECITALS

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

Agency desires that a new fairground and event center multiuse building (the "Facility") be constructed on real property owned by County and dedicated to Agency's use (the "Project").

Agency will manage the procurement, construction, and completion of the Project. County has agreed to procure the construction services on behalf of Agency and provide project management services through its Finance (Facilities Management) Department. Agency may utilize other County services in accordance with the Fair Management Agreement between the Clackamas County Fair Board and Clackamas County, Oregon. County will also offer procurement services (consistent with the Fair Management Agreement) as may be needed by Agency to perform under this Agreement. Upon completion, County will own the building as part of its real property inventory.

Agency has further requested County provide financial support for construction of the Facility. Contingent upon the terms of this Agreement, including priority use of the Facility for COVID-19 treatment, mitigation, temporary medical facilities, and as an emergency operation center in the event of an emergency, County has agreed to provide up to \$4,800,000 towards completion of the Facility. The source of the County's funds are the American Rescue Plan Act, State and Local Fiscal Recovery Funds ("ARPA" or "SLRF"). The County will also provide \$277,777 in funding received through a State of Oregon (Business Oregon) grant.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

TERMS

1. **Term.** This Agreement shall be effective upon execution and, unless otherwise specified herein, shall remain in effect until completion of the Project.
2. **Project Work.** The Parties will perform the work identified in Exhibit A, attached hereto and incorporated herein ("Work"), to assist in completion of the Project.
3. **Funding Sources.** Agency will complete the Project using the following funding sources, in the amounts estimated below, and agrees to comply with all funding source requirements:

Funding Source	Amount
State ARPA	\$ 4,790,800.00
County ARPA	\$ 4,800,000.00
Business Oregon Grant	\$ 277,777.00
Facility Naming Rights	\$ 750,000.00
Facility Sponsorships	\$ 250,000.00
Fundraising	\$ 500,000.00
Loan / Line of Credit	\$ 2,500,000 (up to)
Total	\$ 13,868,577

4. **ARPA/State Funds.** Contingent upon confirmation, in a form acceptable to County, that all other funding sources described in Section 3, above, are available or otherwise committed to the Project, County agrees to provide an amount not to exceed \$4,800,000 in ARPA funds and \$277,777 in Business Oregon grant funds (collective the "Funds") towards construction of the Project. Payment of the Funds shall be made in accordance with Exhibit A:

Agency shall use the Funds solely for the following eligible purposes: payment to a third-party contractor for construction of the Project under a construction contract to be executed between Agency and the third-party contractor (the "Construction Contract").

5. **No Duplicate Payment.** Agency may use other funds in addition to the Funds to complete the Project; provided, however, Agency may not credit or pay any Funds for Project costs that are paid for with other funds and would result in duplicate funding. Agency must ensure the Funds are used to supplement and not supplant public moneys received from any other source.
6. **Use of Facility.** The real property that the Facility will be constructed upon is owned by the County. The Facility is an improvement to the real property owned by County, and title to the Facility will remain with the County upon completion of construction. Subject to terms and conditions set forth in Exhibit A, Agency shall be granted exclusive management of the Facility for use of the Clackamas County Fair & Event Center.
7. **Representations and Warranties.**
- A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Agency enforceable in accordance with its terms.
- B. *County Representations and Warranties:* County represents and warrants to Agency that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
- C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

8. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term as follows:
- A. At County's discretion, upon thirty (30) days' advance written notice to Agency;
 - B. Immediately upon written notice to Agency if Agency fails to comply with any term of this Agreement;
 - C. At any time upon mutual agreement by County and Agency;
 - D. Immediately upon written notice provided to Agency that County has determined funds are no longer available for this purpose.
 - E. Immediately upon written notice provided to Agency that County lacks sufficient funds, as determined by County in its sole discretion, to continue to perform under this Agreement.
 - F. Immediately upon written notice to Agency if Agency is in default under this Agreement.

Upon completion of the Project, or upon termination of this Agreement, any unexpended County Funds shall be retained by, or returned to, the County.

9. **Effect of Project Completion or Termination.** Following the completion of the Project, or termination of this Agreement, Agency shall promptly identify all unexpended County funds and return all unexpended County funds to County within 30-days of completion of the Project or the termination of the Agreement. Unexpended funds are those funds received by Agency under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay County-approved allowable costs or expenses that will become due and payable as a result of completion of the Project or the termination of this Agreement.
10. **Future Support.** County makes no commitment of future support and assumes no obligation for future support for the Project.
11. **Indemnification.** Subject to the limitations set forth in the Oregon Tort Claims Act, Agency agrees to indemnify and hold County, and its elected officials, officers, employees, and agents, harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to (1) Agency's negligent or willful acts or those of its employees, agents, or those under Agency's control; (2) Agency's acts or omissions in performing under this Agreement including, but not limited to, any claim by State or Federal funding sources that Agency used Funds for an ineligible purpose; or (3) Agency's acts or omissions with respect to the Construction Contract. Agency is responsible for the actions of its own agents and employees, and County assumes no liability or responsibility with respect to Agency's actions, employees, agents or otherwise with respect to those under its control.
12. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.
13. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any

communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

A. Sarah Eckman or their designee will act as liaison for the County.

Contact Information:

Sarah Eckman
Department of Transportation and Development
Assistant Director of Community Services
sarahste@clackamas.us
503-742-4303
150 Beaver Creek Road, Suite 325
Oregon City, OR 97045

Fiscal Contact:

Joseph Rosevear
Clackamas County Finance Department
Grants Manager
jrosevear@clackamas.us
503-742-5429
2051 Kaen Road, Suite 490
Oregon City, OR 97045

Brian Crow or their designee will act as liaison for the Agency.

Contact Information:

Brian Crow
Executive Director
Clackamas County Fair & Event Center
brianc@ccfairevents.com
503-266-1136
694 NE 4th Ave.
Canby, OR 97013

14. General Provisions.

A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that

arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.

- B. Compliance with Applicable Law/Compliance with Additional Funding Terms and Conditions.** Agency shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations including, but not limited to, the terms and conditions set forth in Exhibit B, attached hereto and incorporated by reference herein.

Agency shall further comply with any and all terms, conditions, and other obligations as may be required by the applicable local, State, or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. Agency agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal other funding requirements.

All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein.

Failure to comply with the obligations of this Section 14(B) is a material breach of this Agreement.

- C. Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. Access to Records.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Agency shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Agency shall permit the County's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.

- E. **Hazard Communication.** Agency shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.
- F. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- G. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- H. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. 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 either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- I. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- J. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

- K. **No Third-Party Beneficiary.** Agency 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 unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- L. **Subcontract and Assignment.** Agency shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- M. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- N. **Survival.** All provisions in Sections 7, 11, and 14 (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (N), (Q), (S), and (T), shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- O. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- P. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- Q. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- R. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- S. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own

confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

T. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

Clackamas County



Chair, Board of County Commissioners

05/23/2024
Date

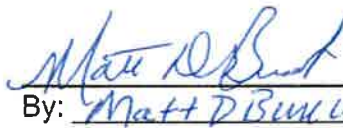
Approved as to form:



County Counsel

05/06/2024
Date

Clackamas County Fair Board



By: Matt D Bunch

Its: Chair

4-19-24
Date

Approved as to form:



Counsel for the Fair Board

5/13/24
Date

Exhibit A

1. County will perform the following with respect to the Project:
 - a. Provide procurement services, as needed, to assist Agency in procuring goods or services necessary to complete the Project. The Parties acknowledge and agree that County has procured, and selected, a third-party contractor to complete the Project. The Parties acknowledge and agree that procurement was performed by County, on Agency's behalf, and Agency will execute and hold the Construction Contract.
 - b. Provide project management services throughout completion of the Project. As used herein, "project management" means all monitoring, management, and related tasks reasonably necessary to complete the Project including, but not limited to, monitoring and management of all contracts with third parties for completion of the Project, on-site visits, review, approval, and processing of all amendments associated with the same, review of invoices, and monitoring of construction of the Facility.
 - c. Process approved invoices when County funds are utilized. The Agency will process invoices for all other funding sources.
 - d. County may, upon execution of a written amendment, provide future maintenance support services for the Facility. Such services will be provided by County to Agency at the County's then-current hourly rate and upon such other terms and conditions as the Parties may agree.
 - e. Subject to availability of resources, as determined by County in its sole discretion, provide other support services reasonably related to completion of the Project as may be necessary.

2. Agency will perform the following with respect to the Project:
 - a. Coordinate and cooperate with County with respect to all project management services.
 - b. Except for invoices under the Construction Contract, which will be paid in accordance with Section 3 of this Exhibit A, below, Agency shall pay County for all project-related invoiced costs paid to support the Project within thirty (30) days of the date of the invoice.
 - c. Agency is responsible for, and will pursue, all additional funding necessary to complete the Project:
 - i. When funding opportunities do not require County application, Agency shall coordinate with County to review funding opportunities to support construction of the Project, prior to application, providing the County an opportunity to avoid conflicting provisions.
 - ii. When funding opportunities require a formal County application, Agency shall complete the County Financial Application Lifecycle Form and obtain appropriate approval from the County prior to pursuit of funding. The County shall make the application and receive the funds for disbursement to the Agency.
 - d. Agency shall adhere to County reporting requirements and any requests for information related to the County ARPA funding distribution, or any other grant funds related to the Project.
 - e. Project Reporting:

- i. Agency will provide monthly Project updates to the County Liaison.
- ii. Reporting specific to County ARPA funding will be done in accordance with County ARPA reporting requirements and will be submitted on templates provided by County.
- iii. Agency shall submit copies of all State ARPA reporting to County, upon submission to the State.
- f. Agency shall support County requests for modifications to Agency accounting structures, reporting or information related to the County ARPA funding distribution, or any other grant funds related to the Project.

3. Construction Contract. The parties agree to the following with respect to the Construction Contract:

- a. Contract management: the parties will jointly manage the Construction Contract. This includes, but is not limited, review and negotiation of any contract amendments, and any other project management tasks, as defined above, that may be associated with the Construction Contract. Agency shall be the primary point of contact under the Construction Contract but shall coordinate directly with County with respect to project management tasks. Invoices: Agency will pay construction contract invoices directly to Construction contractor until all State ARPA funds are fully expended. From then, until when all County ARPA and State of Oregon (Business Oregon) funds are expended, County will pay any approved invoices due under the Construction Contract directly to the third-party contractor.

After those funding sources are exhausted, Agency will resume responsibility for paying invoices under the Construction Contract directly to the third-party contractor and will use all other funding sources for approved invoices due under the Construction Contract.

County ARPA funds must be committed via contract or purchase order by December 31, 2024, and expended by December 31, 2026. All materials purchased must be received and services provided must be completed prior to December 31, 2026, to be eligible for payment under this Agreement.

County Business Oregon grant funds must be committed via contract or purchase order by February 6, 2026. All materials purchased must be received and services provided must be completed prior to this date to be eligible for payment under this Agreement.

- b. Escrow/retainage. County will establish and manage any required accounts for purposes of withholding retainage under the Construction Contract.
- c. Meetings. The parties will meet no less than weekly to review the status of the Project and address any issues that may arise under the Construction Contract.

4. Additional Terms and Conditions

- a. Agency hereby grants County the right to use the Facility as a COVID-19/medical countermeasures vaccination or testing site, a COVID-19 treatment and mitigation site, or other such use reasonably related to the same. The parties will negotiate, in good faith, dates and times for such use of the Facility to be available to County for the aforementioned uses.

- b. Agency hereby grants County the right to use the Facility for any purpose reasonably necessary to respond to emergency situations, including, but not limited to, a public health emergency under ORS Chapter 433, an emergency under ORS 401, or an emergency under Clackamas County Code Chapter 6.03. Such uses may include, but are not limited to, using the Facility for an emergency operations center, mass vaccination site, temporary shelter location, or temporary storage of livestock or other animals. In the event of a declared emergency, County's right to use the Facility shall be superior to Agency's right to use the Facility. Agency shall cooperate with County to the maximum extent practicable to facilitate use of the Facility in the event of a declared emergency. Other than normal wear and tear, when County uses the Facility under this Agreement, County will be responsible for damage caused by the County's use. The rights granted to County herein shall survive termination of the Agreement. In the event County exercises its right to use the Facility to respond to emergency situations the parties further agree to negotiate, in good faith, for the County to reimburse the fair fund established pursuant to ORS 565.325 for damages incurred by Agency. Each party reserves all rights, remedies, claims, or defenses available to them at law, in equity, or under contract with respect to reimbursement for County's exercise of its rights to use the Facility.

EXHIBIT B
General Administrative and Federal Terms & Conditions

1. Federal Funds

a) This Agreement is funded in part by federal funds. By signing this Agreement, Agency certifies neither it nor its employees, contractors, subcontractors, or Agencies who will perform the Project activities described herein are currently employed by an agency or department of the federal government.

b) County has determined:

Entity is a subrecipient Entity is a contractor Not applicable

c) Assistance Listing Number of federal funds paid through this Agreement: 21.027

2. Administrative Requirements. Agency agrees to its status as an Agency, and accepts among its duties and responsibilities the following:

a) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are “earned.” All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to County within 15 days.

b) **Change in Key Personnel.** Agency is required to notify County, in writing, whenever there is a change in Agency key administrative or programmatic personnel and the reason for the change. Key personnel include but are not limited to: Executive Director, Finance Director, Project Manager, Bookkeeper, or any equivalent to these positions within the organization.

c) **Cost Principles.** Agency shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of the Agency.

d) **Period of Availability.** Agency may charge to the award only allowable costs resulting from obligations incurred during the funding period.

e) **Payment.** Agency must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit A.

f) **Project Reporting.** Agency shall comply with reporting requirements as specified in Exhibit A.

- g) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or Agency, in accordance with Treasurer regulations at 31 CFR Part 205.
- h) **Closeout.** County will closeout this project when County determines that all applicable administrative actions and all required work have been completed by Agency. Agency must liquidate all obligations incurred under this award and must submit all financial, project, and other reports as required by the terms and conditions of the SLFRF Finale Rule, Final Rule FAQ's and/or County, no later than 90 calendar days after the end date of this Agreement.
- i) **Unique Entity Identifier and Contractor Status.** Agency shall register and maintain an active registration in the Central Contractor Registration database using its Unique Entity Identifier ("UEI"), located at <http://www.sam.gov>.
- j) **Suspension and Debarment.** Agency shall comply with 2 CFR Part 180. These rules restrict subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. Agency is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Agency may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- k) **Lobbying.** Agency certifies that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U.S.C. 1352. In addition, the Agency certifies that it is a nonprofit organization described in Section 501(c) (3) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- l) **Monitoring.** Agency agrees to allow County access to conduct site visits and inspections of financial records. County, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of Agency that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at County's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by County, or c) be de-obligated and terminated.
- m) **Record Retention.** Agency will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years from the end of program date, or such longer period as may be required by the Federal agency or applicable state law, following final payment and

termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

- n) **Certification of Compliance with Documents.** Agency acknowledges that it has read the Agreement conditions and certifications for the SLFRF, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as County, under those grant documents.
- o) **Failure to Comply.** Agency acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between County and Agency to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to County's right, but not obligation, to withhold Agency grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by Agency in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to County at law, in equity, or under this Agreement.

3. Compliance with Applicable Laws

- a) **Public Policy.** Agency expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to Agency.
- b) **Rights to Inventions Made Under a Contract or Agreement.** Agency agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any further implementing regulations issued by the U.S. Treasury Department.
- c) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** Agency agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the

awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency.

- d) **State Statutes.** Agency expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to this Agreement.
- e) **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216).** Agency certifies funds provided in this Agreement will not be expended to procure, obtain, extend or renew a contract to procure or obtain, or enter into a contract to procure or obtain equipment, services, or systems that use telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation or any subsidiary or affiliate of such entities, per Public Law 115-232 Section 889.
- f) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, Agency may in writing request County to resolve the conflict. Agency shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. County shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. Agency shall remain obligated to independently comply with all applicable laws and no action by County shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- g) **Mileage reimbursement.** If mileage reimbursement is authorized in Agency budget or by the written approval of County, mileage must be paid at the rate established by Agency's written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.
- h) **Human Trafficking.** In accordance with 2 CFR Part 175, Agency, its employees, contractors and subcontractors under this Agreement and their respective employees may not:
- Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
 - Procure a commercial sex act during the period of time the award is in effect; or
 - Used forced labor in the performance of the Agreement or subaward under this Agreement.

Agency must inform County immediately of any information Agency receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. County may terminate this Agreement, without penalty, for violation of these provisions. County's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. Agency must include these requirements in any subaward made to public or private entities under this Agreement.

- i) **Davis Bacon.** If applicable, comply with the provisions of the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) and the requirements of 29 C.F.R. Part 5.