



# **CROOK COUNTY COURT AGENDA**

**Wednesday, September 20, 2023 at 9:00 am**

**Crook County Annex | 320 NE Court St. | Prineville OR**

Members of the public and media are welcome to attend in person or via Zoom: 1-253-215-8782;

Meeting ID: 981 7361 2010; Passcode: 033745

## **PUBLIC COMMENT**

## **CONSENT AGENDA**

(Consent agenda items are routine matters - e.g. minutes, appropriations orders, contracts, agreements, completion of previously discussed matters and decisions requiring Court ratification which are not expected to generate discussion. Any member of the Court may request removal of an item for separate discussion or vote. All remaining items are approved in a single motion.)

- 1. Approve Minutes**
- 2. Request approval of amendment to Intergovernmental Agreement for "Central Oregon Regional Collaborative," an agreement between local governments to apply for CDBG \$.**
- 3. 2023-2025 IGA for the Financing of Local Public Health Services in Crook County Agreement #180007-1 Awards tobacco prevention funds**
- 4. Award contract to Greenbar Excavation for the Library Patio Renovation Project**
- 5. Renew Software Subscription and Annual Technical Support Agreement with Siemens**
- 6. Extension of OJD Agreement re: ARPA funds**
- 7. Amendment No. 6 to Community Mental Health Program agreement with BestCare Treatment Services, for school based health center (SBHC) services**

## **DISCUSSION**

- 8. Presentation for \$25,000 County support request**  
Requester: Andy Gallagher  
District Manager for Crook County Soil and Water Conservation District
- 9. FBO proposal to provide fuel and aviation services**  
Requester: Kelly Coffelt
- 10. Approval of Crook County Community Corrections Biannual Plan**  
Requester: Aaron Boyce
- 11. Review inmate communications services agreement and rate schedule, with Smart**

## **Communications**

Requester: Eric Blaine

### **12. Consider Supplement to Statewide Allocation Agreement for opioid settlement funds**

Requester: Eric Blaine

## **ADMINISTRATOR REPORT**

### **COURT MEMBER UPDATES**

#### **EXECUTIVE SESSION**

- 13. ORS 192.660(2)(h) Consulting with Counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.**
- 14. ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection.**
- 15. ORS 192.660(2)(e) For the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions**

#### **NOTICE AND DISCLAIMER**

The Crook County Court is the governing body of Crook County, Oregon, and holds public meetings (generally on the first and third Wednesday of each month) to deliberate upon matters of County concern. As part of its efforts to keep the public apprised of its activities, the Crook County Court has published this PDF file. This file contains the material to be presented before the County Court for its next scheduled regular meeting.

Please note that while County staff members make a dedicated effort to keep this file up to date, documents and content may be added, removed, or changed between when this file is posted online and when the County Court meeting is held. The material contained herein may be changed at any time, with or without notice.

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Please also note that this file does not contain any material scheduled to be discussed at an executive session, or material the access to which may be restricted under the terms of Oregon law.

If you are interested in obtaining additional copies of any of the documents contained herein, they may be obtained by completing a Crook County Public Records Request form. Request forms are available on the County's website or at the County Administration office at 203 NE Court Street, in Prineville.

Additional items may be discussed that arise too late to be included as a part of this notice. For information about adding agenda items, please contact the County Administration office at 447-6555. Assistance to handicapped individuals is provided with advance notice.

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Contact: Seth Crawford (seth.crawford@co.crook.or.us (541) 447-6555) | Agenda published on 09/15/2023 at 1:19 PM

**CROOK COUNTY COURT MINUTES  
OF JUNE 7, 2023 REGULAR MEETING  
Open Portion**

**Be It Remembered** that the Crook County Court met in a Regular Court meeting on June 7, 2023, at 9:00 a.m. in the County meeting room located at 320 NE Court Street, Prineville, Oregon 97754.

Court Members Present: Judge Seth Crawford, Commissioner Jerry Brummer and Commissioner Brian Barney

Absentees: None

Others Present in Person or Via Zoom: Legal Counsels Eric Blaine and John Eisler; Administration Executive Assistant Sarah Puerner; Commander Bill Elliott; Assistant Finance Director Christina Haron; Budget Analyst Jamie Berger; Library Director Sarah Beeler; Community Development Director Will VanVactor; Andy Parks; Assessor Jon Soliz; Manager Levi Roberts; Health and Human Services Director Katie Plumb; Clerk Cheryl Seely; Treasurer Galan Carter; Director Sydney Chandler; District Attorney Kari Hathorn; Public Works Director Jeff Hurd; Road Superintendent James Staniford; Kelly Coffelt; Tim Deboodt; Jerry Jones; Michael Robinson; Roxanne Basey; Priscilla Smith; Barbara Fontaine; Dave Fishel; Pastor Ron Hemphill; Michaela Edwards; Kim Fox; Colleen Ferguson; Sarah Freeman; Ashley Garing; Josh Derrick; Jacquie Davis and Chris with Greater Idaho.

**REGULAR SESSION**

The meeting was **called to order at 9:00 a.m.**

Public Comment:

**Priscilla Smith** wanted to speak regarding item #17 on the agenda. Two years ago, the Court declined to have a similar question put on the ballot, so Ms. Smith wanted to know what has changed since that time. Ms. Smith mentioned that some citizens are proud to be called Oregonians and that Eastern Oregon is not all conservatives. Demographics are changing, Idaho has a lower minimal wage and sales tax, retirees would take a hit and that moving the border would be an extreme measure.

**Barbara Fontaine** wanted to speak regarding item #17 on the agenda. Ms. Fontaine lives in Powell Butte and agrees with Ms. Smith. Ms. Fontaine moved here 50 years ago to live in Oregon and would like her granddaughter to have the same freedoms that she has received. Ms. Fontaine stated that Idaho will not invest in our state as much as Oregon would invest in Idaho. She urged the Court to not continue down this road and that Crook County is already experiencing a lot of the national woes for far right and far left.

Consent Agenda:

1. Approve Minutes
2. Approve Amendment #9 to Agreement w/ The Humane Society of the Ochocos for Animal Custody and Care Services
3. Approve Amendment #15 to IGA #169507 for the Financing of Public Health Services
4. Promotion of Chelsea Watson to Systems Administrator
5. Approve Jeff Hurd as the new Capital Projects Manager - Public Works
6. Approve Nick Lilly as the new Capital Projects Manager - Facilities
7. Quarterly Report for third quarter fiscal year 2023
8. Access to Earned Vacation Pay
9. Half-Step Increase - Anniversary Date
10. Annual cost of living adjustment (COLA) for Crook County Deputy Sheriff's Association (CCDSA) and increase to number of vacation hours available annually for payout
11. Annual cost of living adjustment (COLA) for non-represented and Road Department employees
12. Elected Officials Compensation Committee Recommendation
13. Compensation study – consider scope of services and fees with JB Rewards
14. Tuition Reimbursement Policy
15. Airport Non-Commercial Lease Policy
16. "Purchase" of surplus airport property by the County

**MOTION** to approve the Consent Agenda as presented. Motion seconded. No discussion. Motion carried 3-0.

Discussion item #17: Referral of ballot title to County Clerk re: sentiment for Idaho border relocation:

Requester: John Eisler

Details: Legal Counsel John Eisler attended the regular session to discuss referral of ballot title to the County Clerk regarding sentiment for Idaho border relocation. This order is to send the ballot measure to the County Clerk approving the language and opening the appeal period. There is no meeting or action required by the Court and this item would be on the ballot for the May 2024 election.

**MOTION** to pass Order 2023-26 in the matter of instructing the County Judge to file with the County Clerk a Notice of County Measure Election in the matter of citizen sentiment regarding the Oregon-Idaho border. Motion seconded. No discussion. Motion carried 3-0.

Discussion item #18: Seeking acceptance of grant funds to cover cost of library HVAC:

Requester: Katie Plumb

Details: Health and Human Services Director Katie Plumb attended the regular session to discuss accepting grant funds to cover the cost of the library HVAC. Public Health learned of a grant opportunity related to heating/cooling and clean air shelters prior to

the library HVAC being replaced. Crook County Health Department staff worked with facilities and library staff to apply for funds for which the library is eligible since it operates as a cooling/heating/clean air space for the public. Delays in the grant process have resulted in funds just now being available. The total amount available in funds is \$115,346.

**MOTION** to accept the grant funds to cover the cost of the library HVAC system. Motion seconded. No discussion. Motion carried 3-0.

Discussion item #19: Seeking Environmental Health Contract Amendment Approval:

Requester: Katie Plumb

Details: Health and Human Services Director Katie Plumb attended the regular session to discuss approval for an environmental health contract amendment. This is a periodic adjustment to fees and programmatic elements. Pool/spa license fees to Oregon Health Authority increased from \$45 to \$90 each. Overall remittance factor decreased from 12.81% to 12.22%. The current local fee schedule accounts for these changes.

**MOTION** to approve agreement 170663 as presented. Motion seconded. No discussion. Motion carried 3-0.

Discussion item #20: Consideration of adding June 19 as a County paid holiday:

Details: Legal Counsel Eric Blaine attended the regular session to discuss considering adding June 19<sup>th</sup> as a County paid holiday. Judge Crawford stated that it is an important day in our country and that the Court would like to add this day to the Crook County paid holiday schedule. Court requested that the Finance department present a cost analysis of this at the next work session on the 14<sup>th</sup>.

**MOTION** to approve Order 2023-34 in the matter of adding June 19<sup>th</sup> (Juneteenth) to the list of county paid holidays for all employees. Motion seconded. No discussion. Motion carried 3-0.

Discussion item #21: PUBLIC HEARING: Second reading of Ordinance 339 – Ordinance Amending Chapter 6.04 of the Crook County Code Regarding Animal Control Definitions, Penalties, Enforcement Authority, and Public Nuisance Animals:

Details: The current language of the ordinance is strictly referring to dogs being a nuisance. In the recent past it has come up that other animals can become a nuisance, such as domesticated fowl. This change to the ordinance will in no way change the way that Crook County handles livestock animals. If this Ordinance is approved, it will go into effect 90 days after.

**MOTION** to read Ordinance 339 by title only. Motion seconded. No discussion. Motion carried 3-0.

Judge Crawford read by title only and opened the Public Hearing. There being no comments received from the public, Judge Crawford closed the Public Hearing.

**MOTION** to approve Ordinance 339, an Ordinance Amending Chapter 6.04 of the Crook County Code Regarding Animal Control Definitions, Penalties, Enforcement Authority, and Public Nuisance Animals. Motion seconded. No further discussion. Motion carried 3-0.

Discussion item #22: PUBLIC HEARING: First reading of Ordinance 341, regarding protection of homeless persons and the community, and declaring an emergency:

Details: The County Court has asked that a draft ordinance be prepared for their review, to address the safety of homeless individuals and the Crook County community from certain specified problems that are increasingly prevalent in Oregon.

**MOTION** to read Ordinance 341 by title only. Motion seconded. No discussion. Motion carried 3-0.

Judge Crawford read by title only and opened the Public Hearing.

Sarah Freeman wanted to acknowledge that the County needs to be careful about what is available and what is not available. Shelter space is important for those who don't have a place to go but the County must take a hard look at what we are willing to provide. Compassion can come in different forms, but we want to avoid becoming Portland.

Ashley Garing mentioned that there was a fire in Bend in the winter months that caused a business to burn down. It may be beneficial to include distances away from buildings and away from propane lines and avoid structural fires if someone is going to use fire for warmth during the winter months.

There being no further comments from the public, Judge Crawford closed the Public Hearing.

Discussion item #23: PUBLIC HEARING: Order 2023-27 to Adopting Crook County fiscal year 2023-2024 budget:

Details: Order 2023-27 is for the County Court to adopt the Crook County budget for fiscal year 2023-2024. The new budget would begin July 1, 2023, and what was presented today is what was recommended from the Crook County Budget Committee with no recommended changes.

Judge Crawford opened the Public Hearing. There being no comments received from the public, Judge Crawford closed the Public Hearing.

**MOTION** to approve Order 2023-27 in the matter of adopting Crook County fiscal year 2023-2024 budget beginning July 1, 2023, making appropriations, and imposing and categorizing ad valorem taxes. Motion seconded. No discussion. Motion carried 3-0.

Discussion item #24: PUBLIC HEARING: Order 2023-28 to Adopting Crook County Road Agency fiscal year 2023-2024 budget:

Details: Order 2023-28 is for the County Court to adopt the Crook County Road Agency

fiscal year 2023-2024 budget. The Budget Committee approved a budget with total requirements of \$1,635,000. After Budget Committee approval on May 17, 2023, the Finance Department received the quote for liability insurance required by the Intergovernmental Agreement for this Agency. Because appropriation to pay for insurance was not part of the proposed or approved budget, a slight change to the approved budget is necessary.

Judge Crawford opened the Public Hearing. There being no comments received from the public, Judge Crawford closed the Public Hearing.

**MOTION** to approve Order 2023-28 in the matter of adopting Crook County Road Agency fiscal year 2023-2024 budget beginning July 1, 2023, and making appropriations in the total amount of \$1,637,000. Motion seconded. No discussion. Motion carried 3-0.

Discussion item #25: PUBLIC HEARING: Order 2023-29 to Adopting Crook County Historical Fund fiscal year 2023-2024 budget for Bowman Museum:

Details: Order 2023-29 is for the County Court to adopt the Crook County Historical Fund for fiscal year 2023-2024 budget for the Bowman Museum. The Crook County Budget Committee approved the budget of \$644,000 and the committee has not received any other changes from the Museum Director.

Judge Crawford opened the Public Hearing. There being no comments received from the public, Judge Crawford closed the Public Hearing.

**MOTION** to approve Order 2023-29 in the matter of adopting Crook County Historical Museum Fund fiscal year 2023-2024 budget beginning July 1, 2023, making appropriations, and imposing and categorizing ad valorem taxes for the amount of \$644,000. Motion seconded. No discussion. Motion carried 3-0.

Contract Administrator Report

Andy Parks had two items to discuss with the County Court.

- 1) Has had a meeting the last few days with the Public Works Director regarding the Landfill staff. It has been decided to move in a different direction than fill the Landfill Manager position. The County is going to make some internal promotions within the Department for this position.
- 2) Has spoken with the City Manager regarding right-of-way. The County has several roads that are inside city limits that the County is responsible for maintaining. Looking into how to move these roads from County to City responsibility.

Court Member Updates

Judge Crawford has been working with the State on the Biomass Plant. Has a tour with Vince Porter to talk and build a stronger relationship with.

Commissioner Barney is continuing to work on the Justice Center. They are currently deciding on furniture for the Justice Center.



At 10:14 a.m. the Court convened into Executive Session under the following statute(s): ORS 192.660(2)(h) Consulting with Counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed; ORS 192.660(2)(b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing.

### **EXECUTIVE SESSION**

At the conclusion of the Executive Session, the County Court convened back into Open Session, inviting members of the public into the meeting room.

**MOTION** to direct staff to correspond with the counter parties as discussed in the Executive Session. Motion seconded. No discussion. Motion carried 3-0.

**MOTION** to accept the employee's resignation effective today, Wednesday June 7<sup>th</sup> and to provide the final paycheck and paperwork as discussed in the Executive Session. Motion seconded. No discussion. Motion carried 3-0.

**MOTION** to authorize Judge Crawford to sign any documents on behalf of Crook County in furtherance of the first motion as may be necessary. Motion seconded. No discussion. Motion carried 3-0.

There being no further business before the Court, the meeting was **adjourned at 1:29 p.m.**

Respectfully submitted,

**Sarah Puerner**

## AGENDA ITEM REQUEST



**Date:**

**Meeting date desired:**

**Subject:**

**Background and policy implications:**

**Budget/fiscal impacts:**

**Requested by:**

**Presenters:**

**Legal review (only if requested):**

**Elected official sponsor (if applicable):**

/

**Amendment No. 1 to the Intergovernmental Agreement  
for the Central Oregon Regional Collaborative**

This Amendment No. 1 to the IGA for the Central Oregon Regional Collaborative (“Amendment”) is between the counties of Crook, Deschutes and Jefferson; the cities of La Pine, Madras, Prineville and Sisters; and NeighborImpact.

RECITALS

- A. The parties entered into an Agreement dated **September 12, 2019** (the “Agreement”).
- B. The parties desire to amend the Agreement effective \_\_\_\_\_, 2023.

AGREEMENT

- 1. **Amendments.** Pursuant to Section 9 of the Agreement, the Agreement is hereby amended as follows (new language in restated provisions is indicated by underlining and bold; and deleted language is indicated in brackets).

SECTION 2. **Deschutes County** [The City of Prineville] will serve as the lead applicant for a **2023** [2019] CDBG Housing Rehabilitation Grant.

- 2. **Other Provisions.** Except as expressly amended above, all other terms and conditions of the Agreement are not amended or deleted and remain unchanged and in full force and effect. The parties expressly affirm and ratify the Agreement as herein amended.
- 3. **Signatures.** This Amendment may be signed in counterparts.

**The City of La Pine**

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

Date this \_\_\_\_\_ of 2023

**The City of Madras**

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

Date this \_\_\_\_\_ of 2023

**The City of Prineville**

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

Date this \_\_\_\_\_ of 2023

**City of Sisters**

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

Date this \_\_\_\_\_ of 2023

**Crook County**

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

Date this \_\_\_\_\_ of 2023

**Deschutes County**

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

Date this \_\_\_\_\_ of 2023

**Jefferson County**

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

Date this \_\_\_\_\_ of 2023

**NeighborImpact**

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

Date this \_\_\_\_\_ of 2023

**INTERGOVERNMENTAL AGREEMENT  
FOR THE  
CENTRAL OREGON REGIONAL COLLABORATIVE**

**THIS AGREEMENT** between NeighborImpact and the City of La Pine, City of Madras, City of Prineville, and City of Sisters, all municipal corporations, (hereinafter the "Cities") and Crook County, Deschutes County and Jefferson County (hereinafter the "Counties") is entered into on the date last signed below for the purpose of developing a request for funding to address housing rehabilitation needs in Central Oregon through a collaborative partnership of the Cities, Counties and NeighborImpact (hereinafter the "Central Oregon Regional Collaborative").

**RECITALS:**

**WHEREAS**, Business Oregon will finance low- and moderate-income owner-occupied, single family housing rehabilitation projects through awards granted to city or county applicants; and

**WHEREAS**, an application for said grant funds must be submitted within a region by one jurisdiction as lead applicant on behalf of the collaborative and the award is made to the lead applicant within the limits of use set forth in the application; and

**WHEREAS**, the Central Oregon Regional Collaborative must partner with a 501c (3) non-profit meeting the requirements of 105(a)(15) of the Housing and Community Development Act to carry out the housing rehabilitation program as a sub grantee on behalf of the grant applicant which will result in a grant award being made available to income eligible owner-occupied households in the form of a grant; and

**WHEREAS**, submission of a CDBG Housing Rehabilitation application to IFA requires documentation of need and the establishment of a partnership between a minimum of three local municipalities and a local 501c(3) non-profit corporation with certified sub-grantee status; and

**WHEREAS**, the Cities and the Counties are aware of and committed to addressing the serious and ongoing need for housing rehabilitation services with sustainable program action within the project designated service area; and

**WHEREAS**, the Cities, the Counties, and NeighborImpact desire to cooperate in order to provide for the assessment and documentation of that need, the development of the partnership, and the preparation of the application including all requisite attachments and due diligence; and

**WHEREAS**, NeighborImpact has achieved certification from the Business Oregon as an eligible 501c3 nonprofit subgrantee meeting the requirements of 105(a)(15) of the Housing and Community Development Act for the Regional Housing Rehabilitation CDBG program.

**NOW, Therefore, in consideration of the mutual covenants and agreements hereinafter contained, Cities, Counties and NeighborImpact agree as follows:**

**SECTION 1.** The designated service area for Central Oregon Regional Collaborative activities under this agreement shall include all of Crook, Deschutes and Jefferson counties outside of the

boundaries of the City of Bend, City of Redmond, and Confederated Tribes of Warm Springs.

**SECTION 2.** The City of Prineville will serve as the lead applicant for a 2019 CDBG Housing Rehabilitation Grant.

**SECTION 3.** The lead applicant responsibilities will include:

- Provide needed due diligence as required for the application, including (but not limited to) adopting and publishing a Fair Housing Resolution, adopting an Excessive Force Policy and all other such federal overlay requirements.
- Submission of the CDBG application to Business Oregon.
- Compliance with federal, state and program requirements.

**SECTION 4.** The Cities and the Counties responsibilities will include the following for the completion of the scope of work for this application and project:

- Adherence to the National Objective that 100% of the CDBG Housing Rehabilitation Program funds will serve low-moderate income households.
- Ongoing marketing of the Housing Rehabilitation Program in its community and the region.
- Referral of housing units within its jurisdiction that have been determined by the Cities and Counties to have health, safety, and/or other housing rehabilitation needs.

**SECTION 5.** NeighborImpact's responsibilities will include providing the following for completion of the scope of work for this application and project:

- Facilitation for the formation and ongoing development of the Central Oregon Regional Collaborative.
- Creation of a waiting list of potential applicants.
- Development and preparation of the grant application and requisite attachments, for submission by the lead applicant.
- Implementation and management of the Regional Housing Rehabilitation Revolving Loan Fund program, upon approval of the grant application by Business Oregon.
- Compliance with all federal, state and program requirements.
- Reporting of program activity to the State of Oregon, Central Oregon Regional Collaborative Members and the community.

**SECTION 6.** NeighborImpact shall be compensated for grant administration and program management with CDBG grant funds at a level established by Business Oregon within the CDBG contract issued to the lead applicant. The lead applicant and NeighborImpact shall enter into a subgrant agreement prior to the implementation of program activities.

**SECTION 7.** This IGA may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

**SECTION 8. ENTIRE AGREEMENT:** This Agreement signed by all parties is the final and entire agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents, and representatives.

**SECTION 9. AMENDMENTS:** This Agreement may be supplemented, amended, or revised only in writing signed by all parties.

Date this 9-11 of 2019

**The City of La Pine**

By: Melissa Bond City Mayor

Date this \_\_\_\_\_ of 2019

**The City of Madras**

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

Date this \_\_\_\_\_ of 2019

**The City of Prineville**

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

Date this \_\_\_\_\_ of 2019

**City of Sisters**

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

Date this \_\_\_\_\_ of 2019

**Crook County**

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

Date this \_\_\_\_\_ of 2019

**Deschutes County**

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

Date this \_\_\_\_\_ of 2019

**Jefferson County**

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

Date this \_\_\_\_\_ of 2019

**SECTION 9. AMENDMENTS:** This Agreement may be supplemented, amended, or revised only in writing signed by all parties.

Date this \_\_\_\_\_ of 2019

**The City of La Pine**

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

Date this 8/27 of 2019

**The City of Madras**

By: *Richard Jady*

Date this \_\_\_\_\_ of 2019

**The City of Prineville**

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

Date this \_\_\_\_\_ of 2019

**City of Sisters**

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

Date this \_\_\_\_\_ of 2019

**Crook County**

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

Date this \_\_\_\_\_ of 2019

**Deschutes County**

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

Date this \_\_\_\_\_ of 2019

**Jefferson County**

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

Date this \_\_\_\_\_ of 2019



**SECTION 9. AMENDMENTS:** This Agreement may be supplemented, amended, or revised only in writing signed by all parties.

Date this \_\_\_\_\_ of 2019

**The City of La Pine**

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

Date this \_\_\_\_\_ of 2019

**The City of Madras**

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

Date this Sept. 11 of 2019

**The City of Prineville**

By: Stephen J. Lehman, Mayor

Date this \_\_\_\_\_ of 2019

**City of Sisters**

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

Date this \_\_\_\_\_ of 2019

**Crook County**

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

Date this \_\_\_\_\_ of 2019

**Deschutes County**

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

Date this \_\_\_\_\_ of 2019

**Jefferson County**

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

Date this \_\_\_\_\_ of 2019

**SECTION 9. AMENDMENTS:** This Agreement may be supplemented, amended, or revised only in writing signed by all parties.

Date this \_\_\_\_\_ of 2019

**The City of La Pine**

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

Date this \_\_\_\_\_ of 2019

**The City of Madras**

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

Date this \_\_\_\_\_ of 2019

**The City of Prineville**

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

Date this 8/28 of 2019

**City of Sisters**

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

Date this \_\_\_\_\_ of 2019

**Crook County**

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

Date this \_\_\_\_\_ of 2019

**Deschutes County**

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

Date this \_\_\_\_\_ of 2019

**Jefferson County**

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

Date this \_\_\_\_\_ of 2019

**SECTION 9. AMENDMENTS:** This Agreement may be supplemented, amended, or revised only in writing signed by all parties.

Date this \_\_\_\_\_ of 2019

**The City of La Pine**

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

Date this \_\_\_\_\_ of 2019

**The City of Madras**

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

Date this \_\_\_\_\_ of 2019

**The City of Prineville**

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

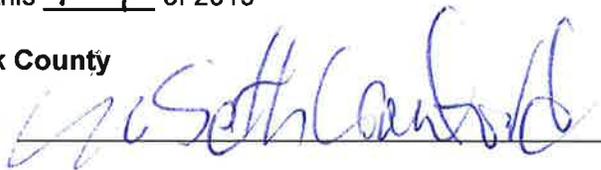
Date this \_\_\_\_\_ of 2019

**City of Sisters**

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

Date this 9-4 of 2019

**Crook County**

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

Date this \_\_\_\_\_ of 2019

**Deschutes County**

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

Date this \_\_\_\_\_ of 2019

**Jefferson County**

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

Date this \_\_\_\_\_ of 2019

**SECTION 9. AMENDMENTS:** This Agreement may be supplemented, amended, or revised only in writing signed by all parties.

Date this \_\_\_\_\_ of 2019

**The City of La Pine**

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

Date this \_\_\_\_\_ of 2019

**The City of Madras**

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

Date this \_\_\_\_\_ of 2019

**The City of Prineville**

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

Date this \_\_\_\_\_ of 2019

**City of Sisters**

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

Date this \_\_\_\_\_ of 2019

**Crook County**

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

Date this 8/21 of 2019

**Deschutes County**

By: Philip A. [Signature] Chair

Date this \_\_\_\_\_ of 2019

**Jefferson County**

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

Date this \_\_\_\_\_ of 2019

**SECTION 9. AMENDMENTS:** This Agreement may be supplemented, amended, or revised only in writing signed by all parties.

Date this \_\_\_\_\_ of 2019

**The City of La Pine**

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

Date this \_\_\_\_\_ of 2019

**The City of Madras**

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

Date this \_\_\_\_\_ of 2019

**The City of Prineville**

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

Date this \_\_\_\_\_ of 2019

**City of Sisters**

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

Date this \_\_\_\_\_ of 2019

**Crook County**

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

Date this \_\_\_\_\_ of 2019

**Deschutes County**

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

Date this \_\_\_\_\_ of 2019

**Jefferson County**

By: Mae Huston \_\_\_\_\_

Date this 8-14 of 2019





# Request to place business before the Crook County Court

**Important Note:** The County Court is the legislative, policy-setting body of Crook County. Matters which come before the Court should as a general rule be those of general concern to Crook County residents and Crook County. Administrative matters which are the purview of individual departments will be placed on the agenda at the request of the Department Head. By completing this form, you are asking to be placed on the agenda.

**Deadlines:** To appear at a Work Session or Regular County Court Meeting, your request and all documentation must be submitted the Wednesday before the date of the Work Session or Regular County Court Meeting.

Please return this form to Crook County Administration Office via  
Email: [Sarah.Puerner@crookcountyor.gov](mailto:Sarah.Puerner@crookcountyor.gov) or by mail to 300 NE 3<sup>rd</sup> St., Prineville OR 97754

Your name: \_\_\_\_\_ Date of Request: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address (optional): \_\_\_\_\_

1. What is the date of the Court meeting you would like to appear at? \_\_\_\_\_
2. Describe the matter to be placed before the Court: \_\_\_\_\_  
\_\_\_\_\_
3. What action are you requesting that the Court take? \_\_\_\_\_  
\_\_\_\_\_
4. What is the cost involved with your request, if applicable? \_\_\_\_\_  
\_\_\_\_\_
5. Have you asked the County for a fee waiver before? If yes, when? \_\_\_\_\_
6. Please estimate the time required for your presentation.  
 5 minutes       10 minutes       15 minutes       other \_\_\_\_\_ minutes
7. Are you (or will you be) represented by legal counsel?  
Yes (please name your attorney) \_\_\_\_\_  
No, I am not currently represented. (Note: it is your obligation to advise the Court if at any time you retain legal counsel to assist you in this matter.)
8. If you have a physical disability and require an accommodation, please specify your need:  
\_\_\_\_\_

### Administrative Section

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

Date Reviewed by Court: \_\_\_\_\_

FY Budget: \_\_\_\_\_

County Court: Approved/Denied

## AGENDA ITEM REQUEST



**Date:**

9/5/2023

**Meeting date desired:**

9/13 & 9/20

**Subject:**

2023-2025 IGA for the Financing of Local Public Health Services in Crook County Agreement #180007-1 Awards tobacco prevention funds

**Background and policy implications:**

One of many periodic contract amendments updating program-level funding post-legislative session and after individual program budgets and plans have been submitted to and approved by OHA

**Budget/fiscal impacts:**

Total tobacco prevention award FY24: \$222,439.86

This is \$560.14 less than was projected for tobacco prevention. No significant impact.

**Requested by:**

Katie Plumb, Health & Human Services Director  
kplumb@crookpublichealthor.gov 541-447-5165

**Presenters:**

Katie Plumb, Health & Human Services Director

**Legal review (only if requested):**

**Elected official sponsor (if applicable):**

/



Agreement #180007



**FIRST AMENDMENT TO OREGON HEALTH AUTHORITY  
2023-2025 INTERGOVERNMENTAL AGREEMENT FOR THE  
FINANCING OF PUBLIC HEALTH SERVICES**

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

This First Amendment to Oregon Health Authority 2023-2025 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2023, (as amended the “Agreement”), is between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and Crook County, (“LPHA”), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Crook County. OHA and LPHA are each a “Party” and together the “Parties” to the Agreement.

**RECITALS**

WHEREAS, OHA and LPHA wish to modify and replace the Fiscal Year 2024 (FY24) Financial Assistance Award set forth in Exhibit C of the Agreement.

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

**AGREEMENT**

1. This Amendment is effective on July 1, 2023, regardless of the date this amendment has been fully executed with signatures by every Party and when required, approved by the Department of Justice. However, payments may not be disbursed until the Amendment is fully executed.
2. The Agreement is hereby amended as follows:
  - a. Exhibit C, Section 1 of the Agreement, entitled “Financial Assistance Award” for FY24 is hereby superseded and replaced in its entirety by Attachment A, entitled “Financial Assistance Award (FY24)”, attached hereto and incorporated herein by this reference. Attachment A must be read in conjunction with Section 3 of Exhibit C.
3. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 4 of Exhibit F of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
4. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
5. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
6. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.

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

7. Signatures.

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

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

Name: /for/ Nadia A. Davidson

Title: Director of Finance

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

CROOK COUNTY LOCAL PUBLIC HEALTH AUTHORITY

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

*Agreement form group-approved by Steven Marlowe, Senior Assistant Attorney General, Tax and Finance Section, General Counsel Division, Oregon Department of Justice by email on August 11, 2023, copy of email approval in Agreement file.*

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

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

Name: Rolonda Widenmeyer (or designee)

Title: Program Support Manager

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

**Attachment A  
Financial Assistance Award (FY24)**

State of Oregon Oregon Health Authority Public Health Division		
<b>1) Grantee</b> Name: Crook County Street: 375 NE Beaver St., Suite 100 City: Prineville State: OR Zip: 97754-1802	<b>2) Issue Date</b> Saturday, July 1, 2023	<b>This Action</b> Amendment FY 2024
	<b>3) Award Period</b> From July 1, 2023 through June 30, 2024	

4) OHA Public Health Funds Approved				
Number	Program	Previous Award Balance	Increase / Decrease	Current Award Balance
PE01-01	State Support for Public Health	\$6,956.75	\$0.00	\$6,956.75
PE01-12	ACDP Infection Prevention Training	\$1,517.82	\$0.00	\$1,517.82
PE10-02	Sexually Transmitted Disease (STD)	\$52,904.00	\$0.00	\$52,904.00
PE12-01	Public Health Emergency Preparedness and Response (PHEP)	\$17,595.25	\$0.00	\$17,595.25
PE13	Tobacco Prevention and Education Program (TPEP)	\$44,233.00	\$178,206.86	\$222,439.86
PE36	Alcohol & Drug Prevention Education Program (ADPEP)	\$112,660.00	\$0.00	\$112,660.00
PE40-01	WIC NSA: July - September	\$52,815.00	\$0.00	\$52,815.00
PE40-02	WIC NSA: October - June	\$158,450.00	\$0.00	\$158,450.00
PE40-05	Farmer's Market	\$2,378.00	\$0.00	\$2,378.00
PE42-03	MCAH Perinatal General Funds & Title XIX	\$2,187.00	\$0.00	\$2,187.00
PE42-04	MCAH Babies First! General Funds	\$6,989.00	\$0.00	\$6,989.00
PE42-06	MCAH General Funds & Title XIX	\$4,101.00	\$0.00	\$4,101.00
PE42-11	MCAH Title V	\$21,633.00	\$0.00	\$21,633.00
PE42-12	MCAH Oregon Mothers Care Title V	\$11,412.00	\$0.00	\$11,412.00
PE42-13	Family Connects Oregon	\$50,000.00	\$0.00	\$50,000.00
PE43-01	Public Health Practice (PHP) - Immunization Services	\$10,792.00	\$0.00	\$10,792.00
PE44-01	SBHC Base	\$60,000.00	\$0.00	\$60,000.00
PE44-02	SBHC - Mental Health Expansion	\$106,760.00	\$0.00	\$106,760.00
PE46-05	RH Community Participation & Assurance of Access	\$17,113.68	\$0.00	\$17,113.68
PE50	Safe Drinking Water (SDW) Program (Vendors)	\$38,728.00	\$0.00	\$38,728.00
PE51-01	LPHA Leadership, Governance and Program Implementation	\$36,316.08	\$0.00	\$36,316.08
PE51-05	CDC PH Infrastructure Funding	\$155,440.41	\$0.00	\$155,440.41
PE62	Overdose Prevention-Counties	\$18,680.00	\$0.00	\$18,680.00
PE62-02	Fentanyl Campaign Funds	\$10,000.00	\$0.00	\$10,000.00
		\$999,661.99	\$178,206.86	\$1,177,868.85

<b>5) Foot Notes:</b>	
PE10-02	7/15/2023: Full FY24 award funds may be used in FY24 during the period of 7/1/23-12/31/2023 due to DIS WF federal grant funding being cut by CDC on 12/31/23.
PE40-01	7/2023: Unspent SFY2024 Q1 award will be rescinded by the state, cannot be carried over to SFY2024 Q2-4 period.
PE40-02	7/2023: Q2-4 Unspent grant award will be rescinded by the state at end of SFY2024
PE42-11	7/2023: Indirect charges cap at 10%.
PE42-12	7/2023: Indirect Charges cap at 10%.
PE43-01	7/2023: Awarded funds can be spent on allowable costs for the period of 7/1/2023 - 9/30/23. Any unspent funds will be de-obligated.
PE51-01	7/2023: Bridge funding for 7/1/23-9/30/23.

<b>6) Comments:</b>	
PE01-01	7/2023: SFY24 funding available 7/1/23-9/30/23 only.
PE01-12	7/2023: SFY24 July 2023: This award is available 7/1/23 - 6/30/24
PE13	7/15/23: SFY24 Award adding funding for 10/1/23-6/30/24 7/2023: SFY24 Bridge Funding 7/1/23-9/30/23
PE36	7/2023: Redistribution for Jul-Sep 2023 SAPT_22; and TBD SAPT_23 Oct-Jun 2024 7/2023: SFY24 Award
PE40-01	7/2023: SFY2024 Q1 WIC NSA grant award. \$10,563 must spent on Nutrition Ed; \$1,575 on BF Promotion. Underspend Q1 award cannot be carried over to Q2-4 period.
PE40-02	7/2023: SFY2024 Q2-4 grant award. \$31,690 must be spent on Nutrition Ed, \$4,726 on BF Promotion.
PE40-05	7/2023: SFY2024 WIC Farmers Market Mini grant award. Final Q2 Rev & Exp Report is required for final accounting. Underspent funds will be rescinded by the state in February 2024
PE51-05	7/2023: SFY24 Award Available 7/1/23-6/30/24. Funds are available 7/1/23-11/30/27. Unspent Funds in SFY24 will be carried over to the next fiscal year.
PE62	7/2023: FY24 funds available 7/1/23-9/29/23 only.
PE62-02	7/2023: De-obligated anticipated unspent funds from SFY23 per county request and moving to SFY24. SFY24 Award - 7/15/2024: Funds available 7/1/23-8/31/23 only.

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

# DOCUMENT RETURN STATEMENT

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

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

**Document number:** \_\_\_\_\_, hereinafter referred to as "Document."

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

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

\_\_\_\_\_ by email.

**Contractor's name**

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

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

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

\_\_\_\_\_  
Date

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

## AGENDA ITEM REQUEST



**Date:**

*September 6<sup>th</sup>, 2023*

**Meeting date desired:**

*Wednesday, September 13<sup>th</sup>, 2023 County Court Work Session*

**Subject:**

*Award contract to Greenbar Excavation for the Library Patio Renovation Project. Facilities received (2) complete proposals, (1) partial and the low bidder was Greenbar Excavation at \$43,787. Additional contingency funding of \$2,791 has been requested for a total of \$46,578 ensuring that all aspects of patio project are effectively addressed.*

**Background and policy implications:**

*This scope of work will provide needed update to the Broughton Room patio area with emphasis on addressing tree roots that have heaved the subgrade and associated site assemblies causing an unsafe condition and compromised the existing valve box that houses the backflow prevention device. Project scope includes tree replacement and preventive measures for ongoing root intrusion mitigation.*

**Budget/fiscal impacts:**

*This upgrade will be funded through the Capital Projects fund.*

**Requested by:**

*Nick Lilly, Capital Projects and Facilities Manager, [nick.lilly@crookcountyor.gov](mailto:nick.lilly@crookcountyor.gov)  
541-416-3811*

**Presenters:**

*Nick Lilly, Capital Projects and Facilities Manager*

**Legal review (only if requested):**

**Elected official sponsor (if applicable):**





## BID SCOPE ANALYSIS SHEET

PROJECT: **Broughton Room Patio Renovation**  
 SCOPE DESCRIPTION(S): **Selective Demolition/Removal of Existing Pavers, Concrete Border, Trees and Shrubs, Irrigation and Lighting. Replace Systems - See bid documents for full detail**  
 DATE/TIME: Sept 1st, 2023 REVISION: **Addendum 01 - Dimension Confirmation**

Vendor/Subcontractor	C2M Contract LLC	SMAF Construcrtion	Greenbar Excavation	Becker Landscape					
Contact	Carl Mosbey	Mel Davis	Tanner Brown	Trevor Grey					
Phone Number	541-410-4565	541-390-2717	971-288-9105	DECLINED PROJECT					
Email									
<b>1.0 BASE BID BREAKDOWN:</b>									
Schedule of Values	Quantity	Base Total	Quantity	Base Total	Quantity	Base Total	Quantity	Base Total	
Description									
1 Base Bid		\$ 16,770		\$ 46,588.61		\$ 43,787			
2 Selective Demolition and Disposal	8,940	Included	10,214	Included	18,715	Included			
3 New Concrete; Prep, Form, Supply, Place, Finish and Seal	7,830	Included	36,374	Includes Landscape	7,155	Included			
4 Landscaping Improvements (Include replace backflow device)		No Bid	Backflow device?	Included	17,917	Included			
5 Lighting Replacements		No Bid	Lighthing included?	Included		Included			
6 Irrigation Replacements		No Bid		Included		Included			
7 Paver Scope; remove and reinstall donor pavers as border		Included		Included		Included			
<b>Base Bid Sub-Total:</b>		<b>\$ 16,770</b>		<b>\$ 46,589</b>		<b>\$ 43,787</b>			<b>\$ -</b>
<b>2.0 POST BID ADJUSTMENTS:</b>									
	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	(LS)	Total	
1 Landscaping PLUG (value from other bid utilized for analysis)	NA								
2									
3									
4									
<b>Post Bid Adjustments Sub-Total:</b>		<b>\$ -</b>		<b>\$ -</b>		<b>\$ -</b>			<b>\$ -</b>
<b>Base Bid Total w/ Post Bid Adjustments:</b>		<b>\$ 16,770</b>		<b>\$ 46,589</b>		<b>\$ 43,787</b>			<b>\$ -</b>
<b>3.0 ADD/DEDUCT ALTERNATES:</b>									
	Alternates	Selected	Alternates	Selected	Alternates	Selected	Alternates	Selected	
1 Tree removal alternate included (remove and replace (3) maples at East)		Not Included		Not Included		Included			
2									
3									
4									
<b>Selected Alternates Total:</b>		<b>\$ -</b>		<b>\$ -</b>		<b>\$ -</b>			<b>\$ -</b>
<b>Total Subcontract Amount:</b>		<b>\$ 16,770</b>		<b>\$ 46,589</b>		<b>\$ 43,787</b>			<b>\$ -</b>
<b>4.0 ESTIMATE TO COMPLETE SCOPE (ETC):</b>									
	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	
1 Sealer, 25% solids per Facilities Maintenance Standard for Deicer protection				\$ 300		\$ 300			
2 Removal and replacement of East shrubs at Meadow Lakes Drive (@ sidewalk)				\$ 700		\$ 700			
3 Small project contingency			4% of low bid	\$ 1,791	4% of low bid	\$ 1,791			
4									
<b>ETC's Subtotal:</b>		<b>\$ -</b>		<b>\$ 2,791</b>		<b>\$ 2,791</b>			<b>\$ -</b>
<b>Subcontractor Bond If Required</b>									
<b>INTERNAL BUDGET TOTAL:</b>		<b>\$ 16,770</b>		<b>\$ 49,380</b>		<b>\$ 46,578</b>			<b>\$ -</b>
(NIS=No Information Submitted) (BIR=Lost Workday Cases x 200,000/hours Worked) (LTC=Recordable Cases x 200,000/hours worked) (Fat=Fatalities)									
<b>5.0 RETURNED BID DOCUMENTS:</b>									
<b>BID DOCUMENTS</b>	No		No		No				
<b>6.0 ACKNOWLEDGMENTS &amp; CERTIFICATIONS:</b>									
Addenda 01 Issuance	Yes		Yes		Yes		No		
Bid Valid for 30 Day, 60 Days, other?									
Contractor License in the State of Oregon	Yes		Yes		Yes				
Listed as a MBE/WBE/EBE									
Merit Shop/Union	No		No		No				
<b>7.0 CLARIFICATIONS &amp; EXCLUSIONS:</b>									

**NOTES:** C2M is a new relationship however appears to be capable of concrete construction. This new vendor declined to include the full scope of landscaping to include backflow device replacement, tree removal/replacement, irrigation and lightning and facilities is not prepared to manaoqe this project as a general contractor.

**RECOMMENDATION:** Based on a thorough review of the bids as well as assessment of contractors level of completeness/engagement our recommendation is to award the project to Greenbar Excavation who has partnered with Snider Landscaping on the project. This vendor has provided the best value by submitting the lowest price and also shown the greatest interest with emphasis on the landscapers detail orientation and willingness to suggest best practices for the project. C2M provided a low demolition and excavation value however was not willing to bid the project as a whole.





**SMAF CONSTRUCTION, LLC**  
**P.O. BOX 672**  
**2260 INDUSTRIAL PARK WAY**  
**O) 541-447-5643**  
**F) 541-447-2190**  
**CCB # 159128**

7/25/2023  
 Crook County Facilities  
 203 NE Court St  
 Prineville, OR 97754  
 Attn: Nick Lilly 541.416.3811, 541.460.1005  
[Nick.lilly@crookcountyor.gov](mailto:Nick.lilly@crookcountyor.gov)

RE: Demo patio at library and redo with concrete

DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION	
<b>100 - MOBILIZATION/LOCATES</b>					<b>\$ 773.67</b>
MOBILIZATION - LOCAL	1.00	LS	\$ 693.00	\$ 693.00	
FUEL SURCHARGE	1.00	LS	\$ 80.67	\$ 80.67	
PRIVATE LOCATES	0.00	HRS	\$ 130.00	\$ -	
<b>200 - DEMO EXISTING PATIO, REMOVE SUBGRADE &amp; ROOTS</b>					<b>\$ 9,440.80</b>
35 MINI EXCAVATOR	10.00	HRS	\$ 160.00	\$ 1,600.00	
SKID STEER	16.00	HRS	\$ 160.00	\$ 2,560.00	
DUMP TRUCKS	6.00	HRS	\$ 110.00	\$ 660.00	
PICKUP W/TRAILER	2.00	DAYS	\$ 150.00	\$ 300.00	
LABOR	40.00	HRS	\$ 64.00	\$ 2,560.00	
LASER/TRANSIT	2.00	DAYS	\$ 75.00	\$ 150.00	
SAW CUTTING	1.00	LS	\$ 750.00	\$ 750.00	
DISPOSAL	1.00	LS	\$ 400.00	\$ 400.00	
9% FUEL SURCHARGE ON EQUIP	1.00	LS	\$ 460.80	\$ 460.80	
<b>300 - NEW PATIO PREP AND SURFACING</b>					<b>\$ 36,374.14</b>
35 MINI EXCAVATOR	8.00	HRS	\$ 160.00	\$ 1,280.00	
SKID STEER	8.00	HRS	\$ 160.00	\$ 1,280.00	
VAC TRUCK - 2 GUYS W/SUPPLY RIG	4.00	HRS	\$ 300.00	\$ 1,200.00	
LABOR	40.00	HRS	\$ 64.00	\$ 2,560.00	
LASER/TRANSIT	4.00	DAYS	\$ 75.00	\$ 300.00	
PLATE COMPACTOR	2.00	DAYS	\$ 50.00	\$ 100.00	
3/4" - 0 ROCK DEL	68.00	YD	\$ 27.29	\$ 1,855.65	
DRAIN ROCK DEL	10.00	YD	\$ 27.75	\$ 277.50	
TOPSOIL DEL	20.00	YD	\$ 27.00	\$ 540.00	
MATERIALS	1.00	LS	\$ 690.00	\$ 690.00	
CONCRETE SLAB	1.00	LS	\$ 13,470.00	\$ 13,470.00	
CORE 4" HOLES FOR DRAINAGE	1.00	LS	\$ 460.00	\$ 460.00	
LANDSCAPING SERVICES	1.00	LS	\$ 11,782.00	\$ 11,782.00	
** INCLUDES LOW VOLTAGE					
9% FUEL SURCHARGE ON EQUIP	1.00	LS	\$ 578.98	\$ 578.98	
TOTAL					<u><u>\$ 46,588.61</u></u>

If you have any questions please give me a call at 541-447-5643 or on my mobile phone at 541-480-7974.  
 Thank you,  
 Mel Davis

Greenbar Excavation, LLC  
 PO Box 7  
 Prineville, OR 97754  
 541-903-4343  
 Greenbarexcavation@gmail.com  
 www.greenbarexcavation.com

# Estimate 1517



<b>ADDRESS</b> Nick Lilly 203 NE Court St Prineville, Or 97754 Crook County Library	<b>DATE</b> 07/28/2023	<b>TOTAL</b> \$43,787.00	<b>EXPIRATION DATE</b> 08/28/2023
---	---------------------------	-----------------------------	--------------------------------------

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	<b>Concrete Prep</b>	Concrete Prep, demo, Footing Excavation, includes up to 6" of cut and export	1	18,715.00	18,715.00
	<b>Concrete</b>	Concrete patio	1	7,155.00	7,155.00
	<b>Exclusions</b>	Excludes any prevailing wage rate	1	0.00	0.00
	<b>Landscaping</b>	Landscaping, tree demo included	1	17,917.00	17,917.00

A 3% credit card fee will be included on invoice.  
 All invoices are due within 7 days.  
 Late charges are 5% per month if not paid within 14 days of issuance.

<b>TOTAL</b>	<b>\$43,787.00</b>
--------------	--------------------

THANK YOU.

Accepted By

Accepted Date

Billing Questions?  
 541-903-4343 Ext. 4  
 greenbarbilling@gmail.com  
 CCB# 237539 DEQ# 39103



To: Crook County Facilities  
 Nick Lilly  
 Address: 175 NE Meadow Lakes Dr.  
 Prineville, OR 97754  
 Phone: 360.213.9736

Billing:  
 Address:  
 Phone:  
 e-mail:

August 21, 2023

**Crook County Library Patio Remediation**

**SCOPE OF WORK:**

**Site Prep: \$2,490**

Spray areas to be improved	\$172	
Remove turf, weed or clean up of landscape areas to be improved	\$540	
Blanket compost import and place	\$289	
Till/ Scarify and rough grade	\$192	
<b>Topsoil/ import and place and rough grade. 6" screened topsoil.</b>	<b>\$893</b>	<b>Budget</b>
Boulder Placement- accents in beds.	\$404	

**Irrigation: \$4,304**

Controller	\$254	
<b>Point of Connection- to install new with permit and test per COP</b>	<b>\$1,361</b>	<b>Budget</b>
Mainline/ wire conductor	\$239	
Valves	\$397	
Laterals	\$544	
Drip irrigation lateral and piping to plantings. Extra line for pots.	\$1,047	
Hardscape sleeving	\$90	
Misc. fittings and hardware	\$317	

**Planting: (includes fertilizer and amendments) \$3,677**

Shrubs and groundcovers- 6. ea	\$273	
Perennials and ornamental grasses- 45 mixed grasses and perennials.	\$995	
<b>NEW- Deciduous trees. 4" RED POINTE MAPLE COL. OR EQUIVALENT.</b>	<b>\$2,329</b>	
Amendments	\$81	

**Includes removal of existing (3) East Silver Maples and stumps**

**Other:** **\$12,563**

**Mulch:** **\$1,600**

High Desert Blend Juniper Mulch \$785  
Aspen 1.5" decorative rock mulch \$815

Retaining Wall:

Excavation  
Foundation  
Block  
Grout  
Job Drain or other sheet

**Lighting:** **\$2,754 Budget**

*LED fixtures with wire and transformer and photocell equipment. Outlet needs provided.*

Drainage/Drainage:

Excavation and  
Installation of  
Pipe and pipe  
French rock foot

**Paver Patio/ walks:** **~~\$10,418~~**

Omit, included in  
GC scope

Excavation \$1,209  
Subgrade preparation and import/ place of gravel and sand \$2,257  
Install block, edge restraining and joint sweep \$6,062  
Paver sealant \$890

**Decorative drain rock 3-5" border:** **\$544**

Excavation  
Subgrade preparation and import and place of decorative gravel \$544  
Grout and joint sweep/ fill  
Install border

**Mobilization:** **\$1,064**

**TOTAL** **\$24,098**

# C2M Contract LLC 1

97756  
+1 5416999760  
c2mcontract@gmail.com



## Estimate

ADDRESS  
Nick Lilly  
Crook County  
300 NE 3rd St,  
Prineville OR 97754

ESTIMATE 033  
DATE 09/01/2023  
EXPIRATION DATE 09/29/2023

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Services	Selective Removal/ Demolition and Disposal- Staging- * Barricade work area and locate/place haul trailer. * Remove and savage selected brick pavers to be reinstalled. * Demo and remove existing concrete boarder. * Demo and remove existing 5'x5'6" concrete panel. * Remove (1) existing tree on south end of patio and haul. * Cut and remove all existing tree roots that will affect (N) placed concrete patio. Paver area. *Excavate to depth for allowance of 6" 3/4 minus state spec base rock. Excavate and prep for (N) 1'x1'-10" footing. * Install (N) perforated 3" drain pipe at bottom of slope and install connecting drain boxes. * Backfill grade/slope and compact (N) footing and slab.  Concrete/Paver installation- * Setup and form for (N) 52'x 12"6"x4" (650sqft) slab and footing. * Pour and finish- (N) 1'x1'10 footing and Tool/Broom finish with 1/2" tooled control joints. * Pour and finish (N) 5'x5'6" concrete panel. Tool and broom finish. * Install reused selected brick pavers around perimeter of (N) concrete patio slab.	1	8,940.00	8,940.00

Services

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TOTAL

**\$16,770.00**

Accepted By

Accepted Date



# TREE XPERTS

## Central Oregon Tree Experts

61563 American Loop | Bend, Oregon 97702  
541-480-9488 | office@cotreexperts.com | cotreexperts.com

**RECIPIENT:**

**Crook County**

203 NE Court Street  
Prineville, OR 97754  
Phone: 360-213-9736

**SERVICE ADDRESS:**

175 northwest meadow lakes dr  
Prineville, Oregon 97754

Estimate #11514	
Sent on	Aug 14, 2023
Equipment	Climber
Added Equipment	.
Stump Grinding	No
Donate Wood	No
<b>Total</b>	<b>\$840.00</b>

PRODUCT / SERVICE	DESCRIPTION	UNIT PRICE	TOTAL
Tree Removal	Remove larger Vine Maple in courtyard. Chip and haul brush.	\$600.00	\$600.00
Trim	Minor structural clearance on 3 Silver Maples in courtyard. Chip and haul brush.	\$240.00	\$240.00

**Total** **\$840.00**

Quote valid for 90 days. Price and Perform adjustments agreed upon by client and foreman will be reflected in final invoice.

{Quotes over \$4,000}: Require a 60% deposit prior to the scheduled date. This can be used towards other future work if non-refundable due to canceling same day or within 72 hours of the scheduled date. Please contact the office to remit deposit, or feel free to drop in during office hours.



# TREE XPERTS

## Central Oregon Tree Experts

61563 American Loop | Bend, Oregon 97702  
541-480-9488 | office@cotreexperts.com | cotreexperts.com

### Notes Continued...

Underground Damage Waiver: Stump grinding, deep root fertilizer, and some tree removal require soil disruption. Properly placed utilities are deeper than we can reach, however general irrigation lines and improperly installed utilities can interfere with our work and endanger our team. Client is responsible for requesting and assisting in utility locates and marking of any underground services in our work area, including sprinkler heads. We are not responsible to any damage to underground irrigation and utilities not marked.

{Past Due Invoices}: For all completed work that has been invoiced, 60 days after full completion of the work order (final visit) there will be an automatic additional fee for costs we incur in attempts to collect past due payments.

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



## PROFESSIONAL SERVICES CONTRACT

CONTRACTOR: Greenbar Excavation, LLC

DATE: September 20, 2023

ADDRESS: PO Box 7 Prineville OR 97754  
Street Address City State Zip

PHONE NUMBER: 541-903-4343

EMAIL: greenbarexcavation@gmail.com

This Professional Services Contract (Agreement) by and between Greenbar Excavation, LLC (Contractor) and Crook County, a political subdivision of the State of Oregon (County), entered into this date written above, authorizes Contractor to carry out and complete the services as described below in consideration of the mutual covenants set forth herein.

1. **PROJECT:** The services as described on Exhibits C and D to this Agreement are to be provided by Contractor in connection with a Project identified as follows: Library Courtyard Patio Remediation Project.
2. **DURATION:** This Agreement shall run from September 20, 2023 (“effective date”) through September 19, 2024 or until the purpose of this Agreement has been fulfilled, unless terminated or extended according to the provisions of this Agreement.
3. **SCOPE OF SERVICES:** Contractor will perform the services as described on Exhibit C and D attached hereto.
4. **FEE FOR SERVICES:** Contractor’s fee for the services identified on Exhibit D to this Agreement shall be: Forty-Three Thousand Seven Hundred Eighty-Seven and no/100 Dollars (\$43,787.00).
5. **EXTRA SERVICES:** Contractor may also perform Extra Services (services not specified in the Scope of Services), provided Contractor and County have agreed in advance and in writing to the scope and fees for such Extra Services.
6. **EXHIBITS:** The following documents which are attached to this Agreement are incorporated herein and by this reference made part hereof:  
  
Exhibit A: Required Terms for All Public Contracts  
Exhibit B: Independent Contractor Status  
Exhibit C: Scope of Services  
Exhibit D: Estimate
7. **TAX DUTIES AND LIABILITIES:** Contractor shall be responsible for all taxes applicable to any payments received pursuant to this Agreement and is currently and will remain fully compliant with tax laws, as certified in Exhibit A. County shall not withhold, pay, or in any other manner be responsible for payment of any taxes on behalf of Contractor.
8. **SUBMITTAL OF W-9 BEFORE PAYMENT:** Contractor must provide County with a fully completed W-9 form upon execution of the Agreement and prior to beginning services. Contractor will not be paid until a fully completed W-9 form is submitted.

9. REIMBURSEMENT OF EXPENSES: Contractor shall not be entitled to reimbursement by County for any expenses incurred by Contractor unless otherwise agreed in writing.
10. PAYMENT BY COUNTY: Unless otherwise agreed to within this Agreement, County will pay invoices on the 10th or 25th days of the month based upon date the invoice is received.
11. INDEMNIFICATION AND HOLD HARMLESS: The Contractor shall assume all responsibilities for the work, and bear all losses and damages directly or indirectly resulting to the Contractor, the County, or to others on account of the character or performance of the work, unforeseen difficulties, accidents, or any other cause whatsoever. The Contractor shall assume defense of, indemnify and save harmless the County, its officials, agents, and employees from all claims, liability, loss, damage and injury of every kind, nature and description, directly or indirectly resulting from activities in the performance of the Agreement, the ownership, maintenance or use of motor vehicles in connection therewith, or the acts, omissions, operations, or conduct of the Contractor or any subcontractor under the Agreement or any way arising out of the Agreement, irrespective of whether any act, omission or conduct of the County connected with the Agreement is a condition or contributory cause of the claim, liability loss, damage or injury and irrespective of whether act, omission, or conduct of the Contractor or subcontractor is merely a condition rather than a cause of a claim, liability, loss damage or injury. The Contractor shall not be liable for nor be required to defend or indemnify, the County relative to claims for damage or damages resulting solely from acts or omissions of the County, its officials, agents or employees. The absence of or inadequacy of the liability insurance required in section 15 below shall not negate Contractor's obligations in this paragraph.
12. CONTRACTOR STATUS: Contractor certifies it is a "Contractor" under ORS 670.600 and relevant law as it pertains to this contract and as further described in incorporated Exhibit B.
13. CONFORMANCE WITH OREGON PUBLIC CONTRACT LAWS: Contractor shall fully comply with Oregon law for public contracts, as more fully set forth in the Exhibits.
14. TERMINATION:
  - 14.1. Either party may terminate this Agreement after giving ten (10) days' prior written notice to the other of intent to terminate without cause. The parties shall deal with each other in good faith during the ten (10) day period after notice of intent to terminate without cause has been given;
  - 14.2. With reasonable cause, either party may terminate this Agreement effective immediately after giving written notice of termination for cause. Reasonable cause shall include material violation of this Agreement or any act exposing the other party to liability to others for personal injury or property damage;
  - 14.3. Notwithstanding any other provision of this Agreement, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of County's future fiscal years unless and until the Crook County Court appropriates funds for this Agreement in County's budget for such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated.

15. INSURANCE:

- 15.1. GENERAL INSURANCE: Contractor shall maintain in force for the duration of this agreement a Commercial General Liability insurance policy written on an occurrence basis with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury or property damage. The policy will contain a “per project” Aggregate endorsement. Automobile Liability (owned, non-owned and hired) insurance with limits not less than \$2,000,000 per occurrence shall be maintained. The County, its employees, officials and agents will be named as an Additional Insured where operations are being conducted related to this Agreement, on the General Liability policy as respects to work or services performed under this Agreement to the extent that the death or bodily injury to persons or damage to property arises out of the fault of Contractor or the fault of Contractor’s agents, representatives or subcontractors. This insurance will be primary over any insurance the County may carry on its own. Contractor understands that County is a public entity subject to the requirements of the Oregon Governmental Tort Claims Act, ORS 30.260 et seq. In the event that County’s financial obligations or liabilities are modified by any amendment to the liability limits imposed by the Oregon Governmental Tort Claims Act, Contractor agrees that the limits regarding liability insurance set forth in this section 15.1 will be modified to conform to such limits. Contractor and County shall sign an amendment to this Agreement incorporating such modification.
- 15.2. WORKERS’ COMPENSATION: Contractor shall provide and maintain workers’ compensation coverage with limits not less than \$500,000 for its employees, officers, agents, or partners, as required by applicable workers’ compensation laws as defined in ORS 656.027 and ORS 701.035(5). If Contractor is exempt from coverage, a written statement signed by Contractor so stating the reason for exemption shall be provided to the County.
- 15.3. EVIDENCE OF INSURANCE COVERAGE: Evidence of the required insurance coverages issued by an insurance company satisfactory to the County shall be provided to the County by way of a County approved certificate of insurance before any work or services commence.
- 15.3.1. NOTICE OF CANCELLATION OR MATERIAL CHANGE IN COVERAGE: The certificate of insurance shall contain a requirement that the insurance company notify the County 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30-day notice, Contractor shall provide written notice to County within 2 calendar days after Contractor becomes aware that its coverage has been canceled or has been materially changed. Regardless of what circumstances caused Contractor’s insurance coverage to cease or be modified, it is Contractor’s responsibility to notify County. Failure to maintain proper insurance or provide notice of cancellation or modification shall be grounds for immediate termination of this contract.
- 15.4. EQUIPMENT AND MATERIAL: Contractor shall be responsible for any loss, damage, or destruction of its own property, equipment, and materials used in conjunction with the work.
- 15.5. SUBCONTRACTOR: The Contractor shall require all subcontractors to provide and maintain general liability, auto liability, professional liability (as applicable), and workers’ compensation insurance with coverage’s equivalent to those required of the general

contractor in this Agreement. Contractor shall require certificates of insurance from all subcontractors as evidence of coverage.

- 15.6. EXCEPTION OR WAIVERS: Any exception or waiver of these requirements shall be subject to review and approval from the County.

16. GENERAL PROVISIONS:

- 16.1. ENTIRE AGREEMENT: This Agreement signed by both parties is the final and entire agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents, and representatives
- 16.2. AMENDMENTS: The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written approval of County. No modification of this Agreement shall bind either party unless reduced to writing and subscribed by both parties, or ordered by a Court.
- 16.3. ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this agreement, in whole or in part, without the prior written approval of County. No such written approval shall relieve Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Contractor. Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.
- 16.4. SUB-AGREEMENTS: If this project is funded in whole or in part with grant funds received by County, Contractor, as a sub-recipient of those funds, shall fully comply with all applicable terms, conditions, and requirements of the Grant Agreement, including but not limited to procurement regulations, property and equipment management and records, indemnity, and insurance provisions.
- 16.5. SUCCESSORS IN INTEREST: The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.
- 16.6. AUTHORIZED SIGNATURES REQUIRED: Only those persons authorized by the Crook County Purchasing Rules and Procedures may enter into a binding agreement or contract, including a purchase order, for the purchase or sale of goods or services on the part of the County. All persons doing business with the County shall be responsible for being familiar with the Crook County Purchasing Rules and Procedures and for ensuring that the person purporting to act for the County has been duly authorized.
- 16.7. NO ENCUMBRANCES: Any property delivered or granted to County under this Agreement, and Contractor's Services rendered in the performance of Contractor's obligations under this Agreement, shall be provided to County free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.
- 16.8. NO AUTHORITY TO BIND CROOK COUNTY: Contractor has no authority to enter into contracts on behalf of County. This Agreement does not create a partnership between the parties.
- 16.9. HOW NOTICES SHALL BE GIVEN: Any notice given in connection with this Agreement must be in writing and be delivered either by hand to the party or by certified

mail, return receipt requested, to the party at the party's address as stated on the work authorization or to Crook County at 300 NE 3<sup>rd</sup> Street, Prineville, OR 97754, attention "Legal Department."

- 16.10. GOVERNING LAW AND VENUE: Any dispute under this Agreement shall be governed by Oregon law, with venue being located in Crook County, Oregon.
- 16.11. SEVERABILITY: If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- 16.12. ACCESS TO RECORDS: County and its duly authorized representatives shall have access to books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- 16.13. CONFIDENTIALITY: During the course of performance of work under this Agreement, Contractor may receive information regarding organizations and County's business practices, employees, clients, etc. Contractor agrees to maintain the confidentiality of such information and to safeguard such information against loss, theft or other inadvertent disclosure
- 16.14. FEDERAL EMPLOYMENT STATUS: In the event payment made pursuant to this Agreement is to be charged against federal funds, Contractor hereby certifies that it is not currently employed by the Federal Government and the amount charged does not exceed Contractor's normal charge for the type of services provided.
- 16.15. COMPLIANCE WITH ALL GOVERNMENT REGULATIONS: Contractor shall comply with all Federal, State and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Agreement. Damages or costs resulting from noncompliance shall be the sole responsibility of Contractor.
- 16.16. FORCE MAJEURE: Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. County may terminate this Agreement upon written notice after determining such delay or default will unreasonably prevent successful performance of the Agreement.
- 16.17. RIGHTS IN DATA: All original written material, including programs, card decks, tapes, listings, and other documentation originated and prepared for County pursuant to this Agreement, shall become exclusively the property of County. The ideas, concepts, know-how, or techniques developed during the course of this Agreement by Contractor personnel can be used by either party in any way it may deem appropriate. Material already in Contractor's possession, independently developed by Contractor, outside the scope of this Agreement, or rightfully obtained by Contractor from third parties, shall belong to Contractor. This Agreement shall not preclude Contractor from developing materials which are competitive, irrespective of their similarity to materials which might be delivered the County pursuant to this Agreement. Contractor shall not, however, use any written materials development under this Agreement in developing materials for others, except as provided in this section.

- 16.18. EQUIPMENT, TOOLS, MATERIALS, AND/OR SUPPLIES: Contractor will provide all equipment, tools, materials or supplies necessary to fulfill Contractor’s obligations under the terms of this Agreement.
- 16.19. ATTORNEY FEES: In the event an action, lawsuit, or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Agreement, each party shall bear its own attorney fees, expenses, costs, and disbursements for said action, lawsuit, proceeding, or appeal.
- 16.20. WAIVER: The failure of either party at any time or from time to time to enforce any of the terms of this Agreement shall not be construed to be a waiver of such term or of such party’s right to thereafter enforce each and every provision of the Agreement.
- 16.21. TAX CREDITS: Should Contractor become entitled to tax credits or tax deductions directly attributable to the costs of energy-efficiency attributes included in the project, such as those provided for in IRS Notice 2008-40, Contractor and County agree to share equally in any net tax benefit received by Contractor. For the purposes of this provision: (a) “net tax benefit” means the reasonable estimate of the net reduction in Contractor’s tax liability for the current period, including any tax benefit, reduced by Contractor’s reasonable costs for applying for and calculating the benefit, and (b) “reduction in Contractor’s tax liability” means a reduction in the amounts due or to become due for federal and state income taxes of Contractor, Contractor’s subcontractors, its partners, members, and shareholders.
- 16.22. COUNTERPARTS: This Professional Services Contract may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective the date first set forth above.

**For Contractor**

Greenbar Excavation, LLC

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

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

Title: \_\_\_\_\_

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

**For Crook County**

CROOK COUNTY COURT

\_\_\_\_\_  
Seth Crawford, County Judge

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

\_\_\_\_\_  
Jerry Brummer, County Commissioner

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

\_\_\_\_\_  
Brian Barney, County Commissioner

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

**EXHIBIT A**  
**REQUIRED TERMS FOR ALL PUBLIC CONTRACTS**

**1. PAYMENTS AND DEBTS:**

- 1.1. Contractor shall promptly, as due, make payment to:
  - 1.1.1. Any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services;
  - 1.1.2. All persons supplying to Contractor labor or material for the performance of the work provided for in the Agreement;
  - 1.1.3. All contributions or amounts due the Industrial Accident Fund from Contractor or subcontractor incurred in the performance of this Agreement; and
  - 1.1.4. The Department of Revenue all sums withheld from employees under ORS 316.167.
- 1.2. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished under this Agreement.

**2. EMPLOYEES:**

- 2.1. Contractor and subcontractors shall either be employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- 2.2. Contractor shall comply with the prohibition on wage discrimination of ORS 652.220; failure to do so is a material element of the contract and a breach that entitles County to terminate this Agreement for cause.
- 2.3. For all work under this Agreement, Contractor may not employ an employee for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or when the public policy absolutely requires otherwise, and in such cases, Contractor shall pay the employee at least time-and-a-half pay for:
  - (a) All overtime in excess of eight hours in any one day or 40 hours in any one week if the work week is five consecutive days, Monday through Friday; or all overtime in excess of 10 hours in any one day or 40 hours in any one week if the work week is four consecutive days, Monday through Friday; and
  - (b) All work the employee performs on Saturday and on any legal holiday specified in ORS 279B.020;
- 2.3.1. If this Agreement is for services, Contractor shall pay employees at least time-and-a-half pay for work the employees perform under this Agreement on the legal holidays specified in a collective bargaining agreement or in 279B.020 (1)(b)(B) to (G) and for all time the employees work in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater;
- 2.3.2. If this Agreement is for personal services, as described in ORS 279A.055, Contractor shall pay its employees who work under this Agreement at least time-and-a-half for all overtime the employees work in excess of 40 hours in any one week, unless said employees are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime;
- 2.3.3. If this Agreement is for services at a county fair, or for another event that Crook County Fair Board authorizes, Contractor shall pay employees who work under this Agreement at least time-and-a-half for work in excess of 10 hours in any one day or 40 hours in any one week.
- 2.4. Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.
- 2.5. Contractor shall give notice in writing to employees who work under this Agreement, either at the time of hire or before work begins on the Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that Contractor may require the employees to work.

**3. OTHER PROVISIONS:**

- 3.1. By executing this Agreement, Contractor represents and warrants that it has complied with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318; Contractor further covenants to continue with said compliance during the term of this Agreement. Noncompliance with this provision is a default for which County may terminate the Agreement, in whole or part, and seek damages under the terms of this Agreement or applicable law.
- 3.2. If this Agreement involves lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

## **EXHIBIT B**

### **INDEPENDENT CONTRACTOR STATUS**

Contractor states and represents that contractor is an Independent Contractor as that term is defined in Oregon Revised Statute 670.600 and more specifically represents, states and agrees that in providing the services and scope of work specified in this Agreement:

1. Contractor provides services for remuneration; and
2. Contractor is free from direction and control over the means and manner of providing the services and scope of work subject only to the right of County to specify the desired results; and
3. Contractor is customarily engaged in an independently established business; and
4. Contractor is licensed within the state of Oregon to provide any services for which a license is required under ORS Chapter 671 or 701 and is responsible for obtaining other licenses or certificates necessary to provide the service or scope of work; and
5. Contractor complies with at least three of the following requirements:
  - (a) A business location is maintained that is separate from the business or work location of County; or is in a portion of the Contractor's residence and that portion is used primarily for the business.
  - (b) The Contractor bears the risk of loss related to the provision of services or scope of work such as entering into a fixed price contract, defective work is required to be corrected, the services provided are warranted or indemnification agreements, liability insurance and performance bonds and errors and omissions insurance are provided.
  - (c) Contracted services for two or more different persons or entities within a twelve month period have been obtained, or routinely engaged in business advertising, solicitation, or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
  - (d) Significant investment in the business has been made such as purchasing tools or equipment, paying for premises or facilities where services are provided, paying for licenses, certificates or specialized training.
  - (e) Possesses authority to hire other persons to assist in providing their services and has the authority to fire those persons.
6. Contractor will immediately inform County in the event that it fails to conduct its services in one or more particulars as represented in 1 through 5 above.





# Exhibit C

07/06/2023

## LIBRARY COURTYARD PATIO REMEDIATION PROJECT

SCOPE OF WORK: SELECTIVE DEMOLITION AND LANDSCAPING REMOVAL, CAST IN PLACE CONCRETE, LANDSCAPING, SITE LIGHTING AND IRRIGATION IMPROVEMENTS

- **PERFORM SELECTIVE REMOVAL OF EXISTING PATIO INFRASTRUCTURE TO INCLUDE ALL PAVERS AND CONCRETE AS INDICATED PER THE CONTRACT DOCUMENTS. REMOVAL OF (1) TREE LOCATED SOUTH END OF EXISTING PATIO AREA AS WELL AS ALL SMALL PLANTINGS WITHIN INTERIOR OF EXISTING PATIO BORDER WALL. REMOVAL ALL EXISTING TREE ROOTS FROM AREA BELOW EXISTING PAVER PATIO AND REMEDIATE SUBGRADE TO RECEIVE NEW CONCRETE TO INCLUDE SUBTERRANEAN BORDER FOOTING. FURNISH AND INSTALL COMPLETE FORM, PLACE AND POUR CONCRETE AS PER CONTRACT DOCUMENTS. ADJACENT PLANTING AREAS TO BE REMEDIATED TO INCLUDE PRE-EXISTING LIGHTING AND DRIP IRRIGATION SYSTEM FOR BOTH EXISTING (4) TREES TO REMAIN AS WELL AS REPLACEMENT PLANTINGS.**
- **WORK TO INCLUDE:**
  - **PERFORM LAYOUT AS REQUIRED TO COMPLETE PROJECT. MAINTAIN ADA COMPLIANCE WITH EMPHASIS ON EGRESS PATH FROM LIBRARY EXIT DOOR TO PARKING AREA. SLOPE NEW PATIO CONCRETE FOR DRAINAGE.**
  - **PERFORM SELECTIVE REMOVAL OF SOUTH TREE, PLANTINGS AND PORTIONS OF EXISTING IRRIGATION AND LIGHTING.**
  - **EXCAVATION AND SUBGRADE PREPARATION FOR FOOTINGS/SLABS AS REQUIRED TO INCLUDE REMOVAL OF ALL TREE ROOTS AND/OR OTHER ORGANICS WITHIN NEW CONCRETE AREAS, ROOTS TO BE SELECTIVELY CUT BACK.**
  - **PROVIDE FOR SAND AND GRAVEL SUB-BASE MATERIAL PER THE ATTACHED EXHIBIT.**
  - **SLAB ON GRADE TO BE 4" THICK. FINISH AS PER CONTRACT DOCUMENTS (BROOMED & TOOLED).**
  - **PROVIDE AND INSTALL ALL REINFORCING STEEL AS PER ATTACHED EXHIBIT.**
  - **PROVIDE FOR TOOL JOINTS, FINISHING AND CURING AS PER INDUSTRY STANDARDS AND ATTACHED EXHIBIT.**
  - **SUBCONTRACTOR TO REMOVE EXISTING PATIO PAVERS AND ASSOCIATED CONCRETE BORDER AS INDICATED. DONOR PAVERS TO BE STORED ONSITE AND REUSED AS A BORDER PER THE CONTRACT DOCUMENTS.**
  - **DIG, FORM, PLACE AND FINISH NEW SIDEWALK FOOTING AS SHOWN ON CONTRACT DOCUMENTS.**
  - **CONTRACTOR TO REMEDIATE EXISTING DRIP IRRIGATION SYSTEM TO SUPPORT EXISTING TREES AND NEW PLANTINGS AS WELL AS ASSESS CONDITION OF EXISTING BACKFLOW PREVENTION DEVICE, REPLACE AS NEEDED.**
  - **CONTRACTOR TO REMEDIATE EXISTING SITE LIGHTING TO RESTORE PREVIOUS UPLIGHTING AT TREES.**
  - **CONTRACTOR TO PROVIDE DESIGN BUILD LANDSCAPING SERVICES AS NEEDED TO SUPPORT THE PROJECT TO INCLUDE A VARIETY OF NATIVE BUNCH GRASSES AND BUSHES AS WELL AS ADDITION OF TOPSOIL AND GRIZZLY ROCK.**
- Provide within 10 working days after execution of agreement a complete and comprehensive set of shop drawings, sample, submittals, schedules, product data and associated literature as applicable; precisely identifying each item of equipment of material to be used on the subject project.
- Provide all required tools, equipment, labor, and incidentals necessary in the completion of your work.
- Subcontractor shall keep work area clean and free from collection of debris caused by his work operation as required to provide a safe working environment for his employees, as well as other subcontractor's employees, on a daily basis or as deemed necessary by facilities, contractor's superintendent and or safety engineer. This clean up shall include on and offsite streets as required, including that of governing agencies during your work operation. All remaining unused materials shall be removed from site at completion of your work and disposed of properly.
- Work does not meet the requirements for prevailing wage and therefore will not be prevailing wage.
- **BID PRICING ACCOUNTING BREAKOUT TO BE AS FOLLOWS:**
  1. **SELECTIVE REMOVAL/DEMOLITION AND DISPOSAL PRICING: \$**
  2. **NEW CONCRETE; PREP/FORM/SUPPLY/PLACE/FINISH/SEAL: \$**
  3. **LANDSCAPING; PLANTINGS, IRRIGATION, LIGHTING AND PAVERS: \$**

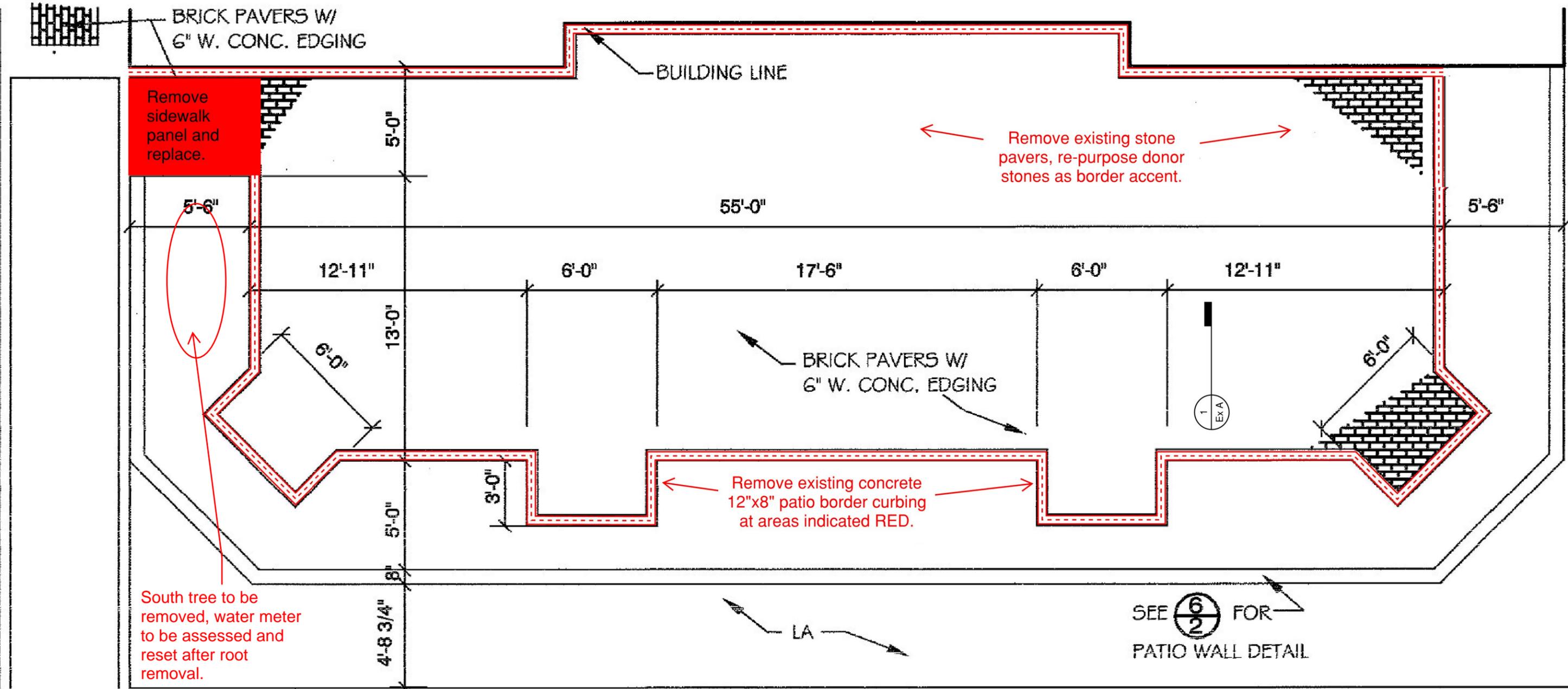
CROOK COUNTY FACILITIES  
 CROOK COUNTY LIBRARY PATIO REMEDIATION  
 175 NE MEADOW LAKES DR.  
 PRINEVILLE, OR



# Crook County Library - Patio Remediation Project

## Exhibit A.1 - Removal and Replacement Layouts

CROOK COUNTY FACILITIES  
CROOK COUNTY LIBRARY PATIO REMEDIATION  
175 NE MEADOW LAKES DR.  
PRINEVILLE, OR  
97754

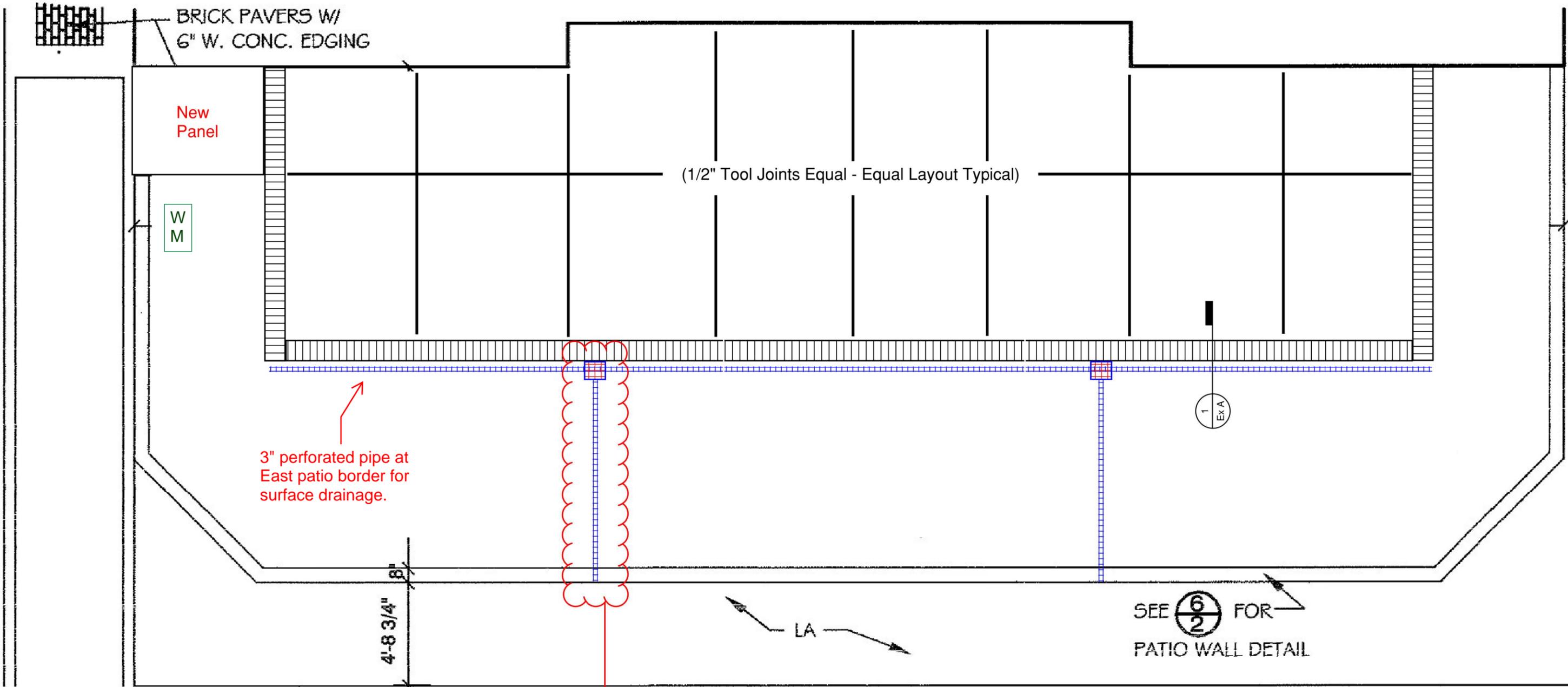




# Crook County Library - Patio Remediation Project

## Exhibit A.2 - Removal and Replacement Layouts

CROOK COUNTY FACILITIES  
 CROOK COUNTY LIBRARY PATIO REMEDIATION  
 175 NE MEADOW LAKES DR.  
 PRINEVILLE, OR  
 97754



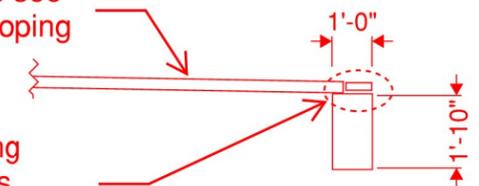
**General Notes:**

- 1) Prepare compacted sub base of minimum 6" crushed rock at slab work.
- 2) Border paver stones to be sand set flush with top of patio grade elevation.
- 3) Catch Basin to be NDS Part number 1200MTLKIT or similar per approval.

12" landscape area drain basin w/3" piping sloped to weep at East wall. Confirm slope and core wall as needed.

4" CIP Concrete see elevations for sloping

Sand set existing donor Pavers as border



# Exhibit D

## Estimate 1517

Greenbar Excavation, LLC  
 PO Box 7  
 Prineville, OR 97754  
 541-903-4343  
 Greenbarexcavation@gmail.com  
 www.greenbarexcavation.com



<b>ADDRESS</b> Nick Lilly 203 NE Court St Prineville, Or 97754 Crook County Library	<b>DATE</b> 07/28/2023	<b>TOTAL</b> \$43,787.00	<b>EXPIRATION DATE</b> 08/28/2023
---	---------------------------	-----------------------------	--------------------------------------

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	<b>Concrete Prep</b>	Concrete Prep, demo, Footing Excavation, includes up to 6" of cut and export	1	18,715.00	18,715.00
	<b>Concrete</b>	Concrete patio	1	7,155.00	7,155.00
	<b>Exclusions</b>	Excludes any prevailing wage rate	1	0.00	0.00
	<b>Landscaping</b>	Landscaping, tree demo included	1	17,917.00	17,917.00

A 3% credit card fee will be included on invoice.  
 All invoices are due within 7 days.  
 Late charges are 5% per month if not paid within 14 days of issuance.

<b>TOTAL</b>	<b>\$43,787.00</b>
--------------	--------------------

THANK YOU.

Accepted By

Accepted Date

Billing Questions?  
 541-903-4343 Ext. 4  
 greenbarbilling@gmail.com  
 CCB# 237539 DEQ# 39103



**LIBRARY COURTYARD PATIO REMEDIATION PROJECT**

SCOPE OF WORK: SELECTIVE DEMOLITION AND LANDSCAPING REMOVAL, CAST IN PLACE CONCRETE, LANDSCAPING, SITE LIGHTING AND IRRIGATION IMPROVEMENTS

- **PERFORM SELECTIVE REMOVAL OF EXISTING PATIO INFRASTRUCTURE TO INCLUDE ALL PAVERS AND CONCRETE AS INDICATED PER THE CONTRACT DOCUMENTS. REMOVAL OF (1) TREE LOCATED SOUTH END OF EXISTING PATIO AREA AS WELL AS ALL SMALL PLANTINGS WITHIN INTERIOR OF EXISTING PATIO BORDER WALL. REMOVAL ALL EXISTING TREE ROOTS FROM AREA BELOW EXISTING PAVER PATIO AND REMEDIATE SUBGRADE TO RECEIVE NEW CONCRETE TO INCLUDE SUBTERRANEAN BORDER FOOTING. FURNISH AND INSTALL COMPLETE FORM, PLACE AND POUR CONCRETE AS PER CONTRACT DOCUMENTS. ADJACENT PLANTING AREAS TO BE REMEDIATED TO INCLUDE PRE-EXISTING LIGHTING AND DRIP IRRIGATION SYSTEM FOR BOTH EXISTING (4) TREES TO REMAIN AS WELL AS REPLACEMENT PLANTINGS.**
- **WORK TO INCLUDE:**
  - **PERFORM LAYOUT AS REQUIRED TO COMPLETE PROJECT. MAINTAIN ADA COMPLIANCE WITH EMPHASIS ON EGRESS PATH FROM LIBRARY EXIT DOOR TO PARKING AREA. SLOPE NEW PATIO CONCRETE FOR DRAINAGE.**
  - **PERFORM SELECTIVE REMOVAL OF SOUTH TREE, PLANTINGS AND PORTIONS OF EXISTING IRRIGATION AND LIGHTING.**
  - **EXCAVATION AND SUBGRADE PREPARATION FOR FOOTINGS/SLABS AS REQUIRED TO INCLUDE REMOVAL OF ALL TREE ROOTS AND/OR OTHER ORGANICS WITHIN NEW CONCRETE AREAS, ROOTS TO BE SELECTIVELY CUT BACK.**
  - **PROVIDE FOR SAND AND GRAVEL SUB-BASE MATERIAL PER THE ATTACHED EXHIBIT.**
  - **SLAB ON GRADE TO BE 4" THICK. FINISH AS PER CONTRACT DOCUMENTS (BROOMED & TOOLED).**
  - **PROVIDE AND INSTALL ALL REINFORCING STEEL AS PER ATTACHED EXHIBIT.**
  - **PROVIDE FOR TOOL JOINTS, FINISHING AND CURING AS PER INDUSTRY STANDARDS AND ATTACHED EXHIBIT.**
  - **SUBCONTRACTOR TO REMOVE EXISTING PATIO PAVERS AND ASSOCIATED CONCRETE BORDER AS INDICATED. DONOR PAVERS TO BE STORED ONSITE AND REUSED AS A BORDER PER THE CONTRACT DOCUMENTS.**
  - **DIG, FORM, PLACE AND FINISH NEW SIDEWALK FOOTING AS SHOWN ON CONTRACT DOCUMENTS.**
  - **CONTRACTOR TO REMEDIATE EXISTING DRIP IRRIGATION SYSTEM TO SUPPORT EXISTING TREES AND NEW PLANTINGS AS WELL AS ASSESS CONDITION OF EXISTING BACKFLOW PREVENTION DEVICE, REPLACE AS NEEDED.**
  - **CONTRACTOR TO REMEDIATE EXISTING SITE LIGHTING TO RESTORE PREVIOUS UPLIGHTING AT TREES.**
  - **CONTRACTOR TO PROVIDE DESIGN BUILD LANDSCAPING SERVICES AS NEEDED TO SUPPORT THE PROJECT TO INCLUDE A VARIETY OF NATIVE BUNCH GRASSES AND BUSHES AS WELL AS ADDITION OF TOPSOIL AND GRIZZLY ROCK.**
- Provide within 10 working days after execution of agreement a complete and comprehensive set of shop drawings, sample, submittals, schedules, product data and associated literature as applicable; precisely identifying each item of equipment of material to be used on the subject project.
- Provide all required tools, equipment, labor, and incidentals necessary in the completion of your work.
- Subcontractor shall keep work area clean and free from collection of debris caused by his work operation as required to provide a safe working environment for his employees, as well as other subcontractor's employees, on a daily basis or as deemed necessary by facilities, contractor's superintendent and or safety engineer. This clean up shall include on and offsite streets as required, including that of governing agencies during your work operation. All remaining unused materials shall be removed from site at completion of your work and disposed of properly.
- Work does not meet the requirements for prevailing wage and therefore will not be prevailing wage.
  - **BID PRICING ACCOUNTING BREAKOUT TO BE AS FOLLOWS:**
    1. **SELECTIVE REMOVAL/DEMOLITION AND DISPOSAL PRICING: \$**
    2. **NEW CONCRETE; PREP/FORM/SUPPLY/PLACE/FINISH/SEAL: \$**
    3. **LANDSCAPING; PLANTINGS, IRRIGATION, LIGHTING AND PAVERS: \$**

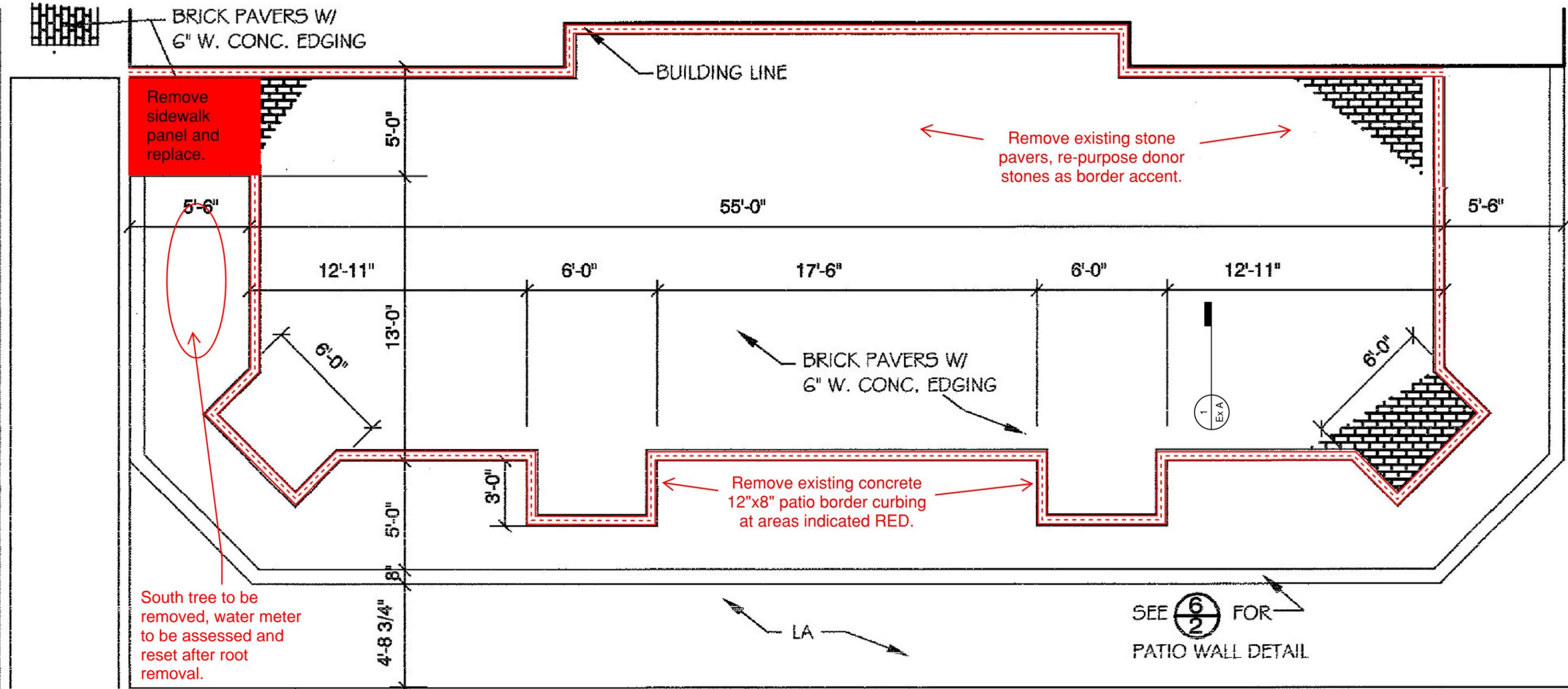
CROOK COUNTY FACILITIES  
CROOK COUNTY LIBRARY PATIO REMEDIATION  
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PRINEVILLE, OR



# Crook County Library - Patio Remediation Project

## Exhibit A.1 - Removal and Replacement Layouts

CROOK COUNTY FACILITIES  
CROOK COUNTY LIBRARY PATIO REMEDIATION  
175 NE MEADOW LAKES DR.  
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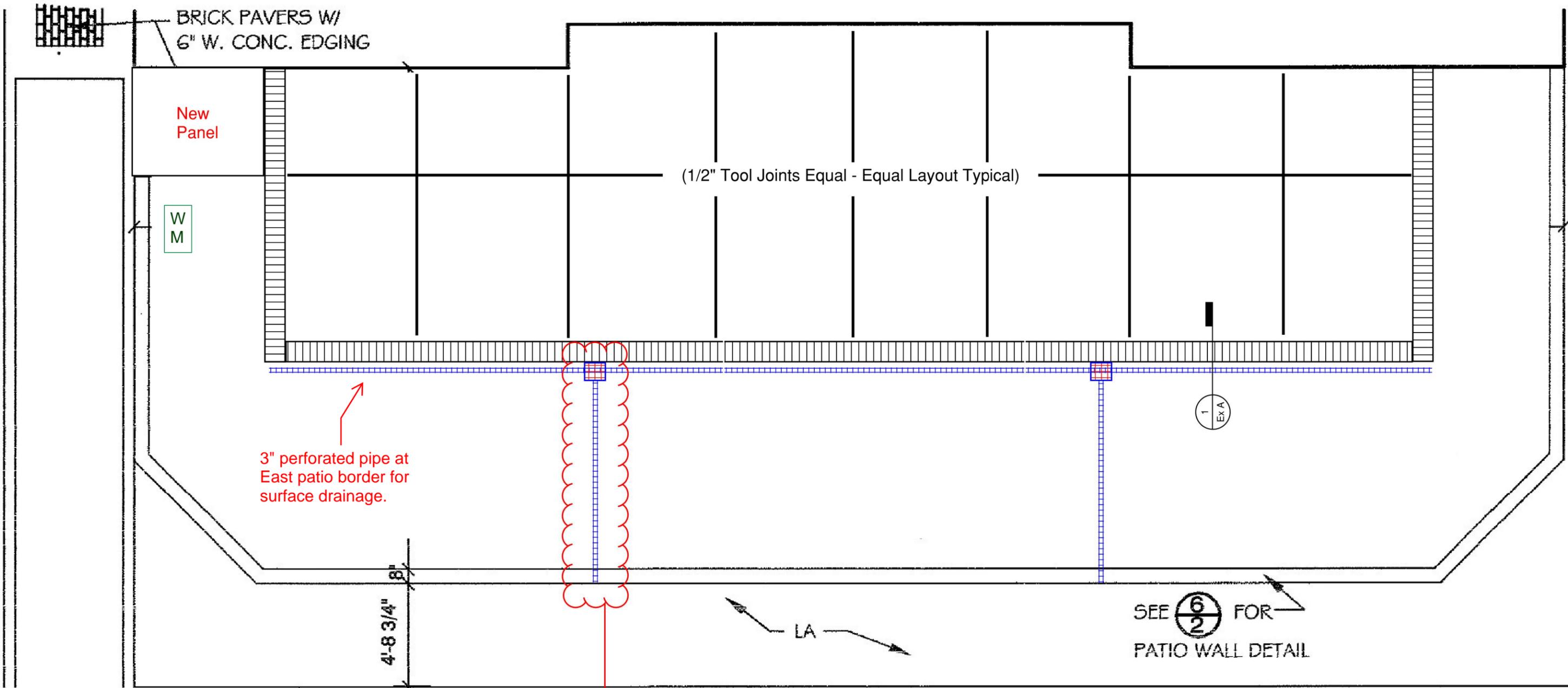




# Crook County Library - Patio Remediation Project

## Exhibit A.2 - Removal and Replacement Layouts

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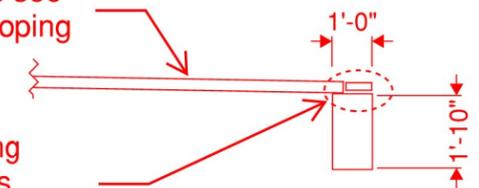
**General Notes:**

- 1) Prepare compacted sub base of minimum 6" crushed rock at slab work.
- 2) Border paver stones to be sand set flush with top of patio grade elevation.
- 3) Catch Basin to be NDS Part number 1200MTLKIT or similar per approval.

12" landscape area drain basin w/3" piping sloped to weep at East wall. Confirm slope and core wall as needed.

4" CIP Concrete see elevations for sloping

Sand set existing donor Pavers as border



## AGENDA ITEM REQUEST



**Date:**

*September 6<sup>th</sup>, 2023*

**Meeting date desired:**

*Wednesday, September 13<sup>th</sup>, 2023 County Court Work Session*

**Subject:**

*Renew Software Subscription and Annual Technical Support Agreement with Siemens in support of the Public Safety Facility Building Management System ongoing operation.*

**Background and policy implications:**

*This scope of work will provide needed update to the Desigo BMS software as needed to migrate to the cloud-based server as well as provide quarterly maintenance visits to ensure that critical devices are calibrated and communicating as intended. Currently the jail is operating on an outdated version of the software and control loop calibrations need tuning ensuring that the performance of mechanical equipment is effectively maintained. Total cost of this investment is \$35,748.00 which covers 1 year of service and software.*

**Budget/fiscal impacts:**

*This upgrade will be funded through the general facilities maintenance fund.*

**Requested by:**

*Nick Lilly, Capital Projects and Facilities Manager, [nick.lilly@crookcountyor.gov](mailto:nick.lilly@crookcountyor.gov)  
541-416-3811*

**Presenters:**

*Nick Lilly, Capital Projects and Facilities Manager*

**Legal review (only if requested):**

**Elected official sponsor (if applicable):**



**PROPOSAL**

Crook County PS SA 2023

**PREPARED BY**

Siemens Industry, Inc. ("Siemens")

**PREPARED FOR**

CROOK COUNTY SHERIFF'S OFFICE

**DELIVERED ON**

August 23, 2023

SMART BUILDINGS

# Transforming the Everyday



# Table of Contents

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## Contact Information

Proposal #:	8191307
Date:	August 23, 2023

Sales Executive:	Corey Jones
Branch Address:	860 N 42 <sup>nd</sup> Street, Suite B Springfield, OR 97478
Telephone:	541-221-6163
Email Address:	corey.jones@siemens.com

Customer Contact:	Nick Lilly
Customer:	CROOK COUNTY SHERIFF'S OFFICE
Address:	308 NE 2ND ST PRINEVILLE OR 97754-1912
Services shall be provided at:	CROOK COUNTY SHERIFF'S OFFICE 308 NE 2ND ST PRINEVILLE OR 97754-1912

## Executive Summary

### Customer Needs

The Services proposed in this agreement are specifically designed for CROOK COUNTY SHERIFF'S OFFICE, and the services provided herein will help you in achieving your facility goals.

### Services Included

Siemens will provide the following services.

#### Service Description

- Control Loop Tuning
- Data Backup and Restore Services - Online
- Operator Coaching
- Software Subscription Service - Desigo CC

## Siemens Capabilities & Customer Commitment

Siemens Industry, Inc. is a leading single-source provider of cost-effective facility performance solutions for the comfort, life safety, security, energy efficiency and operation of some of the most technically advanced buildings in the world. For more than 150 years, Siemens has built a culture of long-term commitment to customers through innovation and technology. Siemens is a financially strong global organization with a Branch network that delivers personalized service and support to customers in multiple industries and locations.

References are available upon request.

## **Building Services – Automation**

### **Services that deliver the outcomes you want to achieve**

Services delivered by Siemens have been developed to help you achieve the outcomes you expect.

#### **BMS Health**

##### **Software Subscription Service – Desigo CC**

Siemens will provide you with software upgrades to your existing Siemens Desigo CC software as they are released. These upgrades include both Service Releases and all New Version Releases of Software, up to the Frequency shown in the Equipment Related Services table. Siemens will also provide corresponding support documentation outlining the features of the releases. Included is training to help to familiarize you with the new features along with their associated benefits. These updates will act to deliver the benefits of Siemens' commitment to compatibility by design, a commitment unique in our industry. Workstations covered under this service are itemized in the List of Equipment Related Services. (Upgrades to PC's and related workstation hardware are excluded unless expressly included in this Agreement.)

#### **Additional Services**

##### **Control Loop Tuning**

Control loops drift out of calibration with changes in mechanical efficiency, building use, and climatic conditions. Through this service Siemens will ensure control loops for devices such as valves, dampers, actuators, etc., experience minimized overshooting and oscillatory behavior. The control loops to be included as part of this service are itemized in the List of Equipment Related Services in this service agreement.

##### **Operator Coaching**

Through our individual Operator Coaching, we will review and reinforce learned skills, leading to greater operator knowledge and productivity. Siemens will assist your operators in identifying, verifying and resolving problems found in executing tasks. During the coaching sessions, we can address log book issues, assist your operators in becoming more self-sufficient, and improve the skills of your operators to better meet the needs of your facility and their specific job responsibilities. This will promote better utilization of systems and applications implemented in your facility. Under this agreement we shall provide coaching, which will be conducted on normal business days and hours, during scheduled visits.

## Emergency Response Times – Automation

### Emergency Online/Phone Response

#### Standard

Monday through Sunday, 24 Hours per Day, System and software troubleshooting and diagnostics will be provided remotely to enable faster response to emergency service requests and to reduce the costs and disruptions of downtime. Siemens will respond by the next business day, 24 hours per day, excluding holidays, upon receiving notification of an emergency, as determined by your staff and Siemens. Where applicable, Siemens will furnish and install the necessary online service technology to enable us to remotely access into your system, through a communications protocol (internet connection or dedicated telephone line) that will be provided by the facility. Where remote access is not available to the system, Siemens will provide phone support to your staff to assist in their onsite troubleshooting and diagnosis. If remote diagnostics determine a site visit is required to resolve the problem, a technician can be dispatched. Depending on your contract coverage, the on-site dispatch will be covered or will be a billable service call.

### Emergency On-site Response

#### Standard

Monday through Sunday, 24 hours per day, Emergency Onsite Response will be provided to reduce the costs and disruptions of downtime when an unexpected problem does occur. Siemens will provide this service between scheduled service calls and respond onsite at your facility within the next business day, Monday through Sunday, 24 hours per day, for emergency conditions, as determined by your staff and Siemens. Response on Holidays is excluded from this coverage. Non-emergency conditions, as determined by your staff and Siemens, may be incorporated into the next scheduled service call.

## Connectivity and Communications

### Siemens Service Portal

The Service Portal complements the personalized services you will receive from your local Siemens office by providing greater visibility into equipment and services delivered by Siemens. This web-based portal allows you the ability to submit service requests, confirm and modify schedules, track repairs, manage agreements, generate reports, and access critical information; then share it across your entire enterprise quickly and efficiently. The Service Portal is a user-friendly way to increase your productivity and the value of your service program.

### Data security as a basic requirement

We value confidentiality and long-term partnerships. That is why we give the security of your data the highest priority. Before we implement an enhanced service package with remote support, we conduct an in-depth analysis of the situation, taking into account national and international regulations, technical infrastructures and industry specifics. Our service employees carefully evaluate your needs on an individual basis with a view toward information security.



## Service Agreement Contract Characteristics

Description	AUTOMATION
Hours of Coverage	24 x 7
Response Times (Phone/Online)	Next Business Day
Response Times (Onsite/Emergency)	Next Business Day
Remote Services	Yes
Third Party Systems	No
Monitoring	No
Additional Labor Discount	%

Labor and material discounts are applicable for sites identified in this agreement and are only available for the disciplines included in this agreement. Labor discounts are shown in the table above. Material discounts, when applicable, are as follows:

- Automation: 60% discount off list price as identified in the most recent Apogee Price List
- Material discounts do not apply to 3<sup>rd</sup> party or non-Siemens manufactured components.

# General Services

## Automation

Service Description	Qty	Frequency	Year
Control Loop Tuning	10	1	1
Data Backup and Restore Services - Online	1	1	1
Operator Coaching	1	1	1
Software Subscription Service - Desigo CC	1	1	1

## Service Team

An important benefit of your Service Agreement derives from having the trained building service personnel of Siemens Industry, Inc. familiar with your building systems. Our implementation team of local experts provides thorough, reliable service and scheduling for the support of your system.

Added to the team is a team of building experts at our Digital Service Center. The benefits you receive are less disruption to your employees at the site, less intrusive on the system at peak hours, fewer emissions for trucks rolled, and real time analytics with digital workspace hours.

The following list outlines the service team that will be assigned to the service agreement for your facility

### Your Assigned Team of Service Professionals will include:

**Sales Executive** manages the overall strategic service plan based upon your current and future service requirements.

**Remote Service Specialist** is responsible for the execution of remote services including proactive planned tasks, in-depth fault analysis and identification of corrective actions.

**Client Service Manager** is responsible for ensuring that our contractual obligations are delivered, your expectations are being met and you are satisfied with the delivery of our services.

**Service Operations Manager** is responsible for managing the delivery of your entire support program and service requirements.

**Primary Service Specialist** is responsible for performing the ongoing service of your system.

**Service Coordinator** is responsible for scheduling your planned maintenance visits, and handling your emergency situations by taking the appropriate action.

**Secondary Service Specialist** who will be familiarized with your building systems to provide in-depth backup coverage.

**Service Administrator** is responsible for all service invoicing including both service agreement and service projects.

# Terms and Conditions

**Terms and Conditions (Click to download)**

[Terms & Conditions](#)  
([www.siemens.com/standard-terms-service](http://www.siemens.com/standard-terms-service))

**Price Escalation.** If, during the term of this Contract, the price of various materials or labor or logistics are increased as reflected by CRU, CMAI, COMEX market indexes or IHS Markit, then Siemens may increase the applicable yearly Investment or apply a surcharge accordingly.

As a result of the global Covid-19 Virus outbreak, temporary delays in delivery, labor or services from Siemens and its sub-suppliers or subcontractors may occur. Among other factors, Siemens' delivery is subject to the correct and punctual supply from sub-suppliers or subcontractors, and Siemens reserves the right to make partial deliveries or modify its labor or services. While Siemens shall make every commercially reasonable effort to meet the delivery or service or completion date mentioned above, such date is subject to change.

To the extent applicable, the following Rider(s) are incorporated and made part of the Siemens Standard Terms and Conditions:

**Riders (Click on rider below to download)**

[SI Online Backup and Data Protection](#)  
([www.siemens.com/rider-data-backup](http://www.siemens.com/rider-data-backup))

[SI Software License Warranty](#)  
([www.siemens.com/rider-software-license](http://www.siemens.com/rider-software-license))

[SI Exclusions and Clarifications](#)  
([www.siemens.com/rider-clarification](http://www.siemens.com/rider-clarification))

# Agreement Terms for Investments

Services shall be provided at:

308 NE 2ND ST  
PRINEVILLE, OR 97754-1912

Siemens Industry, Inc. shall provide the services as identified in this Proposal and pursuant to the associated terms and conditions contained within.

Duration (Initial Term and Renewal): This Agreement shall remain in effect for an Initial Term of 1 Periods beginning September 1, 2023. After the expiration of the Initial Term, this Agreement shall automatically renew for successive one year periods. The Investments for each year after the Initial Term of the Agreement and each year of each renewal of this Agreement shall be determined as the immediate prior year's Investment plus an escalator of 8% or as allowed per this proposal. In addition, each renewal term pricing shall be adjusted for any additions or deletions to services selected for the renewal term.

Initial Term Investments:

Period	Period Range	Billing Frequency	Annual Price
1	Sep 1,2023 - Aug 31,2024	Annually (In Advance)	\$35,748.00
Investment Total			\$35,748.00

### \*Amount Due In Advance Based On Billing Frequency

Applicable sales taxes, if included in the investment amount, are estimated only and will be calculated based on local requirements at the time of invoicing. The pricing quoted in this Proposal are firm for 30 days.

## Signature Page

The Buyer acknowledges that when accepted by the Buyer as proposed by Siemens Industry, Inc., this Proposal and the Standard Terms and Conditions of Sale for Services, (together with any other documents, including any applicable Rider(s), incorporated herein) shall constitute the entire agreement of the parties with respect to its subject matter.

BY EXECUTION HEREOF, THE SIGNER CERTIFIES THAT (S)HE HAS READ ALL OF THE TERMS AND CONDITIONS AND DOCUMENTS, THAT SIEMENS INDUSTRY, INC. OR ITS REPRESENTATIVES HAVE MADE NO AGREEMENTS OR REPRESENTATIONS EXCEPT AS SET FORTH THEREIN, AND THAT (S)HE IS DULY AUTHORIZED TO EXECUTE THE SIGNATURE PAGE ON BEHALF OF THE BUYER.

### Initial Term Investments

Period	Period Range	Billing Frequency	Annual Price
1	Sep 1,2023 - Aug 31,2024	Annually (In Advance)	\$35,748.00

#### Proposed by:

Siemens Industry, Inc.

\_\_\_\_\_  
Company

Corey Jones

\_\_\_\_\_  
Name

8191307

\_\_\_\_\_  
Proposal #

\$35,748.00

\_\_\_\_\_  
Proposal Amount

August 23, 2023

\_\_\_\_\_  
Date

#### Accepted by:

CROOK COUNTY SHERIFF'S OFFICE

\_\_\_\_\_  
Company

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Purchase Order #  PO for billing only  PO not required

## Siemens Service Portfolio

### Advisory and Performance Services



<p><b>Manage System Operation &amp; Compliance</b></p>	<p><b>Optimize Performance &amp; Productivity</b></p>	<p><b>Protect Lifecycle Investment</b></p>	<p><b>Enhance Energy Management &amp; Sustainability</b></p>
<p>Services that keep systems performing at their best, as designed and intended to operate, help you achieve:</p> <ul style="list-style-type: none"> <li>Optimized comfort, safety, and security</li> <li>Fulfilled regulatory requirements</li> <li>Greater transparency into critical systems</li> <li>Reduced operating risk</li> </ul> <p><b>Facility Assessment &amp; Planning</b> In-depth building system assessment and recommendations, definition of relevant KPIs, and development of your service program</p> <p><b>Test &amp; Inspection</b> Regular check-ups to measure system performance compared to your defined facility and regulation requirements and risks</p> <p><b>Preventive Services</b> Services performed on a regular schedule or based on data analytics to verify and improve system state</p> <p><b>Documentation Management</b> Management of critical building system and compliance information, with organization and access determined by your needs</p> <p><b>Corrective Services</b> Immediate response to system failures or faults to restore functionality and integrity to desired state</p>	<p>Enhance building performance with improvement measures that increase productivity and efficiency; common outcomes include:</p> <ul style="list-style-type: none"> <li>Enhanced system performance</li> <li>Streamlined operational processes</li> <li>Improved decision-making through data analytics</li> </ul> <p><b>Optimization Planning</b> Planning and prioritization of improvement measures to increase building and/or process performance and efficiencies</p> <p><b>Predictive Services</b> Systems are audited and monitored to detect abnormalities or faults, with recommendations provided and/or corrective actions taken</p> <p><b>System Improvements &amp; Integration</b> Enhancements or additions to your current system to increase staff productivity, system performance, and operational/energy efficiencies</p> <p><b>Training &amp; Operational Support</b> Training, coaching, and on-site support to increase staff productivity and knowledge</p> <p><b>Managed Services</b> On-site and/or remote resources monitor system events and alarms, and take appropriate action</p>	<p>Leverage past investments and address future requirements with advanced and proven technology, to achieve outcomes such as:</p> <ul style="list-style-type: none"> <li>Extended system life</li> <li>Maximized return on investment</li> <li>Realized benefits of new technology</li> </ul> <p><b>Technology Planning</b> Consulting services identify technology improvement opportunities that help achieve performance goals while leveraging past investments</p> <p><b>System Updates / Upgrades</b> Software upgrades and firmware updates are provided, delivering the most current technology and functionality</p> <p><b>System Migration / Modernization</b> Enhancements to your systems by elevating them to the most current hardware and software platforms, resulting in increased functionality and performance levels</p> <p><b>Retrofits &amp; Extensions</b> Modifications are made to existing systems to accommodate changes to your facility usage and footprint</p> <p><b>New Installation Services</b> Startup, commissioning, and other installation services are completed to ensure new equipment operates at maximum performance</p>	<p>Increase the value and competitiveness of buildings and infrastructure by delivering solutions that:</p> <ul style="list-style-type: none"> <li>Conserve energy</li> <li>Maximize efficiency</li> <li>Minimize operating costs</li> <li>Reduce environmental impact</li> </ul> <p><b>Energy &amp; Sustainability Master Planning Strategy</b> Strategy and planning services provide a detailed master plan to provide budget transparency, enable improved performance and sustainability, reduce energy consumption, and minimize operational costs</p> <p><b>Energy Conservation</b> Implementing energy conservation strategies reduces total carbon emissions through efficiency measures and minimizes energy spend by optimizing consumption</p> <p><b>Energy Production &amp; Storage</b> Using innovative design and simulation tools, energy production and storage solutions improve energy efficiency, energy availability, security of supply, and carbon reduction</p> <p><b>Energy Procurement</b> With advanced procurement technologies and beneficial contract terms, these tailored procurement and supply services reduce costs, reduce risks, and create certainty</p>
<p>Digital Services</p>			

## STANDARD TERMS AND CONDITIONS OF SALE FOR SERVICES

**1. APPLICABLE TERMS.** This Agreement governs the sale and performance of services provided by Siemens ("Services"). The Standard Terms Addenda, these terms, any other applicable addenda, Siemens' proposal, price quote, purchase order or acknowledgement issued by Siemens form the parties' final agreement ("Agreement"). In the event of any ambiguity or conflict between these documents, precedence shall apply in accordance with the order written in the previous sentence. Siemens' proposal, offer or acceptance is conditioned on Buyer's acceptance of this Agreement. Any additional or conflicting terms in Buyer's request for proposal, specifications, purchase order or any other written or oral communication are not binding on Siemens unless separately signed by Siemens. Siemens' failure to object to Buyer's additional or conflicting terms does not operate as a waiver of the terms contained in this Agreement.

**2. PRICING & PAYMENT.** Prices and payment terms are: (i) as stated in Siemens' proposal, or if none are stated; (ii) Siemens' standard rates in effect when Siemens receives Buyer's purchase order; or if neither (i) nor (ii) apply, then Siemens' standard rates in effect when the Services are performed.

(a) Payment - Unless stated in Siemens' proposal, all payments are due net thirty (30) days from the invoice date in United States Dollars.

(b) Credit Approval - All orders are subject to credit approval by Siemens. Siemens may modify, suspend or withdraw the credit amount or payment terms at any time. If there is doubt as to Buyer's financial condition, Siemens may withhold performance of Services, require cash payments or advance payments, or require other satisfactory financial security before performance of Services.

(c) Taxes - Unless stated in writing by Siemens, Siemens' rates exclude charges for taxes, excises, fees, duties, tariffs charged on the importation of goods into the United States, or other government charges related to the Services. Buyer will pay these amounts or reimburse Siemens. If Buyer claims a tax or other exemption or direct payment permit, Buyer will provide a valid exemption certificate or permit and indemnify, defend and hold Siemens harmless from any taxes, costs and penalties arising from same. Increases, changes (including in application), adjustments or surcharges which may be incurred are for Buyer's account.

(d) Late Payments— Late payments shall bear interest at an annual percentage rate of twelve percent (12%) or the highest rate allowed by law, whichever is lower.

(e) Disputed Invoice - If Buyer disputes all or any portion of an invoice, it must first deliver written notice to Siemens of the disputed amount and the basis for the dispute within twenty-one (21) days of receiving the invoice. Failure of Buyer to timely notify Siemens of any dispute constitutes a waiver of Buyer's claim. If Buyer only disputes a portion of the invoice Buyer must pay the undisputed portion in accordance with Article 2(a). Upon resolution of the dispute in favor of Siemens, Buyer must pay the invoice or the remainder of the invoice, plus any accrued interest on the late payment.

(f) Suspension/Termination Right - Siemens may suspend Services if an undisputed invoice is more than fifteen (15) days past due. Siemens may terminate this Agreement if an undisputed invoice is more than thirty (30) days past due. Unless otherwise prohibited by law, Siemens may also terminate this Agreement immediately in the event of a material adverse change in the Buyer's financial condition, including, but not limited to bankruptcy, insolvency, or liquidation.

**3. RISK OF LOSS AND SCHEDULE.** Services shall be performed at the location identified in the Agreement ("Site"). Risk of loss of or damage to Buyer's equipment, including "Equipment" (equipment, materials, components and items of any kind for which Siemens is to provide Services under the Agreement), shall remain with Buyer at all times during the performance of the Services hereunder. If Buyer procures or has procured property damage insurance applicable to occurrences at the Site, Buyer shall obtain a waiver by the insurers of all subrogation rights against Siemens.

Any performance or completion dates are estimated dates only. Siemens is not liable for any loss or expense incurred by Buyer or Buyer's customers if Siemens fails to meet any such dates.

**4. CANCELLATION.** Except for Siemens right to terminate in accordance with Article 2 and Article 4, this Agreement is non-cancellable during the Initial Term. Thereafter, either party may terminate this Agreement effective at the end of the Initial Term or at the end of a renewal period by giving the other party at least sixty (60) days prior written

^ for property insurance claims only



notice of its intent to cancel the Agreement. Either party may terminate this Agreement for material breach of the other party, provided that the breaching party has not remedied the breach or commenced to cure the breach within a reasonable period, having due regard to the nature of the breach..

**5. FORCE MAJEURE / DELAYS.** If either party is unable to perform or suffers delay in performance, due to any cause beyond its reasonable control (regardless of whether the cause was foreseeable), including without limitation acts of God, inclement or unusually severe weather conditions, strikes, labor shortage or disturbance, fire, accident, war or civil disturbance, delays of carriers, cyber-attacks, terrorist attacks, failure of normal sources of supply, or acts or inaction of government, the time of performance will be extended by a period equal to the length of time it takes to overcome the effect of the event. In addition, Siemens shall be entitled to be compensated by Buyer for reasonable and direct additional costs incurred during such event. Siemens will notify Buyer within a reasonable time after becoming aware of any such event. If there are force majeure delays exceeding 180 days in the aggregate, Siemens may terminate the Agreement. For the avoidance of doubt, failure to pay shall not constitute a force majeure delay.

**6. BUYER'S REQUIREMENTS.** Siemens' performance is contingent upon Buyer timely complying with and fulfilling all of its obligations under this Agreement. These obligations include the Buyer supplying all necessary access to Equipment, where applicable, and all required "Third Party Parts" (parts, components, equipment or materials provided by Buyer or that exist in the Equipment which were not manufactured or supplied by Siemens or which were originally supplied by Siemens and subsequently repaired, serviced or otherwise altered by any party not affiliated with Siemens), documents, permits and approvals needed for Siemens to perform including, but not limited to, accurate technical information and data, drawing and document approvals, and all necessary commercial documentation. Buyer shall provide access to the Site as reasonably required by Siemens for the performance of the Services. Siemens may request a change order for an equitable adjustment in prices and times for performance, as well as to adjust for any additional costs or any delay resulting from the failure of Buyer, Buyer's contractors, successors or assigns to meet these obligations or any other obligations in this Agreement.

Buyer shall also maintain the Site in a safe condition, notify Siemens promptly of any site conditions requiring special care, and provide Siemens with any available documents describing the quantity, nature, location and extent of such conditions, including any Material Safety Data Sheets (MSDS) related to all hazardous materials at the Site which may impact the Services.

**7. INDEMNITY.** Siemens and Buyer (each as an "Indemnitor") shall indemnify, hold harmless and defend the other ("Indemnitee") from and against all third party claims alleging bodily injury, death or damage to a third party's tangible property, but only to the extent caused by the Indemnitor or its subcontractor's negligent acts or omissions. If the injury or damage is caused by the parties' joint or contributory negligence, the loss and/or expenses shall be borne by each party in proportion to its degree of negligence. No part of Buyer's Site or property of Buyer (or Site Owner) is considered third party property.

Indemnitee shall provide the Indemnitor with prompt written notice of any third party claims covered by this Article. Indemnitor has the unrestricted right to select and hire counsel, and the exclusive right to conduct the legal defense and/or settle the claim on the Indemnitee's behalf. Indemnitee shall not make any admission(s) which might be prejudicial to Indemnitor and shall not enter into a settlement without the express permission of Indemnitor.

**8. WARRANTY.** (a) Siemens warrants that it will perform the Services in a professional and workmanlike manner. If the Services fail to meet the warranty standards set forth in this Article 8(a) within ninety (90) days from completion of the Services ("Warranty Period"), and Buyer promptly reports such non-conformance to Siemens during the above mentioned Warranty Period, Siemens shall at its own expense re-perform the relevant Services or, in Siemens' sole discretion, refund Buyer the pro rata portion of the fees paid to Siemens under this Agreement allocable to the nonconforming Services (the "Warranty").

(b) Conditions to the Warranties. The Warranties are conditioned on: (i) no repairs, modifications or alterations being made to the Equipment" other than by Siemens or its authorized representatives; (ii) Buyer handling, using, storing, installing, operating and maintaining the Equipment in compliance with any parameters or instructions in any specifications attached to, or incorporated into this Agreement, (iii) or in the absence of such conditions, parameters or instructions or to the extent not applicable, in accordance with the generally accepted industry standards applicable in the

locale where the Services are being performed and having regard to the nature of the Services; (iv) Buyer discontinuing use of the Equipment after it has, or should have had knowledge of any defect in the Equipment; (v) Buyer providing Siemens with reasonable access to operating and maintenance data as requested by Siemens, (which may include secure broadband connection). Without expense to Siemens, Buyer shall provide to Siemens and Siemens' subcontractors and their respective employees and agents on a twenty four (24) hours a day, seven (7) days a week basis, access to the Site, and each unit, including rights of way and easements required for safe access of such persons and equipment, as well as, to the extent applicable, online access to the Site, including to an installed remote monitoring system and to all units, as necessary to permit Siemens to perform the Services.; (vi) Equipment not having been subjected to accident (including force majeure), alteration, abuse or misuse; and (vii) Buyer not being in default of any payment obligation. Buyer shall provide, without cost to Siemens, access to the nonconformity by disassembling, removing, replacing and reinstalling any Equipment, materials or structures to the extent necessary to permit Siemens to perform its warranty obligations.

(c) Exclusions from Warranty Coverage. The Warranties do not apply to any Third Party Parts or Equipment or to services not performed by Siemens pursuant to this Agreement. Siemens will have no liability to Buyer under any legal theory for such Third Party Parts, Equipment, services or any related assignment of warranties.

(d) Warranty Notice. Buyer must provide written notice of any claims for breach of Warranty within the applicable Warranty Period. Additionally, absent written notice within the Warranty Period, any use of the Equipment after expiration of the Warranty Period is conclusive evidence that the Warranties have been satisfied.

(e) Remedies. Buyer's sole and exclusive remedies for breach of the Warranties are limited, at Siemens' discretion, to re-performance of the non-conforming portion of the Services, within a reasonable time period, or refund of all or part of the purchase price. The warranty on re-performed Services is limited to the remainder of the original Warranty Period. Unless Siemens agrees otherwise in writing, Buyer will be responsible for any costs associated with: (i) transportation to and from the Siemens factory or repair facility; and (ii) damage to Equipment components or parts resulting in whole or in part from non-compliance by the Buyer with Article 8(b) or from their deteriorated condition.

**(f) THE WARRANTIES IN THIS ARTICLE 8 ARE SIEMENS' SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO THE LIMITS OF LIABILITY IN ARTICLE 9 BELOW. SIEMENS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.**

**9. LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, SIEMENS IS NOT LIABLE, WHETHER BASED IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, FOR: LOSS OF USE, REVENUE, SAVINGS, PROFIT, INTEREST, GOODWILL OR OPPORTUNITY, LOSS OF PRODUCTION, COSTS OF CAPITAL, COSTS OF REPLACEMENT OR SUBSTITUTE USE OR PERFORMANCE, LOSS OF INFORMATION AND DATA, LOSS OF POWER, VOLTAGE IRREGULARITIES OR FREQUENCY FLUCTUATION, CLAIMS ARISING FROM BUYER'S THIRD PARTY CONTRACTS, OR FOR ANY TYPE OF INDIRECT, SPECIAL, LIQUIDATED, PUNITIVE, EXEMPLARY, COLLATERAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE.

SIEMENS' MAXIMUM LIABILITY UNDER THIS AGREEMENT UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, INDEMNITY OR OTHERWISE, SHALL NOT EXCEED THE TOTAL PRICE PAID TO SIEMENS UNDER THIS AGREEMENT.

BUYER AGREES THAT THE EXCLUSIONS AND LIMITATIONS IN THIS ARTICLE 9 WILL PREVAIL OVER ANY CONFLICTING TERMS AND CONDITIONS IN THIS AGREEMENT AND MUST BE GIVEN FULL FORCE AND EFFECT WHETHER OR NOT ANY OR ALL SUCH REMEDIES ARE DETERMINED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. THESE LIMITATIONS OF LIABILITY ARE EFFECTIVE EVEN IF SIEMENS HAS BEEN ADVISED BY BUYER OF THE POSSIBILITY OF SUCH DAMAGES. THE WAIVERS AND DISCLAIMERS OF LIABILITY, RELEASES FROM LIABILITY AND LIMITATIONS ON LIABILITY EXPRESSED IN THIS ARTICLE 9 EXTEND TO SIEMENS'

AFFILIATES, PARTNERS, PRINCIPALS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, SUBCONTRACTORS, AGENTS AND SUCCESSORS AND ASSIGNS OF SIEMENS.

FOR THE AVOIDANCE OF DOUBT, IN THE EVENT THAT PHYSICAL LOSS OR DAMAGE TO THE BUYER'S PROPERTY RESULTS FROM THE FAILURE OF A PORTION OF THE SERVICES TO CONFORM TO ITS RESPECTIVE WARRANTY DURING THE APPLICABLE WARRANTY PERIOD SIEMENS' LIABILITY SHALL IN NO CASE EXCEED SIEMENS' OBLIGATION TO PERFORM THE REMEDIES SPECIFIED IN ARTICLE 8, AS APPLICABLE, WHICH SIEMENS WOULD HAVE HAD TO PERFORM IF SUCH REMEDY HAD BEEN CARRIED OUT IMMEDIATELY PRIOR TO THE OCCURRENCE OF THE PHYSICAL LOSS OR DAMAGE.

## **10. INTELLECTUAL PROPERTY.**

Siemens will, at its own option and expense, defend or settle any suit or proceeding brought against Buyer based on an allegation that any processes performed by Siemens in connection with the Services constitutes an infringement of any Patent Cooperation Treaty ("PCT") country member's patent or misappropriation of a third party's trade secret or copyright in the country where the Buyer's Site is located. Buyer will promptly give Siemens written notice of the suit or proceeding and the authority, information, and assistance needed to defend the claims. Siemens shall have full and exclusive authority to defend and settle such claim and will pay the damages and costs awarded against Siemens in any suit or proceeding so defended. Buyer shall not make any admission(s) which might be prejudicial to Siemens and shall not enter into a settlement without Siemens' consent. If and to the extent any process performed by Siemens in connection with the Services as a result of any suit or proceeding so defended is held to constitute infringement or its use by Buyer is enjoined, Siemens will, at its option and expense, either: (i) procure for Buyer the right to continue using said process; (ii) replace it with substantially equivalent non-infringing process; or (iii) modify the process so it's use is non-infringing.

Siemens will have no duty or obligation under this Article 10 if the process is: (i) performed according to Buyer's design or instructions and compliance therewith has caused Siemens to deviate from its normal course of performance; (ii) modified by Buyer or its contractors after performance; or (iii) combined by Buyer or its contractors with devices, methods, systems or processes not furnished hereunder and by reason of said design, instruction, modification, or combination a suit is brought against Buyer. In addition, if by reason of such design, instruction, modification or combination, a suit or proceeding is brought against Siemens, Buyer must protect Siemens in the same manner and to the same extent that Siemens has agreed to protect Buyer under this Article 10.

THIS ARTICLE 10 IS AN EXCLUSIVE STATEMENT OF SIEMENS' DUTIES AND BUYER'S REMEDIES RELATING TO PATENTS, TRADE SECRETS AND COPYRIGHTS, AND DIRECT OR CONTRIBUTORY INFRINGEMENT THEREOF.

## **11. CONFIDENTIALITY.**

(a) Both during and after the term of this Agreement, the parties will treat as confidential all information obtained from the disclosing party and all information compiled or generated by the disclosing party under this Agreement for the receiving party, including but not limited to business information, the quotation, the Agreement, processes and procedures, know-how, methods and techniques employed by Siemens in connection with the Services, technical data, drawings, flow charts, program listings, software code, and other software, plans and projections. Neither party may disclose or refer to the Services to be performed under this Agreement in any manner that identifies the other party without advance written permission. Except for security surveillance, the observing or recording of the Services or any part thereof, whether by photographic, video or audio devices or in any other manner is prohibited. In the event any such prohibited observation or recording occurs, Siemens may (in addition to any other legal or equitable rights and remedies) stop the Services until Siemens has satisfied itself that the prohibited conduct has ceased, and in such event (a) the date of delivery or time for performance will be extended by a period of time which Siemens determines necessary and (b) Buyer will reimburse Siemens for Siemens' and its Suppliers' additional costs and expenses resulting from such delay, including but not limited to any for demobilization or remobilization. Unless required by appropriate governmental authorities, neither party shall, without the prior written consent of the other party, issue any public statement, press release, publicity hand-out or other material relating to the Services performed on Buyer's Site or Equipment. However, Siemens has the right to share confidential information with its affiliate and subcontractors provided those recipients are subject to the same confidentiality obligations set forth herein.

(b) Nothing in this Agreement requires a party to treat as confidential any information which: (i) is or becomes generally known to the public, without the fault of the receiving party; (ii) is disclosed to the receiving party, without obligation of confidentiality, by a third party having the right to make such disclosure; (iii) was previously known to the receiving party, without obligation of confidentiality, which fact can be demonstrated by means of documents which are in the possession of the receiving party upon the date of this Agreement; or (iv) was independently developed by receiving party or its representatives, as evidenced by written records, without the use of discloser's confidential information, or (v) is required to be disclosed by law, except to the extent eligible for special treatment under an appropriate protective order, provided that the party required to disclose by law will promptly advise the originating party of any requirement to make such disclosure to allow the originating party the opportunity to obtain a protective order and assist the originating party in so doing.

(c) It is Siemens' policy not to unlawfully or improperly receive or use confidential information, including trade secrets, belonging to others. This policy precludes Siemens from obtaining, directly or indirectly from any employee, contractor, or other individual rendering services to Siemens confidential information of a prior employer, client or any other person which such employee, contractor, or individual is under an obligation not to disclose. Buyer agrees to abide by this policy.

(d) Siemens shall retain all intellectual property rights in the Services, works, Siemens' documents, processes, Siemens' confidential information, and any design information and/or documents made by (or on behalf of) Siemens. Upon receipt of all fees, expenses and taxes due in respect of the relevant Services, Siemens grants to the Buyer a non-transferable, non-exclusive, royalty-free license to copy, use and communicate Siemens' documents for the sole purpose of operation and maintenance of the facility upon which the Services have been performed.

**12. COMPLIANCE WITH LAWS.** The parties agree to comply with all applicable laws and regulations.

**13. CHANGES IN SERVICES.** No change will be made to the scope of Services unless Buyer and Siemens agree in writing to the change and any resulting price, schedule or other contractual modifications. If any change to any law, rule, regulation, order, code, standard or requirement impacts Siemens' obligations or performance under this Agreement, Siemens shall be entitled to a change order for an equitable adjustment in the price and time of performance.

**14. NON-WAIVER.** Any waiver by a party of strict compliance with this Agreement must be in writing, and any failure by the parties to require strict compliance in one instance will not waive its right to insist on strict compliance thereafter.

**15. MODIFICATION OF TERMS.** These terms may only be modified by a written instrument signed by authorized representatives of both parties.

**16. ASSIGNMENT.** Neither party may assign all or part of this Agreement, or any rights or obligations under this Agreement without the prior written consent of the other; but either party may assign its rights and obligations, without recourse or consent to, any parent, wholly owned subsidiary or affiliate or affiliate's successor organization (whether as a result of reorganization, restructuring or sale of substantially all of a party's assets). However, Buyer shall not assign this Agreement to a competitor of Siemens; an entity in litigation with Siemens; or an entity lacking the financial capability to satisfy Buyer's obligations. Any assignee expressly assumes the performance of any obligation assigned. Siemens may grant a security interest in this Agreement and/or assign proceeds of this Agreement without Buyer's consent.

**17. APPLICABLE LAW AND JURISDICTION.** This Agreement is are governed by and construed in accordance with the laws of the State of ~~Delaware~~, without regard to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is excluded. BOTH SIEMENS AND BUYER KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVE ALL RIGHTS TO A JURY TRIAL IN ANY ACTION OR PROCEEDING RELATED IN ANY WAY TO THIS AGREEMENT. Each party agrees that claims and disputes arising out of this Agreement must be decided exclusively in a federal or state court of competent jurisdiction located in a state in which either Buyer or Siemens maintains its principal place of business. ~~Each party submits to the personal jurisdiction of such courts for the purpose of litigating any claims or disputes.~~ <sup>an Oregon</sup>

**18. SEVERABILITY.** If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not in any way be affected or impaired. A court may modify the invalid, illegal or unenforceable provision to reflect, as closely as possible, the parties' original intent.

**19. EXPORT/IMPORT COMPLIANCE.** Buyer acknowledges that Siemens is required to comply with applicable export/import laws and regulations relating to the sale, export, import, transfer, assignment, disposal and use of goods or information provided in the performance of the Services, including any export/import license requirements. Buyer agrees that such goods or information shall not at any time directly or indirectly be used, exported, imported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with any export/import laws and regulations Siemens' continuing performance hereunder is conditioned on compliance with such export/import laws and regulations at all times.

**20. NUCLEAR.** In the event the Services provided under the Agreement are to be performed at or in any manner in connection with a nuclear installation, the following conditions shall apply:

A. Buyer's Insurance

(1) If Buyer procures property damage insurance applicable to occurrences at the Site and third party non-nuclear liability insurance, or either of such types of insurance, such insurance will name Siemens and its subcontractors as additional insureds.

(2) Buyer shall have at its own cost, prior to the arrival of nuclear fuel at the Site, secured and shall thereafter maintain in force protection against liability arising out of or resulting from a Nuclear Incident (as defined in the Atomic Energy Act of 1954, as amended) as required by the Nuclear Regulatory Commission; provided, however, that if the nuclear liability protection system in effect on the date of the Agreement expires or is repealed, changed, or modified, Buyer will, without cost to Siemens, maintain liability protection through government indemnity, limitation of liability, and/or liability insurance which will not result in a material impairment of the protection afforded Siemens and its subcontractors by such nuclear liability protection system which is in effect as of the date of the Agreement, taking into account the availability of insurance, customary practice in the industry for plants of similar size and character, and other relevant factors in light of then existing conditions. In any event, the protection provided pursuant to this Article shall remain in effect until the decommissioning of the nuclear plant.

B. Waivers by Buyer: Neither Siemens, nor its subcontractors shall be liable for any loss of, damage to, or loss of use of property or equipment wherever located, arising out of or resulting from a "Nuclear Incident." Buyer waives and will require its insurers to waive all rights of recovery against Siemens and its subcontractors on account of any such loss, damage, or loss of use. All such waivers shall be full and unrestricted and in a form acceptable to Siemens.

In the event Buyer recovers damages from a third party based on losses at the Site resulting from the hazardous properties of source, special nuclear or byproduct material (as defined in the Atomic Energy Act of 1954, as amended), Buyer shall defend, indemnify and hold Siemens and its subcontractors harmless against claims by such third party which are based on Buyer's recovery of such damages. In addition, Buyer waives and will require its insurers to waive all rights of recovery against Siemens and its subcontractors, for any and all costs or expenses arising out of or in connection with the investigation and settlement of claims or the defense of suits for damage resulting from the nuclear energy hazard.

C. Third Party Property Protection: Buyer will indemnify and hold Siemens and its subcontractors harmless for any liability arising out of loss of or damage to property at the Site which arises out of a Nuclear Incident. In addition, Buyer shall obtain for the benefit of Siemens and its subcontractors, protection against liability for, arising out of, or resulting from damage to any property or equipment located at the Site which is used or intended for use by Buyer in connection with the operation of the nuclear power plant (including but not limited to fuel) and which is owned by parties other than Buyer.

D. Decontamination: Buyer shall, without cost to Siemens, perform any required decontamination and health physics necessary for, related to or resulting from Siemens performance of its contractual obligations. This includes but is not limited to decontamination of any Siemens equipment or tools used in the performance thereof. Buyer shall provide documentation demonstrating that components or parts being returned to Siemens after such decontamination meet the requirements designated for unrestricted release as set forth in the United States Code of Federal Regulations, Title 10 Part 20.

**21. SURVIVAL.** The Articles entitled "Intellectual Property," "Limitation of Liability," "Indemnity," "Confidentiality," "Risk of Loss and Schedule," "Export/Import Compliance," and "Nuclear" survive any termination, expiration or cancellation of this Agreement.

**22. SITE SAFETY.** Buyer shall comply with all federal, state, and local safety regulations and standards applicable to the Site and to the Equipment on which Siemens will perform the Services. Siemens shall not be obligated to commence or perform Services unless Buyer's Site complies with all applicable safety requirements. In the event Buyer's Site safety is non-compliant, Siemens may suspend the Services until such time as Buyer corrects the non-compliance. To the extent Siemens incurs additional time and expense as the result of Buyer's non-compliance, Siemens shall be entitled to an equitable adjustment in the schedule, price and other affected provisions of the Agreement.

**23. ENVIRONMENTAL COMPLIANCE.** To the extent that the performance of Services at the Site may involve the generation of hazardous waste as such term is defined in the Resource Conservation and Recovery Act (42 U.S.C. 6901, et seq.), the laws of the state in which the Site is located and the rules or regulations issued thereunder as are now in effect or hereafter amended from time to time (such generated hazardous waste being herein referred to as "Hazardous Waste") shall apply.

Buyer shall at its expense and in accordance with all applicable federal, state and local laws, rules, regulations and ordinances (i) furnish Siemens with containers for Hazardous Waste, (ii) designate a storage area at the Site proximate to the Services where such containers are to be placed; and (iii) handle, store and dispose of Hazardous Waste. Buyer shall reimburse Siemens for additional costs, if any, incurred in complying with any such laws, regulations, rules and/or ordinances.

Siemens shall have no responsibility or liability with regard to any Hazardous Waste which it does not know or have reason to know will be generated or released in the performance of the Services, and Buyer shall indemnify and hold Siemens harmless for all damages, losses, costs, liabilities, fines and penalties, (including reasonable attorneys' fees) related to pollution and environmental impairment arising from the Buyer's property, the Equipment or the Services.

#### **24. ASBESTOS**

The terms "Asbestos" and "Presumed Asbestos Containing Material" shall have the meanings set forth in United States Code of Federal Regulations Chapter 29 Section CFR 1926.1101 et seq., and "ACM" shall mean Asbestos and Asbestos containing materials.

(1) The Buyer warrants and represents that, in any areas which may be accessed by Siemens or its Suppliers, any ACM which is or is contained in thermal insulation or sprayed-on surfacing material is conspicuously and specifically marked as ACM, and any other ACM is in a lawful condition.

(2) Prior to Siemens' commencement of Services at any Site:

(a) The Buyer shall, at Buyer's expense remove all thermal insulation, sprayed-on surfacing material, and/or Presumed Asbestos Containing Material (any or all of the foregoing hereinafter "PACM"), and ACM which may be disturbed during or removal of which is required for the performance of the Services; and,

(b) The Buyer shall ensure that any areas where any activities involving the abatement or removal of PACM or ACM shall be conspicuously identified, posted and isolated, all as required by applicable law.

BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT, IN PERFORMING THE SERVICES AND DISPATCHING EMPLOYEES TO WORK AREAS, SIEMENS IS RELYING UPON THE AGREEMENTS, WARRANTIES, AND REPRESENTATIONS MADE BY BUYER IN THIS ARTICLE 24. Without limiting its other rights and remedies, Siemens (i) shall not be obligated to commence, and may stop any affected Services, unless and until it is fully satisfied that the Buyer is in compliance with this Article 24, and (ii) shall be entitled to an equitable adjustment in the schedule, price and other provisions of the Agreement resulting from Buyer's non-compliance.

(3) In no event shall Siemens be obligated to install, disturb, handle, or remove any PACM.

(4) Siemens makes no representation that it is licensed to abate ACM.

(5) Buyer shall defend, indemnify and hold Siemens harmless against any and all claims, demands, damages, losses, liabilities, fines, penalties, costs or expenses, including without limitation any clean up or remedial measures arising out of, connected with, or resulting from the Buyer's failure to comply with the provisions of this Article 24.

## **25. THIRD PARTY PARTS**

Buyer warrants that any and all Third Party Parts which may be the subject of any Services shall (a) be fully compatible with the corresponding part, component, equipment or material of the Original Equipment Manufacturer ("OEM") in terms of form, fit, and function; (b) shall be timely provided to Siemens hereunder; and (c) shall be capable of installation in the same manner and within the same time as the corresponding OEM part, component, equipment, or material.

**SIEMENS STANDARD TERMS AND CONDITIONS**  
**Standard Terms Addendum for Online Data Backup & Protection Services**

The terms and conditions of this Addendum for Online Data Backup & Protection Services are applicable only to the Online Data Backup & Protection Services identified in the Proposal (“ODB&P”) and supplements the Standard Terms and Conditions with the following seven (7) paragraphs:

**ODB&P 1.** “Facilities Data” means electronic data that is collected or generated by Siemens through scheduled back-ups of the databases and/or graphics residing in the workstation(s) and/or field panel(s) that constitute part of Buyer’s automation control, fire and life safety, and/or security systems.

**ODB&P 2.** “Personally Identifiable Information” means any personal information that relates to, describes, or is capable of being associated with, a particular individual. By way of example and not of limitation, Personally Identifiable Information includes an individual’s first name or first initial and last name, plus one or more of the following: social security number, health insurance identification number, medical information, insurance policy number, passport number, taxpayer identification number, account number, credit card number or any other financial information.

**ODB&P 3.** Siemens will take reasonable steps to protect the security of all Facilities Data stored offsite. Siemens does not represent or warrant that Facilities Data will not be disseminated, compromised or corrupted by reason of unauthorized actions of third parties.

**ODB&P 4.** Buyer represents and warrants that it will not use workstations or field panels that constitute parts of its automation control, fire and life safety, and/or security systems for electronic storage of any Personally Identifiable Information.

**ODB&P 5.** SIEMENS HEREBY DISCLAIMS ANY AND ALL LIABILITY FOR DAMAGES, INJURY OR LOSS ARISING OUT OF DISCLOSURE OR DISSEMINATION OF PERSONALLY IDENTIFIABLE INFORMATION THAT WAS STORED IN VIOLATION OF PARAGRAPH ODB&P 4.

**ODB&P 6.** Buyer shall indemnify, defend and hold Siemens harmless from any claims, losses or damages arising out of disclosure or dissemination of Personally Identifiable Information that was stored in violation of paragraph ODB&P 4.

**ODB&P 7.** Buyer acknowledges that all Facilities Data is owned by Siemens and may be used by Siemens in a commingled or other reasonable manner; *provided that*, such use does not identify Buyer or the location(s) of the Site or Sites to which Facilities Data pertains.



**SIEMENS STANDARD TERMS AND CONDITIONS**  
**Service Agreements**

**STANDARD TERMS ADDENDUM**

**Service Agreements**

**Exclusions and Clarifications:**

Unless expressly stated otherwise, Services do not include and Siemens is not responsible for: (a) service or provision of consumable supplies, including but not limited to battery replacement and halon cylinder charging; (b) reinstallation or relocation of Equipment; (c) painting or refinishing of Equipment or surrounding surfaces; (d) parts, accessories, attachments or other devices added to Equipment but not furnished by Siemens; (e) failure to continually provide suitable operating environment including, but not limited to, adequate space, ventilation, electrical power and protection from the elements; (f) the removal or reinstallation of replacement valves, dampers, waterflow and tamper switches. Siemens is not responsible for services performed on any Equipment other than by Siemens or its agents.

## SIEMENS STANDARD TERMS AND CONDITIONS

### Standard Terms Addendum for Software License/Warranty Addendum

The terms and conditions of this Software License/Warranty Addendum (“Addendum”) govern Licensee’s license to Software furnished by Siemens in conjunction with the sale of Products or Services under the terms and conditions of a Sales Agreement.

#### ARTICLE 1: ORDER OF PRECEDENCE AND CONTRADICTION OF TERMS

**1.1** Licensee shall comply with the terms of this Addendum and the Exhibits hereto in addition to the terms of the Sales Agreement, which terms and conditions shall also apply to Software licensed under this Addendum. In the event of inconsistency between or among these provisions, the following order of precedence shall govern: 1) Exhibits to this Addendum; 2) This Addendum; and, 3) The Sales Agreement. For the avoidance of doubt, if provisions of this Addendum expand the scope of any provision of the Sales Agreement, but without contradicting it, then the provision shall apply to the Software licensed under this Addendum as augmented by this Addendum.

**1.2** If Licensee received the Software prior to executing a written agreement, and installs, copies or otherwise uses the Software, Licensee shall, by doing so, indicate that Licensee has read and understood this Addendum and the Sales Agreement and accepted these terms and conditions. Licensee is not entitled to install or use the Software if Licensee does not agree with these terms. In such an event, Licensee should promptly contact Siemens for instructions on return or certified destruction of the Software.

#### ARTICLE 2: SOFTWARE LICENSE TERMS AND CONDITIONS

**2.1** **Definitions.** The following terms have the meanings set forth below.

- (a) “Authorized Agents” means Licensee’s consultants, agents and contractors who are working on Licensee’s premises and who require access to the Software and/or Documentation solely for their support of Licensee’s internal business.
- (b) “Authorized Users” means (i) Licensee’s employees and (ii) Authorized Agents, provided the Authorized Agents comply with the terms of this Addendum.
- (c) “Confirmation of Order” means a statement or document provided by Siemens acknowledging and accepting the Licensee’s order including the purchase of a license to Software or otherwise acknowledging the Software license grant to Licensee, including but not limited to a certificate of license.
- (d) “Documentation” means the explanatory printed or electronic functional specification materials provided by Siemens with respect to the Software, including, but not limited to, license specifications, instructions for the use of the Software and technical specifications.
- (e) “Products and Services” means the items, other than Software, as described on an order and purchased by Licensee from Siemens under a Sales Agreement.
- (f) “License Metrics” means the particular metric restrictions for a relevant Software License Type as indicated in the Confirmation of Order, the Product Specific Terms or other written document by Siemens and may include concurrent user, named user, per machine, per server, per device, or per time usage, or any other metric agreed to by Siemens and Licensee.
- (g) “License Type” means a Limited Term License, Perpetual License or Extended Term License.
- (h) “Limited Term License” means a license of the Software that is limited in term to a period of time mutually agreed by Siemens and Licensee. Limited Term Licenses include, but are not limited to Rental Licenses.
- (i) “Licensee” means the party that is acquiring rights to the Software pursuant to the terms of this Addendum and any applicable Sales Agreement.
- (j) “Maintenance Services” means the maintenance, enhancement and support services provided by, or on behalf of, Siemens with respect to the Software under terms and conditions either in a separate written agreement or an exhibit to this Addendum. Maintenance Services do not include services performed by Siemens during the Warranty period.
- (k) “Perpetual License” or “Extended Term License” means a license of Software that is not limited in term, but, subject to the terms of this Addendum and applicable Sales Agreement, extends indefinitely. Unless a license of Software is specified as a Subscription, a Rental License or another type of Limited Term License in this Addendum, the Product Specific Terms, or a separate contract between the parties and the Software is embedded in the Product (as identified in the applicable Sales Agreement) as delivered, then the license of Software is deemed to be a Perpetual License. Perpetual Licenses do not include Maintenance Services or professional services which must be purchased separately.
- (l) “Product Specific Terms” means those terms and conditions that are (i) different or additional to this Addendum that apply to the Software or to specific use of the Software with a Product and (ii) which terms

are available to Licensee either as an Exhibit to this Addendum or in a separate document outside of this Addendum. If there is a conflict between the terms of this Addendum and the Product Specific Terms, then the Product Specific Terms will prevail.

- (m) "Rental License" means a license whose term is limited to an agreed to period of time.
- (n) "Sales Agreement" means any agreement for the sale of Products or Services between Siemens and Licensee under which Software is licensed or otherwise distributed by Siemens.
- (o) "Software" means the software that is licensed or distributed by Siemens to Licensee under the terms and conditions of a Sales Agreement including this Addendum. "Software" includes the related Documentation.
- (p) "Territory" means the country in which Siemens has licensed rights to the Software as indicated in the Confirmation of Order, Product Specific Terms or applicable Sales Agreement. If no Territory is identified, the Territory shall be limited to the country in which the Software is delivered or otherwise made available to Licensee.

## **2.2 License Grant and Conditions.**

- (a) License Grant. Subject to the terms and conditions of this Addendum, the Sales Agreement, and any Product Specific Terms, Siemens grants to Licensee a nonexclusive, nontransferable, limited license to allow Authorized Users to access and use the executable form of the Software, to the extent to which the same has been enabled by Siemens through use of license key or other mechanism for use by Licensee, in the Territory. The license granted to Licensee shall be of the License Type and be subject to the License Metrics set forth in the Confirmation of Order, the Product Specific Terms or other written document by Siemens. No title to or ownership in the Software is transferred to Licensee. Title to the Software, and all applicable rights in patents, copyrights, trade secrets and other intellectual property rights inherent in the Software, will remain in Siemens or third parties from whom Siemens has obtained the right to license the Software. Siemens reserves all rights in the Software not explicitly granted herein.
- (b) Delivery of Software. Delivery of the Software shall be as identified in the Confirmation of Order or from the Software purchase order number contained in the Confirmation of Order, in conjunction with the associated order data of the Siemens catalog valid at the time of the Confirmation of Order. If the Software is provided by Siemens on a data medium or made available for electronic download by Siemens, the license granted to Licensee in 2.2(a) shall include the right to install such Software in accordance with the Confirmation of Order.
- (c) Use of Unauthorized Software. Licensee represents and warrants that it will only use Siemens software that has been validly licensed to it by Siemens or its authorized partner. Any Siemens software not duly licensed from Siemens or its authorized partner constitutes unauthorized software. If Licensee downloads, installs and/or uses unauthorized software, then Siemens has the right to terminate this Addendum in accordance with the terms of Article 4.3 below.
- (d) Software Security and Monitoring. Siemens reserves the right to embed a software security mechanism within the Software to monitor usage of the Software and to verify Licensee's compliance with this Addendum. Such security mechanism may communicate with computers controlled by Siemens to exchange communications and report and store data relating to the usage of the Software, its installation, the system on which it has been installed and the number of times it has been copied or accessed. Siemens reserves the right to use license administration software, a license authorization key to control access to the Software and/or a hardware lock device. Licensee may not take any steps to avoid or defeat the purpose of any such measures. Use by Licensee of any Software without any required security mechanism is prohibited. Where Software licensed hereunder or Product(s) sold under a Sales Agreement have a remote service capability, Siemens shall be entitled to access data available from the Licensee for the Software licensed or Product(s) maintained by remote service for the term of the Sales Agreement. Licensee grants Siemens the further right to use data collected from said products for Siemens product and service optimization purposes.
- (e) Third Party and Open Source Software. The Software may contain or require the use of third party technology that is provided with the Software, including open source software ("OSS"). Third party technology is licensed to Licensee either under the terms of this Agreement or under separate license terms that shall be specified in the relevant Documentation, "read me" files, notice files, or other such documents or files ("Technology Subject to a Third-Party License"). Licensee's rights to use Technology Subject to a Third-Party License are subject to such separate license terms and are not restricted in any way by this Addendum and to the extent that a term of this Addendum is in conflict with any applicable mandatory right

granted by a third-party license, such term shall not apply. If applicable, Siemens will furnish OSS source code contained in the Technology Subject to a Third-Party License upon written request and subject to Licensee's payment of shipping and handling charges. Third party technology that is not Technology Subject to a Third-Party License shall be deemed part of the Software and is licensed to Licensee under the terms of this Addendum. The terms of any third-party license (if any) that apply to the licensed Software are either: a) specified in the Product Specific Terms, b) separately accompany the licensed Software and are automatically presented for acceptance prior to first use of such Software by an Authorized User in accordance with the Confirmation of Order (such as applicable License Type and License Metrics) obtained from Siemens, or c) are specified in the "read me" file or document for the licensed Software. The terms of such third-party licenses are herein incorporated by reference to this Addendum.

- (f) Other Third Party Software Not Provided. Except where the parties agree in writing to the contrary, Licensee is solely responsible for ensuring that: (i) the system on which the licensed Software is installed, run and/or used contains all third party software not contained in or bundled with the Software as delivered and that is necessary to run, install, interface with, and/or use such Software ("Other Third Party Software") and (ii) Licensee and/or Licensee's system fulfill the requirements of all required licenses for such Other Third Party Software.
- (g) U.S. Government Restricted Rights. The Software is a commercial product that has been developed exclusively at private expense. If the Software is acquired directly or indirectly on behalf of a unit or agency of the United States Government under the terms of (i) a United States Department of Defense ("DOD") contract, then the Software and Documentation are considered "Commercial Items", as that term is defined in 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are defined in 48 C.F.R. §252.227-7014(a)(5) and 48 C.F.R. §252.227-7014(a)(1), and used in 48 C.F.R. §12.212 and 48 C.F.R. 227.7202, as applicable, consistent with 48 C.F.R. §12.212, 48 C.F.R. §252.227-7015, 48 C.F.R. §227.7202 through 227.7202-4, 48 C.F.R. §52.227-14, and other relevant sections of the Code of Federal Regulations ("C.F.R."); or (ii) a Civilian agency contract, then use, reproduction, or disclosure is subject to the restrictions set forth in clause 27.405(b)(2)(i) of the Federal Acquisition Regulation ("FAR"), entitled Acquisition of Existing Computer Software, and any restrictions in the agency's FAR supplement and any successor regulations thereto, and the restrictions set forth in this Addendum. The United States Government will only have the rights set forth in this Addendum. Siemens Software licensed to United States Government end users with only those rights as granted to all other end users, according to the terms and conditions contained in this Addendum. Siemens shall not be required to obtain a security clearance or otherwise be involved in accessing classified information as described in FAR 52.204-2 and the National Industrial Security Program Operating Manual (DoD 5220.22-M).

**2.3 Backup of Software.** Licensee may make one copy of the Software for archival backup purposes only, unless otherwise restricted under the applicable Product Specific Terms. Licensee shall retain and reproduce all copyright or proprietary notices in the backup copy of the Software. Siemens retains all rights to the original and backup copy of the Software. The backup copy will also be subject to the terms and conditions of this Addendum.

**2.4 Licensee Responsibilities and Prohibited Actions.**

- (a) Remarketing of Software. Licensee will not cause or permit the loan, publication, transfer of possession (whether by sale, exchange, gift, operation of law or otherwise) of the Software, in whole or in part, to or for any third party, and/or use of the Software as a service bureau.
- (b) Transfer of Software. Unless specifically allowed by the terms of the Sales Agreement or this Addendum, or as may be required by applicable law, Licensee may not distribute, rent, lease, sell, sublicense or otherwise transfer all or any portion of the Software, or any rights granted in this Addendum, to any other person without the prior written consent of Siemens.
- (c) Reverse Engineering or Modifying the Software.
  - (i) **Prohibitions.** Licensee will not reverse engineer, decompile, translate, disassemble, or otherwise attempt to discover the source code of the Software. The prohibition against modifying or reverse engineering the Software does not apply to the extent that Licensee is allowed to do so by applicable law.
  - (ii) Licensee shall not be entitled to remove any alphanumeric identifiers, trademarks or copyright notices from the Software, the data medium, or Documentation supplied under this Addendum.

- (d) Host Identifier. With respect to each order for Software under this Agreement, Licensee or Siemens' authorized channel partner will provide Siemens with the host identifier required by Siemens and such other information reasonably requested by Siemens for each workstation and/or server on which the license management portion of the Software will be installed to permit Siemens to generate a license file that will restrict end-user access to only those Software modules licensed under this Agreement and limit use of such Software modules at any given time to the maximum number of licensed Authorized Users.
- (e) Authorized Agents; Indemnity. Licensee will ensure that Authorized Agents comply with the terms of this Agreement and agrees to indemnify Siemens from and against any and all liabilities, losses, claims, costs and/or expenses incurred by Siemens and/or its affiliates as a result of any violation of the terms of this Addendum by any Authorized Agent.

## **2.5 Warranties and Disclaimers.**

- (a) Unless otherwise stated in the Sales Agreement, Confirmation of Order, or other Siemens writing, Siemens warrants that, as of the date the Software is delivered or otherwise made available to Licensee via electronic download and for a period of ninety (90) days thereafter (the "Warranty Period"), the Software will provide the features and functions generally described in the Documentation and that the media on which the Software is furnished, if any, will be free from defects in materials and workmanship. Notwithstanding the foregoing, the warranty period for the Product(s) set forth in the Sales Agreement shall control with respect to Software embedded in such Product(s). Siemens' entire liability, and Licensee's exclusive remedy, during the Warranty Period will be, at Siemens' sole option, to attempt to correct or work around errors, to replace defective media on which Software is installed, if any, or to refund the license fees for the Software involved. Any refund is subject to the return or destruction of the Software or defective media to Siemens.
- (b) This warranty does not apply to Software delivered by Siemens but produced by others. The warranty for Software produced by others shall be the warranty as stated by the relevant software producer.
- (c) This warranty will apply only provided that: (i) the Software is not modified, changed, or altered by anyone other than Siemens or its suppliers, unless authorized by Siemens in writing; (ii) there is no change by anyone other than Siemens to the Products for which the Software is ordered; (iii) Licensee is using the Software in a proper manner in compliance with all operating instructions included in the Documentation; (iv) the nonconformity is not caused by Licensee, Licensee's Siemens-authorized transferee, or any of their agents, servants, employees, or contractors, or any third party; (v) Licensee or Licensee's Siemens-authorized transferee promptly notifies Siemens in writing of the nonconformity after it is discovered; and (vi) all fees for the Software due to Siemens have been paid.
- (d) Licensee is responsible for the prevention of security issues with regard to its own systems and data, including Software hosted on Licensee's systems. Licensee's responsibility includes, but is not limited to, undesired invaders of the software such as malware, viruses, spyware or trojans and Siemens disclaims responsibility for any damages incurred as a result of Licensee's failure to secure its systems and data.
- (e) EXCEPT FOR THE EXPRESS LIMITED WARRANTIES PROVIDED IN THIS ARTICLE 2.5, SIEMENS MAKES AND LICENSEE RECEIVES NO EXPRESS WARRANTIES. ANY STATEMENTS OR REPRESENTATIONS ABOUT THE SOFTWARE AND ITS FUNCTIONALITY IN ANY COMMUNICATION WITH LICENSEE CONSTITUTE TECHNICAL INFORMATION AND NOT AN EXPRESS WARRANTY OR GUARANTEE. IN ADDITION, SIEMENS SPECIFICALLY DISCLAIMS ANY OTHER WARRANTY INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, SIEMENS DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

## **ARTICLE 3: SOFTWARE MAINTENANCE TERMS AND CONDITIONS**

- 3.1 Software Maintenance.** In addition to any warranty services that Siemens may provide as set forth in Article 2, Licensee may purchase (if offered by Siemens) Maintenance Services consistent with the terms and conditions set forth in an exhibit attached hereto or other written agreement between the parties.

## ARTICLE 4: GENERAL TERMS AND CONDITIONS

**4.1 Limitation of Liability.** Siemens' entire liability for all claims or damages arising out of or related to this Addendum, regardless of the form of action, whether in contract, tort or otherwise, will be limited to and will not exceed, in the aggregate the amount paid to Siemens for the Software licensed under this Addendum . This limitation is not applicable to claims covered by Article 4.2 of this Addendum.

### **4.2 Intellectual Property Infringement Indemnity.**

- (a) Siemens will, at its option and expense, defend or settle any suit or proceeding brought against Licensee based on an allegation that the Software or use thereof for its intended purpose constitutes an infringement of any Patent Cooperation Treaty country member's patent or misappropriation of a third party's trade secret or copyright in the country where the Software is delivered by Siemens. Licensee will promptly give Siemens written notice of the suit or proceeding and the authority, information, and assistance needed to defend the claims. Siemens shall have the full and exclusive authority to defend and settle such claim(s) and will pay the damages and costs awarded in any suit or proceeding so defended. Licensee shall not make any admission(s) which might be prejudicial to Siemens and shall not enter into a settlement without Siemens' consent. Siemens is not responsible for any settlement made without its prior written consent. If the Software, or any part thereof, as a result of any suit or proceeding so defended is held to constitute infringement or its use by Licensee is enjoined, Siemens will, at its option and expense, either: (i) procure for Licensee the right to continue using the Software; (ii) replace it with substantially equivalent non-infringing Software; or (iii) modify the Software so it is non-infringing.
- (b) Siemens will have no duty or obligation under this Article 4.2 if the Software is: (i) supplied according to Licensee's design or instructions and compliance therewith has caused Siemens to deviate from its normal course of performance; (ii) modified by Licensee or its contractors after delivery; (iii) combined by Licensee or its contractors with devices, methods, systems or processes not furnished hereunder and by reason of said design, instruction, modification, or combination a suit is brought against Licensee; or (iv) any refusal or failure by Customer to install and use the most current version or a non-infringing version of the Software offered or otherwise made available by Siemens to Customer as long as such non-infringing version performs substantially the same functions. In addition, if by reason of such design, instruction, modification or combination, a suit or proceeding is brought against Siemens, Licensee must protect Siemens in the same manner and to the same extent that Siemens has agreed to protect Licensee under this Article 4.2.
- (c) THIS ARTICLE 4.2 IS AN EXCLUSIVE STATEMENT OF SIEMENS' DUTIES AND LICENSEE'S REMEDIES RELATING TO PATENTS, TRADE SECRETS AND COPYRIGHTS, AND DIRECT OR CONTRIBUTORY INFRINGEMENT THEREOF.

**4.3 Termination.** Licensee may terminate this Addendum at any time by removing all copies of the Software from Licensee's systems, destroying them and certifying the destruction to Siemens in writing. Siemens will have the right to terminate this Addendum and/or any Limited Term License and/or Perpetual License granted hereunder immediately on notice to Licensee if Licensee: (a) violates the license restrictions of this Addendum, (b) breaches Article 2.2(c) above, or (c) files a petition in bankruptcy, has such a petition filed against it, which petition is not discharged within sixty (60) days after such filing, makes an assignment for the benefit of creditors, if a receiver, trustee, custodian or similar agent is appointed or takes possession of Licensee's assets, or if Licensee becomes insolvent or otherwise ceases doing business in the ordinary course. In addition, Siemens will have the right to terminate this Addendum and/or any Limited Term License and/or Perpetual License granted hereunder if Licensee breaches any other obligation or provision of this Agreement which breach remains uncured for a period of thirty (30) days after receipt of notice thereof from Siemens.

**4.4 Effect of Termination.** Upon termination of this Addendum or the associated Sales Agreement, the licenses granted hereunder and all other provisions of this Addendum (except those specified in this Article) shall be terminated and Licensee shall immediately cease using the Software, the Documentation and other Siemens confidential information and shall permanently delete all electronic copies thereof from Licensee's systems. Except as specifically set forth in this Addendum, all license fees and Maintenance Services fees are non-refundable. Termination or expiration of this Agreement or any license granted hereunder shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve

Licensee's obligation to pay all fees that have accrued or are otherwise owed by Licensee up to the effective date of termination. All Licensee obligations under this Addendum shall survive and continue in full force and effect after any termination of this Addendum or Sales Agreement to which this Addendum is attached.

#### **4.5 Confidentiality and Data Protection.**

- (a) The parties agree that the Software and Documentation shall be considered Confidential Information and be subject to the confidentiality terms and conditions under the Sales Agreement. If Licensee conducts benchmarks or other tests concerning the Software, including any content or functionality of Siemens' third party licensors, or hardware, then the results shall constitute Siemens' Confidential Information and shall not be published or otherwise revealed to any third party, without the prior written consent of Siemens.
- (b) Licensee has the right to share Siemens' Confidential Information with Authorized Users and Authorized Agents provided those recipients are subject to the same confidentiality obligations set forth herein. If a party breaches any of its obligations with respect to confidentiality or unauthorized use or disclosure of the other party's Confidential Information hereunder, the disclosing party shall be entitled to obtain equitable and injunctive relief in addition to all other remedies that may be available to protect the disclosing party's interests.
- (c) Nothing in this Agreement requires a party to treat as confidential any information which was independently developed by receiving party or its representatives, as evidenced by written records, without the use of discloser's Confidential Information.
- (d) Data Protection. Licensee represents and warrants that it is in compliance with all applicable data protection laws and that it has obtained all necessary consents as required by applicable law in respect of personal data Licensee transfers or makes available to Siemens for processing in the course of this Addendum or any related maintenance and/or support services and will indemnify Siemens in respect of all costs, claims, liabilities and demands incurred by Siemens in respect of any breach of this warranty.
- (e) Survival of Confidentiality Obligations. This Article 4.5 will survive the expiration or termination of this Addendum or Sales Agreement for any reason.

**4.6 Audits.** Licensee will at all times maintain records specifically identifying the Software licensed under this Addendum, the location of each copy thereof, and the location and identity of the workstations and servers on which the Software is installed. Siemens may, during regular business hours and upon reasonable advance notice, conduct an audit to determine Licensee's compliance with the terms and conditions of this Addendum. Licensee will permit Siemens or its authorized agents to access Licensee's facilities, workstations and servers and otherwise cooperate fully with Siemens in any such investigation and will take all commercially reasonable actions to assist Siemens in accurately determining Licensee's compliance with the terms and conditions of this Addendum. Siemens and its authorized agents will comply with Licensee's reasonable security regulations while on Licensee's premises.

**4.7 Assignment.** Neither party may assign all or part of this Addendum, or any rights or obligations under this Addendum without the prior written consent of the other; but, either party may assign its rights and obligations, without recourse or consent to, any parent, wholly owned subsidiary, or affiliate or affiliates successor organization (whether as a result of reorganization, restructuring or sale of substantially all of a party's assets). However, Licensee shall not assign this Addendum to: a competitor of Siemens; an entity in litigation with Siemens; or an entity lacking the financial capability to satisfy Licensee's obligations. Any assignee expressly assumes the performance of any obligation assigned. Siemens may grant a security interest in this Addendum and/or assign proceeds of this Addendum without Licensee's consent.

- 4.8 Feedback.** To the extent that Licensee gives feedback on the Software to Siemens or its subcontractors, Licensee hereby assigns to Siemens all rights to such feedback (including any suggestions, enhancement requests, recommendations or other feedback) provided by the Licensee and its Authorized Users of the Software and shall treat such feedback as Confidential Information of Siemens in accordance with the obligations set forth herein. Licensee further agrees to ensure that it obtains such rights to Feedback from the Authorized Users and to provide Siemens all reasonable assistance necessary to perfect any intellectual property rights resulting from any feedback
- 4.9 Relationship of the Parties.** For all purposes, Licensor and Licensee will be deemed to be independent contractors and nothing contained herein will be deemed to constitute a joint venture, partnership, employer-employee relationship or other agency relationship. Neither party is, nor will either party hold itself out to be, vested with any power or right to contractually bind or act on behalf of the other party.



## **Exhibit A to Software License/Warranty Addendum**

### **Siemens Smart Infrastructure (“Siemens SI”) Product Specific Terms**

The standard terms and conditions that govern the license of software furnished by Siemens, including Siemens SI software, to Licensee are set forth in a standalone license agreement or a license addendum to a sales agreement for products and services agreed to by the parties (referred to herein as the “Agreement”).

#### **I. Siemens SI Software Specific Terms**

The following product specific terms and conditions are specific to Siemens SI software that is deliverable under the Agreement (“Siemens SI Software Specific Terms”): Licensee agrees to take delivery of such Siemens SI software subject to (i) any applicable Siemens SI end-user license agreement (EULA) and third party license (including any OSS license) accompanying such Siemens SI software, or (ii) if no EULA or third party license accompanies such Siemens SI software, the EULA posted at [www.usa.siemens.com/btcpseula](http://www.usa.siemens.com/btcpseula) (Siemens SI’s EULA web site) for such Siemens SI software. Notwithstanding the foregoing, in the event of any inconsistency between the terms of the Agreement and the EULA for such Siemens SI software, the terms of the Agreement shall govern over the EULA except for the use and metric restrictions set forth in the EULA for such Siemens SI software shall take precedence and supersede the terms of the Agreement. The Licensee may state an objection to any terms of an applicable EULA prior to issuance of a purchase order or execution of an applicable SOW for such Siemens SI software; however, for such objection to stand it shall be subject to Siemens’ written acceptance of the same.

#### **II. Siemens SI BACnet Field Panel Web Server Solution Specific Terms**

The product specific terms and conditions set for in this section are specific to Siemens SI’s BACnet Field Panel Web Server Solution Software and not to any other software offered by Siemens. These terms are additional to the terms in the Agreement and the Siemens SI Software Specific Terms. To the extent that these terms are in conflict with the terms of the Agreement or the Siemens SI Software Specific Terms, these terms will take precedence and supersede the terms of the Agreement and the Siemens SI Software Specific Terms with respect to Siemens SI’s Field Panel Web Server Solution Software.

Software as defined in the Agreement and with respect to this Section shall mean Siemens SI’s Field Panel Web Server Solution Software, which includes Siemens SI’s BACnet Field Panel Web Client Application (also referenced in related Documentation as “Field Panel Web UI”), Field Panel Web Server Software (also referenced in related Documentation as “BACnet Field Panel Web Server” and “Field Panel Web Server), Data Exchange Protocol and Data Exchange Software in any release of the foregoing.

The Software is provided as embedded software in a Siemens SI field panel controller (“Field Panel”) having a part number prefix PXC00-\*, PXC100-\*, PXC36-\*, TC1000-\* or TC36-\* ( where “\*” denotes remaining part number variations)

The Software may only be accessed by Licensee via the BACnet Field Panel Web Client Application that may be uploaded to a single computer.

## AGENDA ITEM REQUEST



**Date:**

*September 12, 2023*

**Meeting date desired:**

*September 20, 2023*

**Subject:**

*Extension of OJD Agreement re: ARPA funds*

**Background and policy implications:**

*A few months ago, the County signed an Agreement with OJD regarding almost \$170,000 in ARPA funds for the design of a new courthouse. The Agreement required the County to execute the remaining funding agreements by October 1. This Amendment simply extends that date to December 1.*

**Budget/fiscal impacts:**

*This will allow the County to retain the \$170,000 of ARPA money.*

**Requested by:**

*John Eisler; Asst. County Counsel; 541-416-3919; john.eisler@crookcountyor.gov*

**Presenters:**

*John Eisler*

**Legal review (only if requested):**

*NA*

**Elected official sponsor (if applicable):**

*NA*

**AMENDMENT No. 1 TO  
OREGON JUDICIAL DEPARTMENT  
COURTHOUSE INTERGOVERNMENTAL AGREEMENT  
OJD Contract No. 230162**

This Amendment No. 1 (“Amendment”) to the Oregon Judicial Department Courthouse Intergovernmental Agreement, OJD Contract No. 230162, is entered into by and between the Oregon Judicial Department (“OJD”) and Crook County. (“County”). OJD and County are each a “Party” and collectively “Parties.”

**RECITALS**

- A. On June 30, 2023 the Parties entered into Courthouse Intergovernmental Agreement OJD Contract No. 230162 (“Agreement”).
- B. At this time, the Parties desire to amend the terms of the Agreement as more particularly set forth in this Amendment.

**AGREEMENT**

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

- 1. Delete Recital C in the Agreement in its entirety and replace it with the following:  

“**C.** On or before December 1, 2023, the Parties intend to enter into a separate Master Funding Agreement and separate Phase I Funding Agreement for the Project (“Project Funding Agreements”).”
- 2. Delete Section 2. Term. in the Agreement in its entirety and replace it with the following:  

“**2. TERM.** This Agreement shall be effective June 30, 2023, and shall continue until December 1, 2023 (“Expiration Date”). Unless this Agreement is amended by the Parties to extend the Expiration Date, this Agreement shall expire on the Expiration Date.”
- 3. All the representations and warranties of each Party in the Agreement are confirmed by such Party to be true and correct as of the date of signature below.
- 4. Except as provided in this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.
- 5. This Amendment may be executed via electronic signature and in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

[SIGNATURES FOLLOW ON NEXT PAGE]

Oregon Judicial Department

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

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

Title: \_\_\_\_\_

Date \_\_\_\_\_

Crook County

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

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

Title: \_\_\_\_\_

Date \_\_\_\_\_

OJD Legal Review and Approval

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

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

Title: \_\_\_\_\_

Date \_\_\_\_\_

County Legal Review and Approval

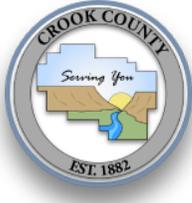
By: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date \_\_\_\_\_

## AGENDA ITEM REQUEST



**Date:**

*September 12, 2023*

**Meeting date desired:**

*September 20, 2023*

**Subject:**

*Amendment #6 to Community Mental Health Program Services Agreement*

**Background and policy implications:**

*The State has required that the County execute an amendment to its CMHP funding agreement to specifically reference the School Based Health Center mental health services provision – though the scope of services has not been substantially altered, the current contractual relationship is long-in-the-tooth and not easily tracked by OHA’s monitoring programs.*

**Budget/fiscal impacts:**

*The County will pay up to \$50,000.00 to BestCare for these services.*

**Requested by:**

*Eric Blaine, County Counsel*

*541.416.3919*

*Eric.Blaine@crookcountyor.gov*

**Presenters:**

*Katie Plumb, Public Health Director*

**Legal review (only if requested):**

*Legal drafted the amendment.*

**Elected official sponsor (if applicable):**

*N/A*

AMENDMENT 6  
To Community Mental Health Program Services Agreement

This Amendment 6 amends that certain Community Mental Health Program Services Agreement (hereinafter “the Agreement”) dated December 1, 2019, by and between Crook County, a political subdivision of the State of Oregon (hereinafter “County”) and BestCare Treatment Services, Inc., a nonprofit corporation (hereafter “BestCare”). County and BestCare may individually be referred as “a party,” or may together be referred to as “the parties.”

RECITALS

- A. County operates a School Based Health Center (“SBHC”) in Prineville, Oregon, in accordance with the State of Oregon Standards for School Based Health Centers; and
- B. The County is a party to an intergovernmental agreement with the State of Oregon, designated IGA # 180007, which requires the provision of service healthcare services in the Crook County area. These services are described on documents entitled “Program Elements,” one of which is Program Element # 44 “School Based Health Centers (SBHC);” and
- C. The County wishes to subcontract, in accordance with the terms of IGA # 180007, with BestCare for the provision of Program Element # 44 services at the SBHC; and
- D. These grant funds are to be used to pay towards 1.0 FTE position, to provide those additional mental health services to be provided as the Crook County School Based Health Center.

AGREEMENT

Now, therefore, in consideration of the mutual covenants made herein, the sufficiency of which is acknowledged, the parties agree as follows:

- 1. Adoption of Recitals. The above Recitals are incorporated into this Amendment 6, as term of contract and not as mere recitals.
- 2. Duration. This Amendment 6 will become effective July 1, 2023 regardless of the date when executed by the parties. Unless sooner terminated, this Amendment 6 will continue until June 30, 2025.
- 3. Additional Services.
  - a. BestCare will perform the requirements of Oregon Health Authority Program Element #44 Section 4(g), the Mental Health Expansion Grant program, the terms of which are attached hereto and by this reference incorporated herein, as it may be amended from time to time.
  - b. BestCare will provide a qualified mental health provider familiar within the School Based Health Center system with the ability to collect and report on mental health encounter visits.
  - c. BestCare will be expected to provide services that are culturally and linguistically appropriate to the target population.

d. BestCare will be expected to track data related to mental health encounters as outlined in the SBHC Certification standards. SBHC Certification standards are available at [www.healthoregon.org/sbhc](http://www.healthoregon.org/sbhc).

e. BestCare will record mental health encounter data as regards to its services under this Amendment 6, and will provide such encounter data to the State Program Office through the School Based Health Center Coordinator as required by Program Element # 44.

f. BestCare will work with the School Based Health Center Coordinator to submit mid-project reports as required by Program Element # 44.

g. If unable to do an alcohol and other drug assessment (not screening) onsite, BestCare will provide the services and share information necessary to provide coordinated care for the student with the SBHC provider – Mosaic Medical.

4. Compensation. On or before the 15<sup>th</sup> of any month, BestCare will provide a billing invoice (in the form attached as Exhibit A of this Amendment 6) via email to [health-finance@crookpublichealthor.gov](mailto:health-finance@crookpublichealthor.gov) showing the costs incurred in the preceding month. County will pay invoices on the 10<sup>th</sup> or 25<sup>th</sup> days of the month based upon date the invoice is received. The total compensation due to BestCare under this Amendment 6 will not exceed \$50,000.00.

5. Independent Contractor. It is understood and agreed that BestCare, while performing services pursuant to this Agreement, is at all times acting as performing as an independent contractor.

6. Tax Duties and Liabilities. Neither federal, nor state, nor local income tax or payroll tax of any kind will be withheld or paid by Crook County. BestCare is responsible to pay, according to law, BestCare's income tax and self-employment tax, if applicable.

7. Except as modified by this Amendment 6, the terms of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, County and BestCare have caused this Amendment 6 to be executed effective as of the date described herein.

**BestCare Treatment Services,  
Inc.**

**Crook County, a political sub-  
division of the State of Oregon**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Judge Seth Crawford

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Commissioner Jerry Brummer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Commissioner Brian Barney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Program Element #44: School-Based Health Centers (SBHC)**

**OHA Program Responsible for Program Element:**

Public Health Division/Center for Prevention & Health Promotion/Adolescent, Genetic & Reproductive Health Section

- Description.** Funds provided under this Agreement for this Program Element may only be used in accordance with, and subject to, the requirements and limitations set forth below, to deliver School-Based Health Centers (SBHC) Services. SBHC Services must only be used to support activities related to planning, oversight, maintenance, administration, operation, and delivery of services within one or more SBHC as required by OHA's SBHC funding formula.

Many school-aged youth do not routinely access preventive health care services due to barriers such as insurance, cost, transportation and concerns around confidentiality. According to the 2019 Oregon Healthy Teens Survey, approximately 66% of 11<sup>th</sup> graders and 63% of 8<sup>th</sup> graders reported having not seen a doctor or nurse for a check-up in the last 12 months. SBHCs provide physical, mental and preventive health services to all students regardless of their ability to pay at an easily accessible location for students and families.

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

- Definitions Specific to School-Based Health Centers.**

**Biennium:** June 1 to June 30 of the specified years as set forth on the first page of this Agreement.

**School- Based Health Center ("SBHC"):** has the meaning given the term in ORS 413.225

**SBHC Standards for Certification:** In order to be certified as a SBHC, a SBHC must meet all requirements for certification in the SBHC Standards for Certification. SBHC Standards for Certification are found at:

<http://www.oregon.gov/oha/PH/HEALTHYPEOPLEFAMILIES/YOUTH/HEALTHSCHOOL/SCHOOLBASEDHEALTHCENTERS/Documents/SBHC%20Certification/SBHCstandardsforcertificationV4.pdf>

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



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

Program Components	Foundational Program					Foundational Capabilities						
	CD Control	Prevention and health promotion	Environmental health	Population Health Direct services	Access to clinical preventive services	Leadership and organizational competencies	Health equity and cultural responsiveness	Community Partnership Development	Assessment and Epidemiology	Policy & Planning	Communications	Emergency Preparedness and Response
<i>Asterisk (*) = Primary foundational program that aligns with each component</i>					<i>X = Foundational capabilities that align with each component</i>							
<i>X = Other applicable foundational programs</i>												
<b>Compliance of SBHC Standards for Certification</b>	X	X		X	*	X	X	X	X	X		
<b>Planning Grant for SBHCs</b>				*		X	X	X		X		
<b>Mental Health Expansion Grants</b>		X		X	*	X	X	X	X	X		

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

- Communicable Disease Control – Gonorrhea rates; and
- Access to Clinical Preventive Services – Effective Contraceptive Use.

c. **The work in this Program Element helps Oregon’s governmental public health system achieve the following Public Health Modernization Process Measure:**  
Not applicable

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

- Funds provided under this Agreement for SBHC Services must only be used to support activities related to planning, oversight, maintenance, administration, operation, and delivery of services within one or more SBHC as required by OHA’s SBHC funding formula.
- All SBHC Services must be delivered in accordance with OAR Chapter 333, Division 28, a copy of which is accessible on the Internet at <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1243>
- The SBHC Standards for Certification includes administrative, operations and reporting guidance, and minimum standards and requirements in the areas of: Certification Process, Sponsoring Agency, Facility, Operations/Staffing, Comprehensive Pediatric Care, Data Collection/Reporting, and Billing.
- LPHA must provide oversight and technical assistance so that each SBHC in its jurisdiction meets SBHC Certification Requirements as set forth in OAR 333-028-0220.

- e. LPHA must assure to OHA that all certification documentation and subsequent follow-up items are completed by the requested date(s) in accordance with the OHA's certification review cycle as set forth in OAR 333-028-0230.
- f. This Section 4.f. is applicable only to LPHA if LPHA has been selected to receive a SBHC Planning Grant from OHA. LPHA will be notified that the 2021 Oregon Legislative Assembly approved and appropriated funds for SBHC Planning Grants or if the OHA SBHC State Program Office (SPO) has other funds available for SBHC development.

An SBHC Planning Grant provides one-time funds to assist the LPHA in strategic planning for implementing SBHC Services in the LPHA county jurisdiction. The following terms and conditions apply if the OHA selects a LPHA to receive either of the following SBHC Planning Grants:

**(1) Strategic Planning**

- (a) LPHA must create and implement a collaborative strategic plan in partnership with community agencies in order to develop, implement, and maintain SBHC Services to serve school-age children. This plan must have the SBHC sites open, operational and ready for certification before the end of the 2021-2023 Biennium.
- (b) LPHA must participate in monthly technical assistance calls at times mutually agreed to between SPO and LPHA Planning grantees. In addition, each SBHC site may have at least two technical assistance visits by a SPO staff member.
- (c) LPHA must implement the OHA approved SBHC strategic plan and have the planned SBHC Services operational and ready for certification before the end of the Biennium. Sites must become certified by June 30, 2023 to be eligible to receive SBHC awards in accordance with the approved funding formula in effect, provided certification standards are maintained and contingent on legislatively adopted budgets.

**(2) Advanced Phase Strategic Planning**

- (a) LPHA must create and implement a collaborative strategic plan in partnership with community agencies in order to develop, implement, and maintain SBHC Services to serve school-age children. This plan's target must have the SBHC sites operational and ready for certification within the first fiscal year of the award.
- (b) LPHA must participate in monthly technical assistance calls at times mutually agreed to between SPO and LPHA Advance Phase Planning grantee. In addition, each SBHC site may have at least one technical assistance visit by a SPO staff member.
- (c) LPHA must become certified within the first year of the award to be eligible to receive SBHC awards in accordance with the approved funding formula in effect, provided certification standards are maintained and contingent upon legislatively approved budgets.

- g. This Section 4.g. is only applicable to LPHA if LPHA is selected to receive a Mental Health Expansion Grant from OHA. LPHA will be notified that the 2021 Oregon Legislative Assembly approved and appropriated funds for SBHC Mental Health Expansion Grants.

- (1) Funds provided under this Agreement must be used to support mental health capacity within the SBHC system by:

- (a) Adding mental health staff or expanding current mental health staff hours, with the ability to collect and report on mental health encounter visits; and/or
      - (b) Supporting mental health projects (as defined by grant proposal) within the SBHC system
    - (2) LPHA must provide services that are culturally and linguistically appropriate to their target population
  - h. This Section 4.h. is only applicable to LPHA if LPHA is selected to receive a School-Linked Telehealth Grant from OHA. LPHA will be notified that the 2021 Oregon Legislative Assembly approved and appropriated funds for School-Linked Telehealth Projects. The following terms and conditions apply if the OHA selects a LPHA to receive a School-Linked Telehealth Project Grant:
    - (1) SBHC must be the distant site (where the provider is located) that provides telehealth in conjunction with a school nurse at the originating site (where the patient is receiving the telehealth service) as outlined in HB 2591 (Chapter 619, Or Laws, 2021).
    - (2) Funds provided under this Agreement must be used to support a School-Linked Telehealth Pilot Project by:
      - (a) Supporting staffing, purchase of technical equipment, costs associated with conducting a needs assessment, and/or supporting technical assistance related to School-Linked Telehealth Pilot planning and operations; and
      - (b) Supporting increased school nurse capacity and offsetting costs incurred by the school district/educational service district's participation in the pilot project.
    - (3) LPHA must participate in monthly technical assistance or learning collaborative calls with other School-Linked Telehealth Grantees and engage in evaluation planning and data collection with the SPO.
    - (4) **Reporting**
      - (a) LPHA must submit a workplan providing an overview of planning and implementation activities and a tentative timeline for their completion no later than June 1, 2022.
      - (b) LPHA must submit results of planning activities, youth engagement, resource mapping and process developments on an ongoing basis but no later than May 1, 2023.
      - (c) LPHA must submit a final report no later than May 1, 2023. SPO will provide additional reporting guidance in early Spring 2023.
- i. This Section 4.i. is only applicable to LPHA if LPHA is selected to receive one-time funding from OHA. OHA occasionally provides one-time grant funding to support activities related to oversight, maintenance, administration, operation, and delivery of services within one or more SBHCs. LPHA will be notified when these funding opportunities become available.
  - (1) If one-time only funding becomes available, OHA will issue one-time funding guidance and LPHA may submit an application outlining activities, timeline and budget. The application is subject to approval by the OHA School-Based Health Center program.
  - (2) If LPHA is awarded one-time grant funds, it will fulfill all activities and use funds in accordance with funding guidance and OHA-approved application and submit reports as prescribed by OHA.

5. **General Revenue and Expense Reporting.** LPHA must complete an “Oregon Health Authority Public Health Division Expenditure and Revenue Report” located in Exhibit C of the Agreement. These reports must be submitted to OHA each quarter on the following schedule:

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

6. **Reporting Requirements.**

- a. LPHA must submit client encounter data in a form acceptable to OHA and in accordance with the SBHC Standards for Certification two times a year, no later than January 31 for the previous calendar year (July 1 – Dec 31) and no later than July 15 for the preceding service year (July 1 – June 30).
- b. LPHA must submit annual SBHC Key Performance Measure (KPM) data in a form acceptable to OHA and in accordance with the SBHC Standards for Certification no later than October 1 for the preceding service year (July 1 –June 30). The current list of KPMs can be found at: <http://www.oregon.gov/oha/PH/HEALTHYPEOPLEFAMILIES/YOUTH/HEALTHSCHOOL/SCHOOLBASEDHEALTHCENTERS/Pages/data-requirements.aspx>
- c. LPHA must submit annual SBHC financial data via the SPO’s online Operational Profile in the form acceptable to OHA no later than October 1 for the preceding service year (July 1-June 30).
- d. LPHA must submit annual hours of operation and staffing via the SPO’s online Operational Profile in the form acceptable to OHA no later than October 1 for the current service year.
- e. LPHA must submit completed annual patient satisfaction survey data no later than June 30.
- f. LPHA must complete the triennial School-Based Health Alliance SBHC Census Survey. Current SBHC Census Survey timeline and details can be found at <http://www.sbh4all.org/>
- g. If LPHA received a SBHC Planning Grant from OHA, LPHA must submit a copy of its SBHC strategic plan and proposed implementation budget to OHA for approval. OHA will supply the due date and required format for the reports.
- h. If LPHA received a Mental Health Expansion Grant from OHA, LPHA must track data related to mental health encounters as outlined in the SBHC Standards for Certification.
- i. If LPHA received a Mental Health Expansion Grant from OHA, LPHA must participate in an evaluation for their support project in collaboration with the SPO.
- j. If LPHA received a Mental Health Expansion Grant from OHA, LPHA must participate in check-in meetings (via phone or email) with the SPO and submit 3 mid-project reports and a final project report. OHA will work with the LPHA to schedule calls and supply the due date and required format for the reports

7. **Performance Measures.**

LPHA must submit annual SBHC KPM data in a form acceptable to OHA and in accordance with the SBHC Standards for Certification no later than October 1 for the preceding service year (July 1 –June 30).



## Agenda Item Request

**Date:**

*August 28, 2023*

**Meeting date desired:**

*September 20, 2023 - Court Session Discussion Item*

**Subject:**

*Presentation for \$25,000 County support request - same as prior years.*

**Background and policy implications:**

*The support to SWCD provides technical support to county residents and landowners.*

**Budget/fiscal impacts:**

*This item was included in the FY24 budget at budget approval*

**Requested by:**

*Christina Haron, CPA      Crook County Finance Director*

**Presenters:**

*Andy Gallagher      District Manager for Crook County Soil and Water Conservation District*

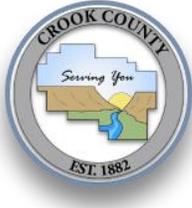
**Legal review (only if requested):**

*NA*

**Elected official sponsor (if applicable):**

*NA*

## AGENDA ITEM REQUEST



**Date:**

**Meeting date desired:**

**Subject:**

**Background and policy implications:**

**Budget/fiscal impacts:**

**Requested by:**

**Presenters:**

**Legal review (only if requested):**

**Elected official sponsor (if applicable):**

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**CROOK COUNTY PRINEVILLE AIRPORT S39  
FIXED BASE OPERATOR LEASE AGREEMENT AND LICENSE**

This Crook County Prineville Airport S39 Fixed Base Operator Lease Agreement and License (“Agreement” or “License”) is made and entered into this 20th day of September, 2023 and effective October 1, 2023 (the “Effective Date”), by and between Crook County, a political subdivision of the State of Oregon (County) and Hood Tech Corp. Aero Inc., d/b/a Hood Aero (“Operator,” “Contractor,” or “Lessee”). County and Operator may hereinafter be referred to as the “Parties” or individually as a “Party.”

**RECITALS**

WHEREAS, County is the owner of the real property known as the Crook County Prineville Airport S39 (Airport);

WHEREAS, the Airport is currently managed by the City of Prineville pursuant to an Intergovernmental Agreement and operated by an Airport Manager (the Airport Manager and any persons or entities hereafter responsible for the management of the Airport shall be referred to as the “Manager”);

WHEREAS, the Airport is the recipient of certain Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants, with County as sponsor, and is thus subject to ongoing compliance with all FAA regulations and guidance;

WHEREAS, Operator was selected pursuant to a competitive solicitation issued May 23, 2023, to which Operator provided a responsive proposal; and

WHEREAS, Operator desires to perform various Fixed Base Operator activities at the Airport.

**AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

**1. AGREEMENT TO LEASE.**

In consideration of the payments, obligations, and covenants to be performed by Operator under this Agreement, County hereby agrees to lease the Premises, as defined below, to Operator, and Operator agrees to lease the Premises on the terms and conditions set forth in this Agreement as of the Effective Date.

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## **2. PREMISES.**

### **A. Leased Premises.**

The Leased Premises for the purposes of this Agreement is located at the Airport in Crook County, Oregon, and listed below and depicted on the Exhibit A, attached herein:

- General Aviation Building –
  - 1209 SF FBO dedicated
  - 826 SF Shared
- North Aircraft Storage Hangar – 6500 SF FBO dedicated
- South Aircraft Hangar – 8000 SF FBO dedicated
- Manufactured Home for active employees – approx. 1200 SF

### **B. Additional Property.**

In addition to the Leased Premises, Operator shall have the use of, along with Manager, for the sole purpose of fulfilling the obligations of this Agreement and provided said property is maintained and insured as described below, of the following (collectively, the “Vehicles”):

- 2017 Ford F250 w/Boss plow, radio, transfer tank
- Jeep Cherokee courtesy car
- Dodge Dakota courtesy car
- John Deere tractor with mower and snow pusher, and fork attachment

### **C. Condition of Leased Premises.**

Operator warrants and represents that Operator has carefully and completely examined and inspected the Leased Premises, and Operator fully understands its responsibilities and obligations with respect to the Leased Premises and this Agreement. Operator accepts the Leased Premises in an “AS IS”, “WHERE IS” condition without representation or warranties from County as to the condition, suitability, environmental condition, or sufficiency of the Leased Premises for engaging in the fixed base operator activity described or contemplated by this Agreement. Operator, at its sole cost and expense, agrees that it shall be fully responsible for the remediation of any violation of any applicable federal, state, or local environmental regulations or standards from its actions on the Leased Premises.

## **3. TERM.**

### **A. Initial Term.**

Starting on the Commencement Date, the Premises will be leased for a term of Five Years (the “Initial Term”), unless earlier terminated pursuant to the terms of this Agreement. Notwithstanding the prior sentence, the North Aircraft Hangar Term will be for one year. Operator may renew the leasehold interest in the North Aircraft Hangar for an additional year by sending written notice to the County not more than 180 days or less than 90 days prior to the end of the Term for the North Aircraft Hangar, provided such Term does not extend beyond the length of this Agreement.



**B. Extended Term.**

If Operator is not in default under the terms of this Agreement at the expiration of the Initial Term, Operator may request negotiations for an Extended Term by providing written notice requesting such Extended Term to the County not more than 180 days or less than 90 days before the expiration of the Initial Term. Upon such receipt, County will respond in writing within 45 calendar days whether an Extended Term is consistent the future goals of the Airport, and, if so, negotiate an Extended Term in good faith with Operator.

**4. RENT AND PAYMENTS.**

Operator agrees to pay to County from the Commencement Date until termination of this Agreement the following sums and amounts:

**A. Base Rent.**

Operator shall pay Base Rent of Forty-One Hundred Thirty Dollars (\$4,130.00) monthly. Rent for the first month is due and payable upon the signing of this Agreement and due by the first day of the month each month thereafter. Base Rent is allocated as follows:

- General Aviation Building: \$1,250.00/month (utilities included)
- North and South Hangar: \$1,680.00/month
- Manufactured Home: \$1,200.00/month

**B. Rent Adjustments.**

For the duration of the Term, before each anniversary of the Commencement Date, the County will adjust the rent in the same percentage as the increase, if any, in the Consumer Price Index (the “Index”) published by the United States Department of Labor, Bureau of Labor Statistics. The increase will be computed by comparing the schedule entitled “U.S. City Average, All Items, All Urban Consumers, 1982–84=100” for the month of July in the year of the Commencement Date or the prior year’s Rent, as applicable, and July’s figures for the current year of the Adjustment Date. All comparisons will be made using Index figures derived from the same base period. If the Index cited above is revised or discontinued during the Term, then the Index that is designated to replace it by BOMA Oregon will be used.

**C. Additional Rent.**

In addition to Base Rent, Operator agrees to pay County, as Additional Rent, the following sums and amounts on a monthly basis, due on the 20<sup>th</sup> day of each month. Along with Additional Rent, Operator shall supply County a monthly accounting and report of all income derived, on a form acceptable to County and Manager. The Additional Rent and monthly report shall also include copies of the daily airport inspection, as further described below.

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**i. Tiedown Fees.**

Operator shall deliver to County 50% of all tie-down revenue generated at the Airport. Operator shall provide to County a monthly accounting of all tiedown revenue received, as further described below.

**ii. Fuel Flowage Fees.**

Operator shall deliver to County \$0.10 per gallon of fuel revenue from direct flowage fees and split “other flowage fees,” as defined in the Proposal, between Operator and County 50/50, currently estimated at \$0.10 per gallon to the County. This amount will be reviewed annually and may be adjust through an amendment to this Agreement. Operator shall maintain and provide its own fuel. The initial inventory of fuel is the property of County; Operator shall reimburse County for all said fuel at the current market rate.

**D. Payments to Operator.**

County/Manager shall pay to Operator an hourly fee of \$33.00 for any basic labor requested from Operator beyond the scope of this Agreement. Any such work will be requested via a signed task order from the Manager. At the anniversary of the Commencement Date and each year thereafter, the hourly fee will be adjusted pursuant to section 4B above.

**5. EXHIBITS.**

The following documents which are attached to this Agreement are incorporated herein and by this reference made part hereof:

- Exhibit A: Maps of the Leased Premises
- Exhibit B: Maintenance Matrix
- Exhibit C: Airport Facility Self-Inspection Checklist Template
- Exhibit D: Equipment List
- Exhibit E: Required Terms for All Public Contracts
- Exhibit F: Independent Contractor Status
- Exhibit G: Protected Information
- Exhibit H: Business Associate Agreement

Additionally, the following documents not attached to this Agreement are nonetheless fully incorporated into this Agreement and made a part hereof: Prineville Crook County Airport Informal Solicitation – Fixed Base Operation Prineville Airport (S39), dated May 23, 2023 (the “Solicitation”) and Hood Aero Aviation Services and New Moon Aviation Proposal submitted in response to the Solicitation (the “Proposal”).

**6. OPERATOR’S RIGHTS.**

**A. Quiet Enjoyment.**

County agrees that upon payment of the rent and performance of the covenants and obligations in this Agreement, Operator shall peaceably have and enjoy the Leased Premises and all rights and privileges of the Airport, its appurtenances, and facilities granted herein.

**B. Common Areas.**

Operator will have the nonexclusive right to use the Shared Areas, as depicted on Exhibit A, in cooperation with the County and Manager.

**C. Non-Exclusive Use of Public Airport Facilities.**

Subject to the Minimum Standards in effect now or in the future, Operator shall have the right of nonexclusive use in common with the others authorized to do so, of all public Airport roads, taxiways, runways, facilities, and improvements. Nothing herein grants Operator any right to store or dispose of any aircraft, parts, fuel or oil, equipment, waste or other materials on public areas of the Airport.

**D. Access to Public Utilities and Services.**

The allocation for utilities provided and their cost is as described on the Maintenance Matrix, attached herein as Exhibit B.. For any additional utilities, Operator may contract for and make connections to public utility services as are available, and County, when appropriate and necessary, may grant easements in suitable locations for such connections. Operator shall be solely responsible for costs and disbursements incurred pursuant to any such contracts and connections.

**E. Fueling Facility.**

Operator is authorized to operate the aviation fueling facility at the Airport. Operator shall at all times have the appropriate aviation fuels available for sale and shall be solely responsible for the safe operation of the fueling facility and for procuring fuel for operation of the fuel facility.

**F. Tiedowns.**

Operator is authorized to use and utilize 26 aircraft tiedowns, provided all income derived therefrom is accounted for, reported, and allocated as described herein.

**7. PERMITTED ACTIVITIES.**

**A. Commercial Aeronautical Activities Provider.**

Commercial Aeronautical Activities Provider (CAAP), shall mean, for the purposes of this Agreement, any person or entity who performs the basic, essential aeronautical services as contemplated by the definitions of “Fixed Base Operator” (FBO) or “Specialized Aviation Service Operations” (SASO) as described in FAA’s Advisory Circular No. 150/5190-7 (2006).

**B. Operator’s Permitted Activities.**

Execution of and adherence to this Agreement shall constitute a License to Operator to perform the following minimum required FBO products, services, and facilities:

- Retail aircraft fueling services (100LL and Jet A) and self-service fueling
- Aircraft ground handling services (including parking guidance, towing, etc.)
- Crew and passenger services (including baggage handling, ground transportation arrangements, etc.)

- Operation of the Unicom radio, monitor the CTAF, and issue necessary public information involving airport operations and status (NOTAMs)
- Collection of flowage fees from contractors supplying their own fuel
- Tie-down and apron parking rental management
- Crew and passenger amenities and facilities
- Emergency service to disabled general aviation aircraft (i.e., towing/transporting disabled aircraft)
- Sale of miscellaneous retail pilot supplies

**C. Additional Services.**

Operator may provide the additional services as described in the Proposal:

- Aircraft maintenance (through New Moon Aviation)
- Aircraft avionics sales and service
- Aircraft part sales
- Flight instruction and ground school
- Aircraft rentals and sales
- Charter services

Services beyond those contemplated in the Solicitation or Proposal require the express written consent of the County before initiation.

**D. Subcontracting.**

Operator may not subcontract or assign any portion of this Agreement without the express written consent of and in the sole discretion of the County. Notwithstanding the prior sentence, Operator may subcontract aircraft maintenance services to New Moon Aviation provided said subcontractor provides and maintains general liability, auto liability, professional liability (as applicable), and workers' compensation insurance with coverages equivalent to those required of Operator in this Agreement. Contractor shall require certificates of insurance from all subcontractors as evidence of coverage.

**8. OPERATOR'S OBLIGATIONS AND RESPONSIBILITIES.**

Operator's license is specifically conditioned on the following obligations and responsibilities.

**A. Facilities on the Leased Premises.**

Operator shall maintain the Leased Premises and facilities and perform the items designated as the responsibility of the Operator on the *Maintenance Matrix* (the "MM") attached hereto as Exhibit B. Moreover, other than those items expressly listed among County's responsibilities on the MM, it shall be Operator's responsibility, at its sole cost and expense, to continually keep and maintain the Leased Premises and all improvements, systems, and equipment located thereon (whether constructed by County or Operator) clean and neat, free of waste material and debris, in good

operational condition and repair and to make all necessary and appropriate preventative maintenance, repairs, and replacements.

**B. Reports.**

On the 20<sup>th</sup> day of each month, Operator shall submit to Manager and County, along with Additional Rent as described above, a comprehensive report and summary. The report shall include an accounting of all income derived from fuel sales and tie-down fees, copies of daily Airport Facility Self-Inspections, the template for which is incorporated herein as Exhibit C, and maintenance performed on the Vehicles or the Leased Premises.

**C. Public Benefit.**

Operator agrees to operate the Leased Premises for the use and benefit of the public without unjust discrimination and to make available to the public on fair and reasonable terms all leased Airport facilities and services adequate to meet demand at reasonable prices so as to result in a reasonable profit to Operator. Operator shall not exercise or grant any right or privilege that operates to prevent any person, firm, or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own employees that it may choose to perform.

**D. Operational Requirements.**

- i. Operator shall offer fuel and line services to the public Monday through Saturday between the hours of 8 a.m. and 5 p.m. and 9 a.m. through 1:30 p.m. on Sundays, subject to official holidays and Airport closures and on call at all other times.
- ii. Operator shall offer courtesy vehicles from 8 a.m. to 5 p.m. daily and otherwise by arrangement.
- iii. Rates or charges for any and all activities and services of Operator, other than those specifically listed herein, shall be determined by Operator, subject to the requirements that all such rates or charges shall be reasonable and equally and fairly applied to all CAAP customers.
- iv. Operator shall be a full-time, financially sound enterprise, with an adequately staffed and equipped facility, including ample office space.
- v. Upon request and at any time, Operator shall satisfy Manager that Operator is technically and financially able to perform the services mentioned in this Agreement. The demonstration of financial responsibility may include submission of the latest balance sheet, credit references, and any other proof requested.
- vi. Operator shall pay all taxes and assessments upon any structures, personal property, and commercial activities contemplated in this Agreement.
- vii. Operator shall comply with all local ordinances, regulations, policies, and minimum standards, as they exist and may be amended.

**E. Vehicle Maintenance and Insurance.**

Operator shall periodically maintain and keep in good working order the Vehicles. The delineation of maintenance obligations for the Vehicles is included in the Maintenance Matrix at Exhibit B. Additionally, the Vehicles shall be covered under insurance policies of Operator.

#### **F. Insurance Requirements.**

Operator shall be responsible for any and all property damage insurance for the Leased Premises, the Vehicles, aircraft, and other property of Operator's at Airport. Operator shall protect the public generally, all customers, County, the City of Prineville (City), and Airport, including officers, employees, and agents of each from any and all lawful damages, claims, or liability. Operator, at its sole cost and expense, shall procure and maintain at all times, in full force and effect during the Term of this Agreement, a policy or policies of insurance, naming Crook County and the employer of Manager (currently, City of Prineville) as additional insureds and covering all risks arising directly or indirectly out of Operator's CAAP activities at the Airport, including but not limited to (1) coverage for hangar premises liability of others; (2) aircraft liability; and (3) hangar keeper's liability coverage with limits adequate to cover the potential damage. The limits for all such policies shall be the current statutory limit of liability for Operator under the Oregon Tort Claims Act or \$1,000,000 per occurrence and \$2,000,000 in the aggregate, whichever is higher. Evidence of the required insurance coverages issued by an insurance company satisfactory to Manager shall be provided to Manager by way of a Manager-approved certificate of insurance upon commencement of this Agreement and annually thereafter. The certificate of insurance shall contain a requirement that the insurance company notify Manager 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30-day notice, Operator shall provide written notice to Manager within two calendar days after Operator becomes aware that its coverage has been cancelled or has been materially changed. Regardless of what circumstances caused Operator's insurance coverage to cease or be modified, it is Operator's responsibility to notify Manager.

#### **G. Release and Indemnification.**

Operator hereby assumes all liability and responsibility for property loss, property damage, and/or personal injury of any kind, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with its use of the Airport under this Agreement except to the extent caused by the gross negligence or willful misconduct of County, City, or Manager, its officers, agents, servants, or employees.

Operator covenants and agrees to, and does to the extent allowed by law, without waiving any defenses provided by law, hereby indemnify, hold harmless, and defend County, City, and Manager, its officers, agents, servants, and employees from and against any and all claims or lawsuits for either property damage or loss (including alleged damage or loss to Operator's business and any resulting lost profits) and/or personal injury, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with Operator's use of the Airport under this Agreement except to the extent caused by the gross negligence or willful misconduct of County or Manager, its officers, agents, servants, or employees.

Operator assumes all responsibility and agrees to pay County and Manager for any and all injuries or damages to County's property which arises out of or in connection with any and all acts or omissions of Operator, its officers, agents, employees, contractors, subcontractors, licensees or

invitees, except to the extent caused by the gross negligence or willful misconduct of County, City, Manager, its officers, agents, servants, or employees.

#### **H. Non-Discrimination.**

Operator and all heirs, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Agreement for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Operator shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The Operator and all heirs, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that:

- (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities;
- (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and
- (3) that the Operator shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

### **9. RIGHTS AND RESERVATIONS OF COUNTY.**

#### **A. Hazards.**

County reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, including, but not limited to, the right to prevent Operator from erecting or permitting to be erected any sign, building or other structure which, in the opinion of County, would limit the usefulness of the Airport, constitute a hazard to aircraft or diminish the capability of existing or future avigational or navigational aids used at the Airport.

#### **B. Development.**

County reserves the right to develop and improve the Airport as it sees fit, regardless of the desires or view of Operator, and without interference or hindrance by or on behalf of Operator. Accordingly, nothing contained in this Agreement shall be construed to obligate County to relocate Operator as a result of any such Airport developments or improvements.

**C. Subordination.**

This Agreement shall be subordinate to the provisions of any existing or future agreement between County and the United States Government, which relates to the operation or maintenance of the Airport and is required as a condition for the expenditure of federal funds for the development, maintenance or repair of Airport infrastructure.

**D. Non-Exclusive Rights.**

No rights or privileges granted with this License shall be construed to be exclusive to Operator. At all times Airport shall be available on reasonable terms to all types, kinds, and classes of aeronautical users and CAAPs without unjust discrimination.

**E. Inspections.**

County and Manager reserve the right to enter upon Operator’s facilities for the purpose of making inspections they deem appropriate for the proper enforcement of this Agreement.

**10. TERMINATION.**

**A. Expiration of Term.**

Unless agreed to otherwise in writing, this Agreement shall expire by its terms at the conclusion of the Term.

**B. Default.**

- i. If Operator fails to pay any rent, fees, or other charges due under this Agreement, County shall deliver to Operator a written invoice and notice to pay the invoice within thirty calendar days. If Operator fails to pay the balance outstanding within such time, County shall have the right to terminate this Agreement immediately;
- ii. Failure by Operator to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Agreement and such failure continues and is not remedied within 10 days after notice thereof is given to Operator;
- iii. County may terminate this Agreement if Operator fails to correct any dangerous condition or fails to abide by any term in this Agreement other than those expressly mentioned in this section 10B and such failure is not remedied within ten calendar days after such written notice from County or Manager; or
- iv. Operator becomes insolvent; Operator makes an assignment for the benefit of creditors other than a Leasehold Mortgagee as defined in the Lease Policy; Operator files a voluntary petition in bankruptcy; Operator is adjudged bankrupt or a receiver is appointed for Operator’s properties; the filing of an involuntary bankruptcy petition and Operator’s failure to secure a dismissal of the petition within 75 days after filing; or the attachment of or the levying of execution on the leasehold interest and Operator’s failure to secure discharge of the attachment or release of the levy of execution within 30 days.

///



## **11. REMEDIES.**

### **A. Remedies.**

Upon the occurrence of an event of Default, County may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Agreement:

- i.** County may terminate this Agreement by written notice to Operator;
- ii.** County or County's agent or employee may immediately or at any time thereafter, without terminating the Agreement, reenter the Leased Premises and the Improvements either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Leased Premises and the Improvements, to the end that County may have, hold, and enjoy the Leased Premises and the Improvements. RE-ENTRY OR TAKING POSSESSION OF THE LEASED PREMISES OR THE IMPROVEMENTS BY COUNTY WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS AGREEMENT UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO OPERATOR.
- iii.** Whether or not County retakes possession of or relets the Leased Premises and the improvements, County has the right to recover its damages, including without limitation all lost rentals, all legal expenses, all costs incurred by County in restoring the Leased Premises or otherwise preparing the Leased Premises and the improvements for reletting, and all costs incurred by County in reletting the Leased Premises and the improvements.
- iv.** To the extent permitted under Oregon law, County may sue periodically for damages as they accrue without barring a later action for further damages. County may in one action recover accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent reserved in this Agreement for the balance of the Term after the time of award and the fair rental value of the Leased Premises and the improvements for the same period, discounted at the time of award at a reasonable rate not to exceed 10 percent per annum. If County relets the Leased Premises and the improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises and the Improvements so relet during the term of the reletting.

### **B. County's Self-Help Right.**

If Operator at any time (a) fails to pay any tax or assessment in accordance with the provisions of this Agreement, (b) fails to make any other payment required under this Agreement, or (c) fails to perform any other obligation on its part to be made or performed under this Agreement, then after 10 days' written notice to Operator (or without notice in the event of an emergency) and without

waiving or releasing Operator from any obligation of Operator contained in this Agreement or from any default by Operator and without waiving County's right to take any action that is permissible under this Agreement as a result of the Default, County may, but is under no obligation to, (i) pay any tax, assessment, or make any other payment required of Operator under this Agreement, and (ii) perform any other act on Operator's part to be made or performed as provided in this Agreement, and may enter the Leased Premises and the Improvements for any such purpose, and take any action that may be necessary. All payments so made by County and all costs and expenses incurred by County, including reasonable attorney fees, in connection with the performance of any such act, will constitute additional Rent payable by Operator under this Agreement and must be paid to County on demand.

**C. No Waiver.**

No failure by County to insist on the strict performance of any agreement, term, covenant, or condition of this Agreement or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Operator, and no breach by Operator, may be waived, altered, or modified except by a written instrument executed by County. No waiver of any breach will affect or alter this Agreement, but each and every agreement, term, covenant, and condition of this Agreement will continue in full force and effect with respect to any other then-existing or subsequent breach.

**D. Remedies Cumulative and Nonexclusive.**

Each right and remedy provided for in this Agreement is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and County's or Operator's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise.

**12. SURRENDER.**

County is not responsible for any loss or damages occurring to any property owned by Operator or any sub-lessee. The provisions of this section 12 survive any termination of this Agreement.

**A. No Delay.**

Except as otherwise provided herein, on the last day of the Term or the last day Operator is entitled to possession of the Leased Premises under this Agreement, if the Parties are not then negotiating a new agreement, Operator shall surrender and deliver up the Leased Premises to County without delay.

**B. Removal of Property.**

If Operator is still entitled to possession, Operator may remove the improvements and personal property of Operator, a sublessee, or any other guest/invitee (collectively, "Operator's Property") on the Leased Premises so long as said improvements are removed on or before the last day that the Operator is entitled to possession of the Leased Premises. After removal of said improvements, Operator shall place the premises in a broom-clean condition. Any of Operator's Property that remains on the Leased Premises after the termination of this Agreement may, at the option of County (1) be deemed to have been abandoned by Operator or such sub-lessee and may either be retained by County as its property and all rights of Operator with respect to it will cease or be disposed of, without accountability, in such manner as County sees fit, or (2) if County gives written notice to Operator to such effect, such property shall be removed by Operator at Operator's sole cost and expense. If County elects to hold Operator to Operator's obligation to remove, County may effect a removal and place the cost of removal, transportation to storage, and storage on Operator.

**13. NOTICES.**

The Parties are required to update the information in this section. Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered (i) when hand-delivered to the other party at such addresses listed below, or at such other addresses as the receiving party may designate by proper notice to the sending party, or (ii) three (3) days after being deposited in the United States Mail, addressed as follows:

To County:  
Crook County/Prineville Airport S39  
Attn: Kelly Coffelt  
4585 SW Airport Road  
Prineville, OR 97754

To Operator:  
Hood Aero  
Attn: Brook Bielen  
3608 Airport Road  
Hood River, OR 97031

With a copy to:  
Crook County Counsel  
300 NE 3<sup>rd</sup> Street  
Prineville, OR 97754

**14. MISCELLANEOUS.**

**A. Governmental Powers.**

Nothing in this Agreement should be construed or interpreted to mean that the County waives, surrenders, or sacrifices any of its governmental powers in any way.

**B. Licenses and Permits.**

Operator shall, at its sole expense, obtain and keep in effect all licenses and permits necessary or required for its operations at the Airport.

**C. Relationship of the Parties.**

Nothing contained in this Agreement is to be deemed or construed, either by the parties to this Agreement or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between County and Operator.

**D. Signs.**

No signs are permitted on the exterior of any hangars without the express written consent of the Manager. Any such approved signs must conform with the size, color, location, and manner of display of other signs at the Airport and be maintained in a safe, neat, and well-kept condition.

**E. Cooperation between CAAPs.**

Operator must cooperate with all other CAAPs and users of the Airport and must at all times use the Airport in such a manner as to avoid interference with the activities of other Airport users and CAAPs.

**F. Survival.**

All agreements (including but not limited to indemnification agreements) set forth in this Agreement, the full performance of which are not required before the expiration or earlier termination of this Agreement, will survive the expiration or earlier termination of this Agreement and be fully enforceable thereafter.

**G. Severability.**

If any term or provision of this Agreement or the application of the Agreement to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.

**H. Non-Waiver.**

The failure of County to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein shall not constitute a waiver of County's right to insist upon appropriate performance or to assert any such right on any future occasion.

**I. Force Majeure.**

If either party's performance of an obligation under this Agreement (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any legal requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Agreement, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

**J. Costs and Attorney Fees.**

In the event there should be a breach or default under any provision of this Agreement and either party should retain attorneys or incur other expenses for the collection of rent, fees or charges, or the enforcement of performance or observances of any covenant, obligation or agreement, County and Operator agree that each party shall be responsible for its own attorneys' fees.

**K. Applicable Law and Venue.**

This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. The Parties agree that any civil action will be brought in the circuit court in Crook County.

**L. Signature Authority.**

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

**M. Time Is of the Essence.**

Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Agreement.

**N. Interpretation.**

In interpreting this Agreement in its entirety, the printed provisions of this Agreement and any additions written or typed thereon must be given equal weight, and there must be no inference, by operation of law or otherwise, that any provision of this Agreement may be construed against either party hereto. County and Operator acknowledge that they and their counsel have reviewed and revised this Agreement and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Agreement or any exhibit or amendment hereto.

**O. Headings, Captions, and References.**

The headings and captions contained in this Agreement are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this Agreement or any term or provision in it. The use of the term "Herein" refers to this Agreement as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neuter gender in this Agreement includes the masculine, feminine, and neuter genders and the singular form includes the plural when the context so requires.

**P. Entire Agreement.**

This Agreement contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Operator and County mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Agreement.

**Q. Counterparts.**

This Agreement may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective the date first set forth above.

**For Operator**

Hood Tech Corp. Aero Inc.

By: Andreas von Flotow  
Signature

Andreas von Flotow  
Printed Name

Title: President

Date: Sept. 18, 2023

**For Crook County**

CROOK COUNTY COURT

\_\_\_\_\_  
Seth Crawford, County Judge

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

\_\_\_\_\_  
Jerry Brummer, County Commissioner

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

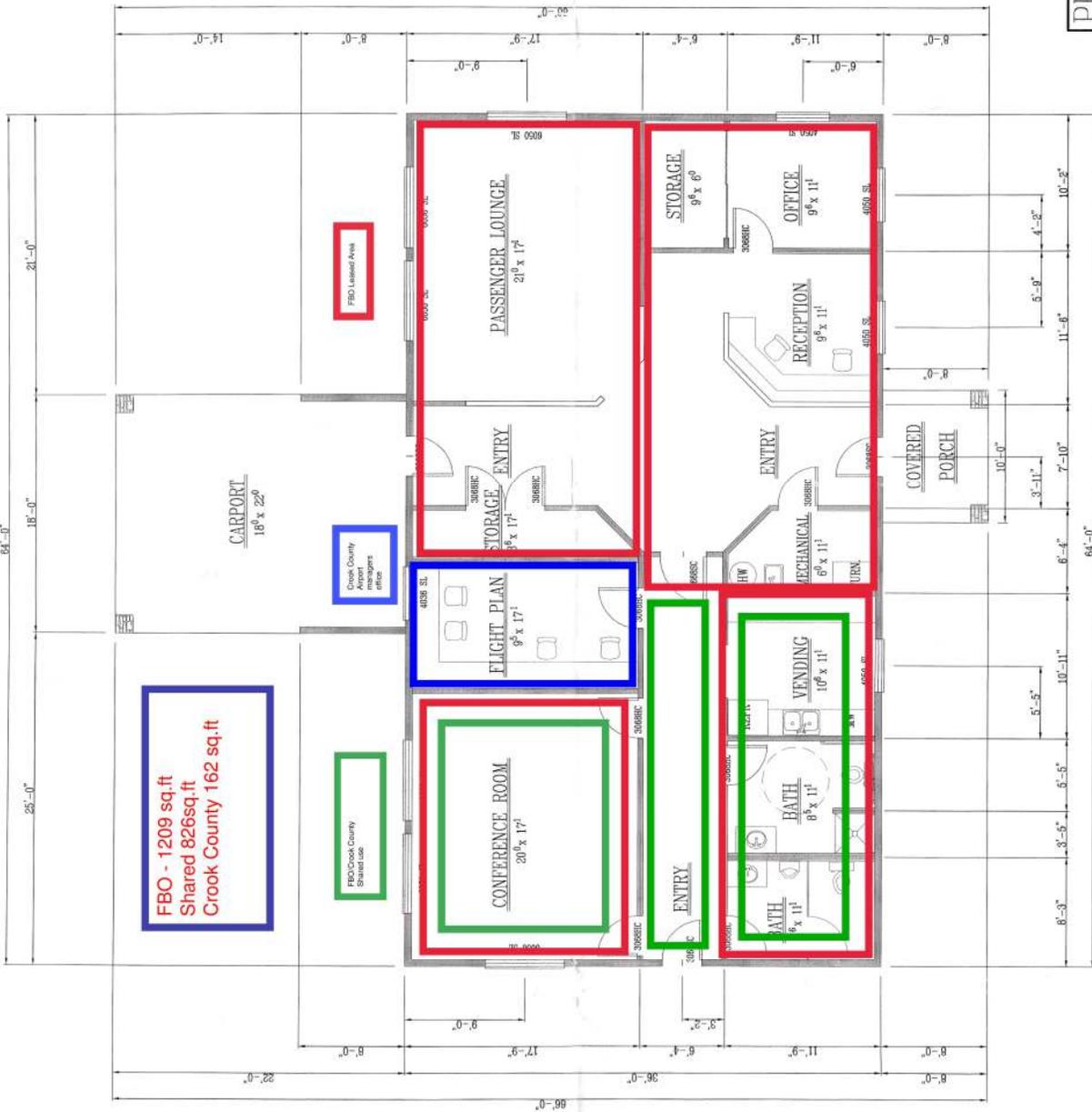
\_\_\_\_\_  
Brian Barney, County Commissioner

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









FLOOR PLAN  
1/4" = 1'-0"

<b>PRINEVILLE AIRPORT PLAN</b>	
DESIGNED BY <u>PP</u>	SCALE: 1/4" = 1'-0"
DRAFTED BY <u>MT</u>	DATE: 1-16-07

## Exhibit B

### Airport Maintenance Responsibility Matrix

<b>Tie Down Areas</b>	<b>Crook County</b>	<b>Hood Aero</b>
Tie down chains - Maintain in good condition, replace bad/missing chains within 10 days.		X
Concrete Tie Downs	X	
Pavement Markings	X	
Asphalt Pavement	X	
<b>Aviation Fueling Station - General Maintenance</b>	<b>Crook County</b>	<b>Hood Aero</b>
Fuel Tanks		X
Fuel Pumps		X
Fuel Lines between Tanks and Pumps		X
Fuel Hoses		X
Hose Reels		X
Static Cords and Clamps		X
Fuel Nozzles		X
Fuel Filters		X
Fuel Area Lighting		X
Ladders		X
QC Equipment		X
Spill Prevention		X
Spill and Inventory Monitors		X
Point of Sale System		X
Liscencing		X
Fuel trucks - go with FBO.		X
Major Repairs Due to Normal Wear and Tear (tanks, motors, etc)	X	
<b>Main Airport Office</b>	<b>Crook County</b>	<b>Hood Aero</b>
Lighting/Electrical including lightbulbs	X	
Plumbing	X	
Mechanical	X	
Building Envelope	X	
Windows/Doors	X	
General Cleaning		X
Specialized Cleaning (carpet, windows, etc.)		X
Ammenities - Vending Machines, Decroations		X
Computers and Radios for daily activites.		X
Phone system / Telecommunications	X	
AWOS Computer	X	
Security Cameras	X	
T.V.s and wall mounted monitors	X	
Furniture		X
Applicances		X
Trash service		X
Power/water/sewer	X	

## Exhibit B

<b>Equipment Storage Area</b>	<b>Crook County</b>	<b>Hood Aero</b>
Gravel Area		X
<hr/>		
<b>Hangars</b>	<b>Crook County</b>	<b>Hood Aero</b>
Light bulbs		X
Mechanical Filters and annual servicing		X
Plumbing fixtures		X
Plumbing internal	X	
Electrical - Light Ballasts, sockets, made part of the building	X	
Doors	X	
Windows	X	
Roof	X	
Walls - Structural	X	
Utlities		X
<hr/>		
<b>Manufactured Home</b>	<b>Crook County</b>	<b>Hood Aero</b>
Light bulbs		X
Mechanical Filters and annual servicing		X
Plumbing fixtures		X
Plumbing internal	X	
Electrical - Light Ballasts, sockets, made part of the building	X	
Doors	X	
Windows	X	
Roof	X	
Walls - Structural	X	
Utlities (power/water/sewer)		X
<hr/>		
<b>Equipment</b>	<b>Crook County</b>	<b>Hood Aero</b>
Pickup		X
Tractor		X
Weed Eater		X
Mower		X
FOD Machine		X
Closure Crosses		X
Snow Plow Truck	X	
<hr/>		
<b>Runways, taxiways, aprons, general grounds outside of lease areas</b>	<b>Crook County</b>	<b>Hood Aero</b>
Mowing		X
FOD Removal		X
Pavement Markings		X
Gravel Shoulders		X
<hr/>		
<b>2017 Ford F250</b>	<b>Crook County</b>	<b>Hood Aero</b>

## Exhibit B

Maintenance of fluid levels (oil, washer, transmission, differential, brake, power steering)		X
Oil changes		X
Oil filter		X
Air filter		X
Brake pads and rotors/drums		X
Tires		X
Headlights/taillights		X
Windshield		X
Major Repairs due to normal wear and tear (Engine rebuild, timing chain, radiator leak, transmission rebuild, electrical issues)	X	
Truck Radio	X	
Transfer Tank and Pump	X	
Transfer Tank Filter		X

### **Jeep Cherokee Courtesy Car**

**Crook County**

**Hood Aero**

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Maintenance of fluid levels (oil, washer, transmission, differential, brake, power steering)		X
Oil changes		X
Oil filter		X
Air filter		X
Brake pads and rotors/drums		X
Tires		X
Headlights/taillights		X
Windshield		X
Major Repairs due to normal wear and tear (Engine rebuild, timing chain, radiator leak, transmission rebuild, electrical issues)	X	

### **Dodge Dakota Courtesy Car**

**Crook County**

**Hood Aero**

---

Maintenance of fluid levels (oil, washer, transmission, differential, brake, power steering)		X
Oil changes		X
Oil filter		X
Air filter		X
Brake pads and rotors/drums		X
Tires		X
Headlights/taillights		X
Windshield		X
Major Repairs due to normal wear and tear (Engine rebuild, timing chain, radiator leak, transmission rebuild, electrical issues)	X	

### **John Deere Tractor**

**Crook County**

**Hood Aero**

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## Exhibit B

Maintenance of fluid levels (oil, washer, transmission, differential, brake, power steering)	X
Oil changes	X
Oil filter	X
Air filter	X
Brake pads and rotors/drums	X
Tires	X
Headlights/taillights	X
Windshield	X
Major Repairs due to normal wear and tear (Engine rebuild, timing chain, radiator leak, transmission rebuild, electrical issues)	X

<b>Boss Plow</b>	<b>Crook County</b>	<b>Hood Aero</b>
Cutting Edges		X
Light bulbs		X
Electrical System	X	
Hydraulic System	X	
<b>Mower/Snow Blade/Forks</b>	<b>Crook County</b>	<b>Hood Aero</b>
Greasing per manufacturer recommendations		X
Wear parts (bearings, blades, belts)		X

# Exhibit C

## Prineville/Crook County Airport Facility Self-inspection Checklist

Month/ Year \_\_\_\_\_

		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
<b>Airport Lighting</b>	Rwy/Taxi/REIL Lights and Housings																																
	PAPI Lights (Operation & Aim)																																
	Rotating Beacon (Beacon & Obstruction Lt.)																																
	Wind Sock (Illumination & Obstruction Lt.)																																
	AWOS Obstruction Lt.																																
	Pilot Controllability																																
Taxiway Reflectors																																	

<b>Pavement</b>	General Condition of Pavement																																
	Removal of FOD (Sand/ Gravel/Rocks)																																
	Condition of Rwy Markings																																
	Condition of Rwy Identification Signs																																

<b>Facility</b>	Wind Socks (Condition and Function)																																
	Fences, Gates (Fuel Pit & Facility)																																
	Camera's (Present and Clean)																																
	Fire Access Main Gate																																
	Directional Signs legible and correct																																
<b>Initials of inspector</b>																																	

<b>Comments</b>		<b>Comments</b>	

Ratings-

(S) Satisfactory, (D) Damaged, (U) Unsatisfactory, (R ) Repaired, (C ) Comment

## Exhibit D

### Airport Equipment List

2017 Ford F250 - includes radio, lights, transfer tank, Boss snow plow  
2022 John Deere Tractor - includes mower, snow pusher and fork attachments  
2005 Dodge Dakota - Curtesy car  
1999 Jeep Cherokee - Curtesy car  
Stihl Weed eater  
Stihl back pack blower  
Misc. hand tools - rakes, shovels, brooms, vice, tool box with screwdrivers, wrenches and su  
Fuel QC equipment - Buckets, testing equipment  
FOD Boss - Pull behind pick up FOD removal tool  
Fuel equipment supplies - spare parts and equipment. Nozzles, clamps, O-rings etc.

## **EXHIBIT E**

### **REQUIRED TERMS FOR ALL PUBLIC CONTRACTS**

#### **1. PAYMENTS AND DEBTS:**

- 1.1. Contractor shall promptly, as due, make payment to:
  - 1.1.1. Any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services;
  - 1.1.2. All persons supplying to Contractor labor or material for the performance of the work provided for in the Agreement;
  - 1.1.3. All contributions or amounts due the Industrial Accident Fund from Contractor or subcontractor incurred in the performance of this Agreement; and
  - 1.1.4. The Department of Revenue all sums withheld from employees under ORS 316.167.
- 1.2. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished under this Agreement.

#### **2. EMPLOYEES:**

- 2.1. Contractor and subcontractors shall either be employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- 2.2. Contractor shall comply with the prohibition on wage discrimination of ORS 652.220; failure to do so is a material element of the contract and a breach that entitles County to terminate this Agreement for cause.
- 2.3. For all work under this Agreement, Contractor may not employ an employee for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or when the public policy absolutely requires otherwise, and in such cases, Contractor shall pay the employee at least time-and-a-half pay for:
  - (a) All overtime in excess of eight hours in any one day or 40 hours in any one week if the work week is five consecutive days, Monday through Friday; or all overtime in excess of 10 hours in any one day or 40 hours in any one week if the work week is four consecutive days, Monday through Friday; and
  - (b) All work the employee performs on Saturday and on any legal holiday specified in ORS 279B.020;
- 2.3.1. If this Agreement is for services, Contractor shall pay employees at least time-and-a-half pay for work the employees perform under this Agreement on the legal holidays specified in a collective bargaining agreement or in 279B.020 (1)(b)(B) to (G) and for all time the employees work in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater;
- 2.3.2. If this Agreement is for personal services, as described in ORS 279A.055, Contractor shall pay its employees who work under this Agreement at least time-and-a-half for all overtime the employees work in excess of 40 hours in any one week, unless said employees are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime;
- 2.3.3. If this Agreement is for services at a county fair, or for another event that Crook County Fair Board authorizes, Contractor shall pay employees who work under this Agreement at least time-and-a-half for work in excess of 10 hours in any one day or 40 hours in any one week.
- 2.4. Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.
- 2.5. Contractor shall give notice in writing to employees who work under this Agreement, either at the time of hire or before work begins on the Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that Contractor may require the employees to work.

#### **3. OTHER PROVISIONS:**

- 3.1. By executing this Agreement, Contractor represents and warrants that it has complied with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318; Contractor further covenants to continue with said compliance during the term of this Agreement. Noncompliance with this provision is a default for which County may terminate the Agreement, in whole or part, and seek damages under the terms of this Agreement or applicable law.
- 3.2. If this Agreement involves lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.



## **EXHIBIT F**

### **INDEPENDENT CONTRACTOR STATUS**

Contractor states and represents that contractor is an Independent Contractor as that term is defined in Oregon Revised Statute 670.600 and more specifically represents, states and agrees that in providing the services and scope of work specified in this Agreement:

1. Contractor provides services for remuneration; and
2. Contractor is free from direction and control over the means and manner of providing the services and scope of work subject only to the right of County to specify the desired results; and
3. Contractor is customarily engaged in an independently established business; and
4. Contractor is licensed within the state of Oregon to provide any services for which a license is required under ORS Chapter 671 or 701 and is responsible for obtaining other licenses or certificates necessary to provide the service or scope of work; and
5. Contractor complies with at least three of the following requirements:
  - (a) A business location is maintained that is separate from the business or work location of County; or is in a portion of the Contractor's residence and that portion is used primarily for the business.
  - (b) The Contractor bears the risk of loss related to the provision of services or scope of work such as entering into a fixed price contract, defective work is required to be corrected, the services provided are warranted or indemnification agreements, liability insurance and performance bonds and errors and omissions insurance are provided.
  - (c) Contracted services for two or more different persons or entities within a twelve month period have been obtained, or routinely engaged in business advertising, solicitation, or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
  - (d) Significant investment in the business has been made such as purchasing tools or equipment, paying for premises or facilities where services are provided, paying for licenses, certificates or specialized training.
  - (e) Possesses authority to hire other persons to assist in providing their services and has the authority to fire those persons.
6. Contractor will immediately inform County in the event that it fails to conduct its services in one or more particulars as represented in 1 through 5 above.

## EXHIBIT G

### PROTECTED INFORMATION

If Contractor obtains any personal information as defined in ORS 646A.602(11) related to this Agreement or concerning any County employee, Contractor agrees to provide appropriate safeguards to protect the security of this information. Contractor shall have provided appropriate safeguards by meeting or exceeding the requirements stated in ORS 646A.622. Furthermore:

1. **“Protected Information”** shall be defined as *data or information* that has been designated as private or confidential by law or by the County. Protected Information includes, but is not limited to, employment records, medical records, personal financial records (or other personally identifiable information), trade secrets, and classified government information. To the extent there is any uncertainty as to whether any data constitutes Protected Information, the data in question shall be treated as Protected Information until a determination is made by the County or proper legal authority.
2. **Data Confidentiality.** Contractor shall implement appropriate measures designed to ensure the confidentiality and security of Protected Information, protect against any anticipated hazards or threats to the integrity or security of such information, protect against unauthorized access or disclosure of information, and prevent any other action of unauthorized disclosure that could result in substantial harm to the County or an individual identified with the data or information in Contractor’s custody or access.

To the extent that Contractor may have access to County protected health information (as the same is defined in the privacy regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and the implementing regulations known and referred to as Privacy Rule, Security Rule, Enforcement Rule and Breach Notification Rule, referred to herein collectively as “HIPAA”), Contractor agrees to protect such information in compliance with HIPAA and represents that it has the processes, systems and training to assure compliance with the same.

3. **Data and Network Security.** Contractor agrees at all times to maintain commercially reasonable network security that, at a minimum, includes: network firewall provisioning, intrusion detection/prevention and periodic third party penetration testing. Likewise Contractor agrees to maintain network security that at a minimum conforms to current standards set forth and maintained by the National Institute of Standards and Technology, including those at: <http://checklists.nist.gov/repository>. Contractor agrees to protect and maintain the security of data with protection security measures that include maintaining secure environments that are patched and up to date with all appropriate security updates as designated by a relevant authority.
4. **Security Breach.** In the unlikely event of a security breach or issue, Contractor will notify the appropriate County contact no later than one hour after they are aware of the breach. Contractor will be responsible for all remedial action necessary to correct the breach; provided however, that Contractor will not undertake litigation on behalf of the County without prior written consent.
5. **Data Storage and Backup.** Contractor agrees that any and all County data will be stored, processed, and maintained solely on designated servers and that no County data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that storage medium is in use as part of the Contractor's designated backup and recovery processes. All servers, storage, backups, and network paths utilized in the delivery of the service shall be contained within the states, districts, and territories of the United States unless specifically agreed to in writing by a County officer with designated data, security, or signature authority. An appropriate officer with the necessary authority can be identified by the County Information Security Officer for any general or specific case.

Contractor agrees to store all County backup data stored as part of its backup and recovery processes in encrypted form, using no less than AES 256.

6. **Data Re-Use.** Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor. Contractor further agrees that no County data of any kind shall be revealed, transmitted, exchanged or otherwise passed to other Contractor or interested parties except on a case-by-case basis as specifically agreed to in writing by a County officer with designated data, security, or signature authority.
7. **PCI Compliance.** Contractor agrees to comply with PCI DSS (Payment Card Industry Data Security Standard). As evidence of compliance, Contractor shall provide upon request a current attestation of compliance signed by a PCI QSA (Qualified Security Assessor).
8. **End of Agreement Data Handling.** Contractor agrees that upon termination of this Agreement it shall erase, destroy, and render unreadable all County data in its entirety in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities, and certify in writing that these actions have been completed within 30 days of the termination of this Agreement or within 7 days of the request of an agent of County whichever shall come first.
9. **Mandatory Disclosure of Protected Information.** If Contractor becomes compelled by law or regulation (including securities' laws) to disclose any Protected Information, Contractor will provide County with prompt written notice so that County may seek an appropriate protective order or other remedy. If a remedy acceptable to County is not obtained by the date that Contractor must comply with the request, Contractor will furnish only that portion of the Protected Information that it is legally required to furnish, and the Contractor shall require any recipient of the Protected Information to exercise commercially reasonable efforts to keep the Protected Information confidential.
10. **Remedies for Disclosure of Confidential Information.** Contractor and County acknowledge that unauthorized disclosure or use of the Protected Information may irreparably damage County in such a way that adequate compensation could not be obtained from damages in an action at law. Accordingly, the actual or threatened unauthorized disclosure or use of any Protected Information shall give County the right to seek injunctive relief restraining such unauthorized disclosure or use, in addition to any other remedy otherwise available (including reasonable attorneys' fees). Contractor hereby waives the posting of a bond with respect to any action for injunctive relief. Contractor further grants County the right, but not the obligation, to enforce these provisions in Contractor's name against any of Contractor's employees, officers, board members, owners, representatives, agents, contractors, and subcontractors violating the above provisions.
11. **Non-Disclosure.** Contractor is permitted to disclose Confidential Information to its employees, authorized subcontractors, agents, consultants and auditors on a need-to-know basis only, provided that all such subcontractors, agents, consultants and auditors have written confidentiality obligations to both Contractor and County.
12. **Criminal Background Check.** County shall perform criminal background checks on all talent assigned to this project before a person is allowed to work on any of the County's Criminal Justice Information System (CJIS) protected data, software systems or facilities.
13. **Survival.** The confidentiality obligations shall survive termination of any agreement with Contractor for a period of ten (10) years or for so long as the information remains confidential, whichever is longer and will inure to the benefit of County.

## **EXHIBIT H**

### **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“BA Agreement”) between County of Crook (County) and Contractor is adopted to ensure that Contractor will appropriately safeguard protected health information (“PHI”) that is created, received, maintained, or transmitted on behalf of County in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended (“HIPAA”), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the “HITECH Act”).

#### **A. General Provisions**

1. **Meaning of Terms.** The terms used in this BA Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this BA Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this BA Agreement shall be interpreted to permit compliance with HIPAA.

#### **B. Obligations of Business Associate**

Contractor agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this BA Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with Subpart C of 45 CFR Part 164 to prevent use or disclosure of PHI other than as provided for by this BA Agreement;
3. Report to County any use or disclosure of PHI not provided for by this BA Agreement of which it becomes aware, including any security incident (as defined in 45 CFR 164.304) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to County without unreasonable delay but in no case later than 60 days after discovery of the breach;
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Contractor agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such information;
5. Make available PHI in a designated record set to County as necessary to satisfy County’s obligation under 45 CFR 164.524 in no more than 30 days of a request;

6. Make any amendment(s) to PHI in a designated record set as directed by County, or take other measures necessary to satisfy County's obligations under 45 CFR §164.526 in no more than 30 days of a request;
7. Maintain and make available information required to provide an accounting of disclosures to County or an individual who has a right to an accounting within 60 days and as necessary to satisfy County's obligations under 45 CFR §164.528;
8. To the extent that Contractor is to carry out any of County's obligations under Subpart E of 45 CFR Part 164, Contractor shall comply with the requirements of Subpart E of 45 CFR Part 164 that apply to County when it carries out that obligation;
9. Make its internal practices, books, and records available to the Secretary of the Department of Health and Human Services for purposes of determining compliance with the HIPAA rules;
10. County shall notify Contractor of any restriction on the use or disclosure of PHI that County has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Contractor's use or disclosure of PHI; and
11. If County is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Contractor agrees to assist County in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of County's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of County agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting County of any red flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to County of any threat of identity theft as a result of the incident.
12. If Contractor is part of a larger organization, Contractor will implement policies and procedures to protect PHI from unauthorized access by the larger organization.

**C. Permitted Uses and Disclosures by Business Associate**

The specific uses and disclosures of PHI that may be made by Contractor on behalf of County are limited to:

1. The review of patient care information in the course of Contractor conducting risk and compliance assessment activities, or providing County with a Control Activity Gap Analysis, or the review of PHI and other information necessary to assist County in developing its HIPAA compliance program; and
2. Other uses or disclosures of PHI as permitted by the HIPAA rules as necessary to perform the services set forth in the Agreement.
3. Uses or disclosures of protected health information as required by law.

**D. Termination**

1. County may terminate this Agreement if County determines that Contractor has violated a material term of the BA Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this BA Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement, if feasible.
3. Upon termination of this Agreement for any reason, Contractor shall return to County or destroy all PHI received from County, or created, maintained, or received by Contractor on behalf of County that Contractor still maintains in any form. Contractor shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this BA Agreement will extend to such PHI.
4. The obligations under section D are perpetual and shall survive termination of this Agreement.

## AGENDA ITEM REQUEST



**Date:**

*September 12, 2023*

**Meeting date desired:**

*September 20, 2023*

**Subject:**

*Approval of Crook County Community Corrections Biannual Plan*

**Background and policy implications:**

*Will outline how stated funding will be used to within the Parole and Probation division of the Crook County Sheriff's Office over the next 2 years.*

**Budget/fiscal impacts:**

*This is a fully state funded program, no impact on general fund.*

**Requested by:**

*Aaron Boyce, Lieutenant Parole and Probation, [Aaron.Boyce@crookcountysheriff.org](mailto:Aaron.Boyce@crookcountysheriff.org)*

**Presenters:**

*Aaron Boyce*

**Legal review (only if requested): N/A**

*Need to discuss further – The desire is for department heads to be proactive with legal, financial, HR, etc., should legal review/initials be standard operating procedure? Should review/initials expand to finance, HR, IT, facilities, if applicable?*

**Elected official sponsor (if applicable): N/A**

*If the item request is submitted after the due date/time, an elected official sponsor is needed.*

# CROOK COUNTY SHERIFF'S OFFICE

## COMMUNITY CORRECTIONS DIVISION PLAN

JULY 1, 2023 – JUNE 30, 2025

SUBMITTED BY:

JOHN GAUTNEY – SHERIFF

AARON BOYCE – DIRECTOR





DISTRICT ATTORNEY FOR CROOK COUNTY

CROOK COUNTY COURTHOUSE -- (541) 447-4158 • FAX (541) 447-6978  
300 N.E. 3RD ST. PRINEVILLE, OREGON 97754

September 15, 2023

To: Crook County Court  
Judge Seth Crawford  
Commissioner Jerry Brummer  
Commissioner Brian Barney

From: Crook County Public Safety Coordinating Council  
Crook County LPSCC Chair and District Attorney Kari Hathorn

Re: Crook County Community Corrections Division Plan 2023-202

Crook County Court:

The Crook County Public Safety Coordinating Council having reviewed the proposed two-year Crook County Corrections Division Plan for 2023-2025 and the two year Budget Summary, hereby recommends to the Crook County Court that this Plan be adopted for the period of July 1, 2023 through June 30, 2025.

Sincerely,

Kari Hathorn  
Crook County District Attorney  
LPSCC Chair

Crook County  
2023-2025 Community Corrections Biennial Plan

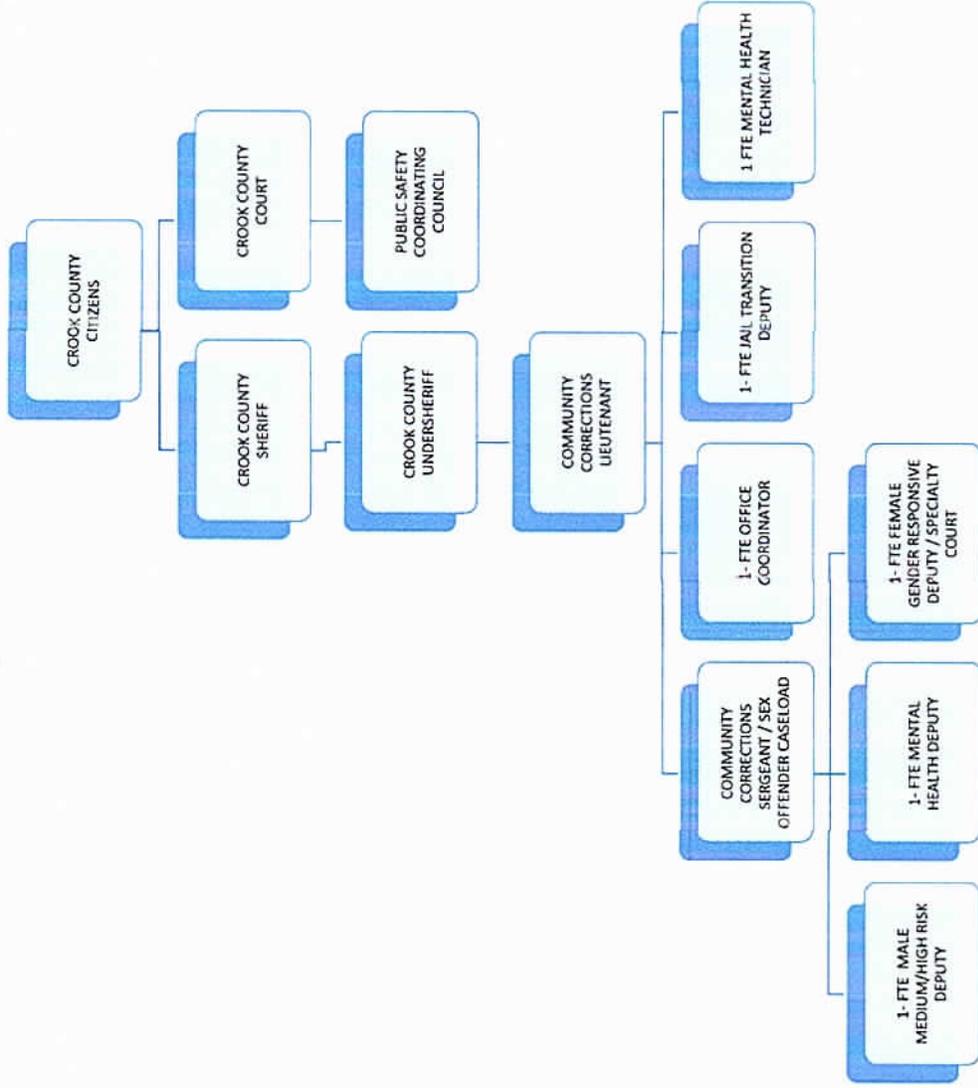
Department of Corrections 3723 Fairview Industrial Drive SE Salem, Oregon 97310	<i>For Office Use Only</i>  Date Received:
Address: 308 NE Second Street, Prineville, OR 97754 Phone: 541-447-3315      Fax: 541-447-4921	
Community Corrections Director/Manager: Aaron Boyce Address: 308 NE Second Street, Prineville, OR 97754 Phone: 541-416-3928      Fax: 541-447-4921      Email: Aaron.Boyce@crookcountysheriff.org	
Sheriff: John Gautney Address: 308 NE Second Street, Prineville, OR 97754 Phone: 541-447-6398      Fax: 541-416-0353      Email: john.gautney@crookcountysheriff.org	
Jail Manager: Andrew Rasmussen Address: 308 NE Second Street, Prineville, OR 97754 Phone: 541-416-6398      Fax: 541-416-0353      Email: Andrew.Rasmussen@crookcountysheriff.org	
Supervisory Authority: Sheriff John Gautney, Jail Commander Andrew Rasmussen, Community Corrections Director Aaron Boyce Address: 308 NE Second Street, Prineville, OR 97754 Phone: 541-447-3315      Fax: 541-447-4921      Email: aaron.boyce@crookcountysheriff.org Supervisory Authority: Address: Phone:                              Fax:                              Email:	
LPSCC Contact: Kari Hathorn Address: 300 NE Third Street, Prineville, OR 97754 Phone: 541-447-4158      Fax: 541-447-6978      Email: Kari.Hathorn@crookcountyor.gov	
<b><u>Biennial Budget</u></b>	
State Grant-in-Aid Fund:	2,154,860.00
DOC M57 Supplemental Fund:	107,816.00
CJC Justice Reinvestment Grant:	379,920.00
CJC Treatment Court Grant:	132,179.00
County General Fund:	0
Supervision Fees:	0
Biennial Carryover (GIA, M57, FSAPP):	1,039,216.61
Other Fees:	0
Other State or Federal Grant:	0
Other:	0
<b><u>Total:</u></b>	<b><u>3,813,991.61</u></b>



**Crook County  
2023-2025 Community Corrections Budget Summary**

<b>Program Name</b>	<b>Grant in Aid</b>	<b>Grant in Aid Supplemental</b>	<b>All Other Funds and Fees</b>	<b>Total</b>
Supervision	1,433,103.00	49,257.00	1,079,216.61	2,561,576.61
BIP Treatment	10,000.00			10,000.00
Courage to Change Program	10,000.00			10,000.00
Drug Court CJC Grant			132,179.00	132,179.00
Justice Reinvestment Grant			379,920.00	379,920.00
Sanction Beds	500,000.00			500,000.00
Local Control Beds	150,000.00			150,000.00
Transition Services	2,500.00			2,500.00
GPS/Continuous Alcohol Monitoring			67,816.00	67,816.00
<b>Fund Total</b>	<b>2,105,603.00</b>	<b>49,257.00</b>	<b>1,659,131.61</b>	<b>3,813,991.61</b>

# CROOK COUNTY SHERIFF'S OFFICE 2023-2025 COMMUNITY CORRECTIONS DIVISION Organizational Chart



## EXECUTIVE SUMMARY

### CROOK COUNTY COMMUNITY CORRECTIONS DIVISION PLAN

**July 1, 2023 through June 30, 2025**

Over the past 2-years Crook County continues to be one of the fastest growing in the state. There has also been a lot of change among the leadership within the community. John Gautney continues to lead us as our Sheriff with the assistance of Bill Elliott as our Undersheriff. Crook County Community Corrections continues to remain a division within the Sheriff's Office with Lieutenant Aaron Boyce as the Division Director.

Undersheriff James Savage retired in June 2023 and Jail Commander Bill Elliott was promoted to the Undersheriff position. Jail Sergeant Andrew Rasmussen was promoted to be the new Jail Commander.

Seth Crawford continues to lead Crook County in its growth as the County Judge along with Commissioners Jerry Brummer and Brian Barney.

Crook County Community Corrections continues to work closely with the Crook County District Attorney's Office which has also seen changes over the past 2 years. Former District Attorney Wade Whiting was elected to be a Circuit Court Judge for the 22<sup>nd</sup> Judicial District. Kari Hathorn was first appointed by Governor Brown to fill the District Attorney position and then went onto to win in the general election to remain the Crook County District Attorney. DA Hathorn has taken over as the Chair for the Crook County LPSCC.

Crook County Community Corrections continues to maintain stable staffing levels which leads to stable services to the Justice Involved Individuals (JII) in Crook County. Community Corrections Deputies continue to use fieldwork and office visits to ensure that clients are making appropriate progress in their behavior change goals and holding them accountable when they have setbacks. Community Corrections Deputies continue to conduct appropriate risk assessments and develop individual case plans for each client focusing on their highest criminogenic need. Deputies continue to utilize evidence based practices with clients to help them achieve success.

Crook County Community Corrections also continues to adapt to the changing trends in the criminal justice system. Crook County, like many other counties in Oregon, have seen a dramatic increase in the number of Justice Involved Individuals presenting with high level mental health symptoms. In an effort to provide additional resources for both the Crook County Jail and the Community Corrections Deputies we have hired an in-house mental health professional. This mental health technician position is able to provide mental health screenings to all JII's in custody of the Crook County Jail as well as those JII's on supervision. These screening tools are able to better help Community Corrections Deputies to connect JII's with the proper services. The mental health technician has also allowed Crook County Community Corrections Office to start providing in house cognitive behavioral programming. Crook County Community Corrections has implemented the Courage to Change Program which is a nationally recognized Evidenced Base

Program. This program has been received well by both staff and clients who have found the lessons very valuable.

Crook County continues to struggle as a community with lack of treatment resources. During the past biennium Crook County was very excited about a new treatment provider coming to the community which promised to bring housing and expanded treatment options. This unfortunately only last for about 14 months before the treatment provider abruptly closed. Turning Points closure broke multiple services contracts with Crook County Drug Court and the Crook County Community Corrections Office. Fortunately BestCare Treatment services has stepped up and has been filling the voids left; however, their programs are often full. Crook County Community Corrections continues to look for ways to expand the treatment options available to the JII population.

Plans for the 2023-2025 biennium continue to include working with the community partners to develop more housing options including Sober-Living and Transitional Housing in the local community. Currently Crook County only has a temporary men's shelter which can house 16 men. There is also a temporary women's shelter operated by the church of the Nazarene which is almost always full.

Crook County Community Corrections continues to hold the Specialty Court Grant for both drug court and mental health court. Both of these programs continue to see very successful outcomes. The Crook County Drug Court program has served over 300 participants over the last 26 years in operation. The Crook County Mental Health court program was started in 2019 and has continued to grow and seen successful outcomes for JII's with Serious and Persistent Mental Illness (SPMI) diagnosis. Crook County Community Corrections has continue to maintain a deputy with specialized mental health training to oversee our mental health specific caseload. Also the new Mental Health Technician has been working closely with this caseload and with the specialty court.

Crook County Community Corrections continues to look for ways to best serve traditionally underserved populations. One of the programs Crook County Community Corrections continues to use is a gender-specific/responsive caseload for our female Justice Involved Individual population. This Deputy has received and continues to seek on-going training for working with this population.

Crook County Community Corrections has again applied for CJC Justice Reinvestment Grant for the 2023-2025 period. With those funds we will continue to fund the Mental Health Technician to provided services to community corrections and jail clients.

## SUMMARY OF CURRENT CORRECTIONS SYSTEM

### **Offender Services & Sanctions:**

We provide supervision of all felony offenders convicted, sentenced and/or transferred to Crook County. Including supervision of all offenders on felony conditional discharge, felony probation, parole, temporary leave and/or post-prison supervision and were released to or transferred to Crook County. We additionally supervise Misdemeanor Drug Offenses, Assault IV-Domestic Violence, Sex Abuse III and Menacing constituting Domestic Violence. Community Corrections will provide a full range of services, incentives, interventions and sanctions to said offenders.

Sanctioning will be done by Community Corrections Deputies who will apply interventions and structured sanctions as deemed appropriate and necessary.

When ordered by the Circuit Court, a presentence investigation shall be completed and disbursed to the Judge, District Attorney and Defense Counsel.

There will be a centralized record keeping and intake for all felony offenders and selected misdemeanors referred to Crook County Community Corrections.

There will be continued and updated education and training provided to Community Corrections staff.

Community Corrections Deputies will work with treatment providers on assisting offenders in obtaining employment resources and training. Also Deputies will assist in educational opportunities, both in obtaining their GED and/or college education.

Community Corrections Deputies will transfer offenders out-of-state using the rules/policy/procedures as set forth by ICOT'S (Interstate Compact) and make sure offenders do meet criteria when coming to Oregon (Crook County).

Crook County Community Corrections works closely with the District Attorney's Office and the Judicial System, to include the Circuit Court Judges, when completing and filing reports. Parole and Probation Deputies represent the community and the office in a very professional manner when testifying in Court.

Crook County Community Corrections utilizes electronic monitoring through Vigilnet for the use of GPS and Continuous Alcohol Monitoring (CAM) Bracelets. These monitoring bracelets manufactured by SCRAM Systems provide Crook County Community Corrections with an additional tool to address behavior modification in individuals under supervision. These tools are utilized as an intervention and sanctioning tool to help reduce the use of local jail beds.

### **Mental Health, Alcohol and Drug Services:**

Community Corrections continues to assure there is a certified mental health and chemical dependency treatment program providing group, residential and individual counseling to probationers, parolees and temporary leave or post-prison supervision offenders. Assessments and/or evaluations will be completed to assist the Court and supervising officers in providing



productive case planning. Random urinalysis will be conducted by both the treatment provider and the Community Corrections Deputies. Crook County Community Corrections will continue to provide partial funding for Mental Health Services not covered by insurance.

**Sex Offender Service:**

Community Corrections continues to provide a sex offender treatment program, both individual and group, for sex offenders. Evaluations and polygraphs will also occur to assist the supervising deputy.

**Domestic Violence Services:**

Crook County Community Corrections will provide a true BIP (Batters Intervention Program). Batters Intervention Program will include both individual and group treatment sessions, for offenders convicted of felony and misdemeanor crimes involving domestic violence. This program will be provided by a certified clinician. Clients are expected to pay for these treatment services, however Crook County Community Corrections will help financially support this program for indigent offenders.

**In Custody Treatment Program:**

Crook County Community Corrections operates an in custody treatment program for both male and female offenders. This program works with individuals as soon as they enter jail. Certified Treatment Providers will complete assessments to determine the proper level of treatment or cognitive behavior classes needed. Our treatment team will work with each individual through their term of incarceration so there is a smooth transition from custody to their community treatment program.

**Specialty Court:**

Crook County Community Corrections will be overseeing the Specialty Court Grant for both Drug Court and Mental Health Court. The Drug Court has been a very successful program in Crook County since 1997. One of the Community Corrections Deputies will be an active team member and be provided the education and training surrounding the operation of Drug Court. The Mental Health Court in Crook County has been in operation since 2019. This program utilizes the same structure as the Drug Court Program.

**Courage to Change Programing:**

Crook County Community Corrections has recently started an in-house program using the Courage to Change Interactive Journaling Curriculum. This program is facilitated by the new Crook County Community Corrections Mental Health Technician. The Courage to Change Interactive Journaling program is an evidence-based supervision/case management model which helps clients address their individual problem areas based on a criminogenic risk and needs assessment.

### **A.I.P Services:**

Community Corrections will continue to work within the guidelines of the Intergovernmental Agreement, delivering transitional and support services to offenders who have successfully completed in-prison residential alcohol and drug treatment programs and/ or Alternative Incarceration Programs (AIP).

### **M57 Intervention:**

Crook County Community Corrections will continue to provide supervision and services for offenders which fall under the guidelines of Measure 57. Measure 57 crimes are repeat property crimes committed with a nexus to controlled substance use. These JII's will be supervised using a balance of treatment, Cognitive Behavior Therapy, interventions and immediate structured sanctions. The programs will be guided by evidence-based practices and be designed to reduce crime and drug addiction.

### **County Structure/Management:**

Community Corrections in Crook County remains a division of the Crook County Sheriff's Office. The Sheriff, Community Corrections Director and the Jail Commander make up the Local Supervisory Authority. There will be continued planning and monitoring of the fiscal and operational responsibilities of Community Corrections Services by the Crook County Court in accordance with SB 1145 administrative design. The Local Public Safety Coordinating Council (LPSCC) will continue to support Community Corrections in planning, advising and reporting of department activities to the County Court to enhance program integrity.

Program Name:	Supervision
Program Description:	Provide effective evidence based supervision to offenders referred by the Courts, Board and the Supervisory Authority. Monitoring conditions of supervision to ensure compliance and holding offenders accountable by responding appropriately to violations. Deputies will continually assess individuals under supervision and develop case plans based on each offender's risks and needs. Deputies will work with each individual to assist them in making their victims whole. During case planning, mental health and alcohol and drug treatment referrals are made as needed and/or mandated. Violations are reported to releasing or sentencing authorities with appropriate recommendations, interventions or sanctions imposed. Cases will be continually monitored to see if they meet qualification for early discharge, modifications to bench supervision or placement on a lower level of supervision. Immediate interventions and sanctions will be utilized to address violations. Unannounced home visits and community contacts will be conducted to enhance public safety. Random urinalysis will be conducted to ensure compliance with offender sobriety.
Program Category:	Supervision
Program Objectives:	Effective supervision programming, coupled with successful treatment will reduce the abscond rates and recidivism. Deputies will assist offenders in changing their lifestyles and behaviors to become more productive citizens of the community, supporting employment and education and reducing reincarceration in local and state institutions.
Method(s) of Evaluation:	Data collection and entry in DOC system to include employment and treatment programming. We will be diligent in the collection of all financial obligations. We will work closely with our law enforcement partners to ensure community safety.

Monthly Average to be Served: 175

Type of Offender(s) Served:

- Probation
- Parole/Post-Prison
- Local Control

Crime Category:

- Felony
- Misdemeanor

Gender:

- Male
- Female

Risk Level:

- High
- Medium
- Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

<input checked="" type="checkbox"/> State Grant-In-Aid Fund	\$1,433,103.00
<input checked="" type="checkbox"/> DOC M57 Supplemental Fund	\$40,000.00
<input type="checkbox"/> CJC Justice Reinvestment Grant	_____
<input type="checkbox"/> CJC Treatment Court Grant	_____
<input type="checkbox"/> County General Fund	_____
<input type="checkbox"/> Supervision Fees	\$0.00
<input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP)	_____
<input checked="" type="checkbox"/> Other Fees (revenue)	\$5,000.00
<input type="checkbox"/> Other State or Federal Grant	_____

Other: Please Identify

<input checked="" type="checkbox"/> carry-over	\$1,039,216.61
<input checked="" type="checkbox"/> Grant in Aid Supplemental	\$49,257.00
<input type="checkbox"/>	

Additional Comments: Crook County Community Corrections continues to be proactive expanding its services to the justice involved individuals in Crook County. Crook County continues to see an increase in the number of JII's presenting with major mental health symptoms. Crook County has recently hired our first in house mental health technician to provide crisis management and stabilization services to Community Corrections clients as well JII's housed in the Crook County Jail. Crook County also continues to have a certified parole and probation deputy imbedded in the jail to provide services to justice involved individuals from admission to discharge. This deputy is also responsible for overseeing the in-custody treatment services available along with ensuring case planning services for their re-entry into the community. Crook County continues to struggle with its housing crisis with little to no availability for low income housing. Crook County has a small 16 bed men's shelter which is always running at full capacity. Crook County also has a single shelter for females and females with children operated out of a local church. Crook County Community Corrections remains a division under the Sheriff's Office and we continue to strengthen this partnership along with our partnerships with Prineville Police Department, The Crook County District Attorney's Office the Circuit Court and our local treatment providers.

Program Name:	Transitional Services
Program Description:	This Program is designed to assist justice involved citizens being released from County and state institution custody back into the community on Probation, Local Control Post-Prison Supervision and Post Prison Supervision. While in county custody the transition Deputy stationed at the jail will work with the assigned Field Supervision Deputy and the individual to properly assess each offender and Case Plan for a smooth transition back into the community. For individuals in state institutions custody the assigned Field Supervision Deputy will conduct a reach-in and work with the institution counselor and the individual with developing a Case Plan for a transition back to the community.
Program Category:	Transition Services
Program Objectives:	Successful transition back into the community for justice involved individuals is an important piece of the puzzle to assist an individual with future success and reduce the likelihood of the individual recidivating. Crook County is currently in a housing crisis and there are very limited stable sober-living options available in the county for individuals who are released homeless. It is our goal to work on developing options to assist these individuals transition back into the community.
Method(s) of Evaluation:	Parole and Probation Deputies keep records in clients files and the states computer system to assure accuracy of records and compliance with state structured sanctioning guidelines.

Monthly Average to be Served: 5

Type of Offender(s) Served:  Probation  
 Parole/Post-Prison  
 Local Control

Crime Category:  Felony  
 Misdemeanor

Gender:  Male  
 Female

Risk Level:  High  
 Medium  
 Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- State Grant-In-Aid Fund \$2,500.00
- DOC M57 Supplemental Fund \_\_\_\_\_
- CJC Justice Reinvestment Grant \_\_\_\_\_
- CJC Treatment Court Grant \_\_\_\_\_
- County General Fund \_\_\_\_\_
- Supervision Fees \_\_\_\_\_
- Biennial Carryover (GIA, M57, FSAPP) \_\_\_\_\_
- Other Fees (revenue) \_\_\_\_\_
- Other State or Federal Grant \$6,687.00
- Other: Please Identify \_\_\_\_\_
- \_\_\_\_\_

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Additional Comments:

Program Name:	Sanction Beds
Program Description:	Community Corrections and the County partners are committed to holding offenders accountable for their actions and taking responsibility for their negative behavior. Parole and Probation Deputies make every effort to impose an intervention or sanction with offenders immediately for violating supervision based upon reviewing each individuals specific case and the violation that occurred. Based upon this review the Deputy will impose an intervention or sanction based upon the States Structured Sanctioning Grid. In instances where an individual on Post Prison Supervision requests a hearing in regard to a violation the case is assigned to a Hearings Officer who has very thorough conversations with both the offender and the Parole and Probation Deputy before making their finding on custody time and submitting their finding to the Supervisory Authority or the Parole Board. During the violation process, in some cases, deputies work with the District Attorney's Office for input prior to recommending and imposing a sanction. Deputies remain very conscious of jail space, community safety and the offenders history prior to making any sanction and revocation recommendation.
Program Category:	Custodial/Sanction Beds
Program Objectives:	Jail sanctions in Crook County is mainly used for the highest risk offenders to the community. The use of jail sanctions are carefully evaluated for risk to the community and individual safety. Crook County continues to see high rate of methamphetamine and Fentanyl. The Community Corrections full-time Transition Deputy working in the jail works with offenders immediately upon entry into custody to start getting appropriate services. The goal of the Transition Deputy is provide education and services to facilitate a smooth transition back into the community and reduce violations and reincarceration.
Method(s) of Evaluation:	The Crook County Jail keeps accurate statistics of offenders under supervision of the Community Corrections population serving a sanction. BestCare Treatment Services, the departments contracted treatment provider will keep accurate records on individuals that receive treatment and education services while in custody. Parole and Probation Deputies keep records in client's files and the State computer system to ensure the accuracy of records and compliance with state structured sanctioning guidelines.

Monthly Average to be Served: 25

Type of Offender(s) Served:

- Probation
- Parole/Post-Prison
- Local Control

Crime Category:

- Felony
- Misdemeanor

Gender:

- Male
- Female

Risk Level:

- High
- Medium
- Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- State Grant-In-Aid Fund \$500,000.00
- DOC M57 Supplemental Fund \_\_\_\_\_
- CJC Justice Reinvestment Grant \_\_\_\_\_
- CJC Treatment Court Grant \_\_\_\_\_

- County General Fund \_\_\_\_\_
- Supervision Fees \_\_\_\_\_
- Biennial Carryover (GIA, M57, FSAPP) \_\_\_\_\_
- Other Fees (revenue) \_\_\_\_\_
- Other State or Federal Grant \_\_\_\_\_
- Other: Please Identify
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Additional Comments: Housing inmates for higher level supervision violations is an important tool for community corrections. While individuals are housed on sanctions our Transitional Deputy will engage these individuals in the Jail Treatment and Education Programs. This will allow individuals to start working on treatment and education classes while in jail.





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Additional Comments: Housing inmates locally after sentencing for terms of 12 months or less provides a substantial savings to the states prison system. While individuals are housed locally our Transitional Deputy will engage these individuals in the Jail Treatment and Education Programs.

Program Name:	GPS/ Alcohol Monitoring
Program Description:	Crook County Community Corrections is committed to holding offenders accountable for their actions. GPS/ Alcohol Monitoring is a tool that can be used in certain cases as an alternative to jail sanctions balancing the risk to the community with the benefits to the offenders.
Program Category:	Community-Based Custodial Alternatives
Program Objectives:	Provide Parole and Probation Deputies with additional tools to assist in the effective supervision of Justice Involved individuals. GPS monitoring is an effective tool to be used as an alternative sanction to jail. GPS monitoring is also a program that allows Parole and Probation Deputies to monitor compliance with no contact conditions and geographically restricted areas. Continuous Alcohol Monitoring is a tool Parole Probation Deputies can use to assist in compliance with treatment conditions in cases where alcohol is an underlying factor.
Method(s) of Evaluation:	Crook County Community Corrections Deputies keep accurate statistics of all people under their supervision when they are placed on GPS/ Alcohol monitor with dates of when they were placed on the program, as well as when they are removed from the program. Community Corrections Deputies enter this data into both the state DOC computer system as well as into the SCRAMnet database which provides the GPS/ Alcohol Monitoring equipment.

Monthly Average to be Served: 10

Type of Offender(s) Served:  Probation  
 Parole/Post-Prison  
 Local Control

Crime Category:  Felony  
 Misdemeanor

Gender:  Male  
 Female

Risk Level:  High  
 Medium  
 Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- State Grant-In-Aid Fund \_\_\_\_\_
- DOC M57 Supplemental Fund           \$67,816.00
- CJC Justice Reinvestment Grant \_\_\_\_\_
- CJC Treatment Court Grant \_\_\_\_\_
- County General Fund \_\_\_\_\_
- Supervision Fees \_\_\_\_\_
- Biennial Carryover (GIA, M57, FSAPP) \_\_\_\_\_
- Other Fees (revenue) \_\_\_\_\_
- Other State or Federal Grant \_\_\_\_\_
- Other: Please Identify  
 \_\_\_\_\_

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Additional Comments: The GPS and Alcohol Monitoring program is an important tool that Crook County Community Corrections Deputies can use in the effective supervision of offenders. Crook County is a small county that has limited options when it comes to alternative forms of sanctions.

Program Name:	Drug Court CJC Grant
Program Description:	The Drug Court Program started in 1997 and is very well-established, serving over 300 participants. There is a close working relationship between prosecution and the defense counsel promoting public safety while protecting participant's due process rights. The program admits participants through conditional discharges, post-pleas and post-adjudication including downward dispositional departures. Risk and needs are assessed as part of the screening and referral process for admittance into Drug Court. There is a close collaboration with the Drug Court Team, Community Corrections and treatment team in developing individual treatment plans. These plans are designed to specifically address the unique needs of each person based on their individual assessed level of care, criminality and risk of recidivism. This is an 18 month program consisting of 4 phases. Frequent random urinalysis are done; increased Parole and Probation Officer contact; increased Drug Court Coordinator contact, and stabilized treatment are the foundation of this program. The program has sanctions and therapeutic responses on a graduated scale that encourages participant candor. The program also has a system in place for rewarding participant's positive behaviors that increase in value as the participant moves through the program's four phases.
Program Category:	Other Programs and Services
Program Objectives:	Drug Court ensures implementation of evidence-based treatment services and models the National Drug Court Association's (NADCP) Ten Key Components as well as Oregon Specialty Court Standards being the foundation of the program. The goal is to effectively address our local criminal justice system, by targeting moderate to high risk/need offenders as a cost effective means to reduce recidivism through engagement in treatment. Upon graduation, the goal is to have participants employed and in stable housing situation.
Method(s) of Evaluation:	Drug Court Coordinator will assure achievement of program goals and program accountability and is required to process and analyze relevant data utilizing drug court management software.

Monthly Average to be Served:

Type of Offender(s) Served:

- Probation  
 Parole/Post-Prison  
 Local Control

Crime Category:

- Felony  
 Misdemeanor

Gender:

- Male  
 Female

Risk Level:

- High  
 Medium  
 Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(i.e., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(i.e., GIA-\$25,000; M57-\$5000)</small>
BestCare Treatment Services	Outpatient substance abuse; Dual Diagnosis; Gender Specific	CJC Grant- \$17,000.00

Funding Sources

- State Grant-In-Aid Fund \_\_\_\_\_  
 DOC M57 Supplemental Fund \_\_\_\_\_  
 CJC Justice Reinvestment Grant \_\_\_\_\_  
 CJC Treatment Court Grant \$132,179.00

- County General Fund \_\_\_\_\_
- Supervision Fees \_\_\_\_\_
- Biennial Carryover (GIA, M57, FSAPP) \_\_\_\_\_
- Other Fees (revenue) \_\_\_\_\_
- Other State or Federal Grant \_\_\_\_\_
- Other: Please Identify
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Additional Comments: The Crook County Drug Court program continues to be a very successful program and continues to look to expand by accepting more High Risk individuals with all types of crimes that have a nexus to substance abuse. In August 2022 the Crook County Drug Court treatment provider changed to BestCare Treatment Services. The transition to a new treatment provider was smooth and the Clients continue to receive an outstanding level of treatment services. Some of the groups that will be available are, but not limited to: Moral Recognition Therapy (MRT); Womens Moving On; Cognitive Behavioral Therapy; Dialectical Behavior Therapy; Substance Abuse Education; and Relapse Prevention. BestCare will also provided frequent & random urinalysis.

Program Name:	Batter's Intervention Program
Program Description:	Provide Batter's Intervention Program evaluations and treatment to Justice Involved Individuals sentenced to supervision to domestic violence crimes. Referrals will be made for Batter Intervention Program evaluations for all clients convicted of domestic violence. This program will provide counseling anger management, and emotional regulation skills to help clients break the cycle of domestic violence. The Batter's Intervention Program through BestCare treatment service is a client-funded program with the clients being required to pay 25 dollars per class. Crook County Community Corrections will assist clients who are indigent so they are able to engage in their required treatment.
Program Category:	Behavioral Health Tx Services - BIP
Program Objectives:	The goal of this program is to allow all community corrections clients with court order Batter's Intervention Program requirements to be able to engage in treatment. Crook County Community Corrections will be able to assist indigent clients so they are able to successfully complete BIP treatment.
Method(s) of Evaluation:	Best Care will provide monthly treatment progress reports to each of the Parole and Probation Deputies supervising referred offenders. Treatment data will be entered and maintained in the DOC system for review and research. Best Care will maintain statistical data.

Monthly Average to be Served: 25

Type of Offender(s) Served:

- Probation  
 Parole/Post-Prison  
 Local Control

Crime Category:

- Felony  
 Misdemeanor

Gender:

- Male  
 Female

Risk Level:

- High  
 Medium  
 Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>
Best Care	BIP Treatment	GIA \$10,000

Funding Sources

- State Grant-In-Aid Fund \$10,000.00  
 DOC M57 Supplemental Fund  
 CJC Justice Reinvestment Grant  
 CJC Treatment Court Grant  
 County General Fund  
 Supervision Fees  
 Biennial Carryover (GIA, M57, FSAPP)  
 Other Fees (revenue)  
 Other State or Federal Grant  
 Other: Please Identify



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Additional Comments:



Program Name:	CJC Reinvestment Grant
Program Description:	<p>The Justice Reinvestment Grant for the 2023-2025 period will be requested to continue to provide current services and programs that have the goal of reducing recidivism and decrease the number of individuals that Crook County incarcerates in the state institutions.</p> <p>This grant will continue to include several different programs that enhance the operations and services of the Community Corrections Division, to enhance offender change and increase public safety. This grant will continue to fund a full time mental health technician position within the Community Corrections Division. This was a new position which started in February of 2023. This position has seen very successful outcomes providing stabilization and crisis services to JII's housed in the Crook County Jail as well as JII's on community supervision and enrolled in the Crook County Specialty Courts.</p> <p>The mental health technician has also allowed the Crook County Community Corrections for the first time to start offering in-house cognitive behavior programming. This grant funding has allowed the Courage to Change Curriculum to be brought to the clients of Crook County Community Corrections. This is an evidence base program which has seen positive impacts in reducing recidivism among justice involved individuals.</p> <p>The Justice Reinvestment Grant funding will also be used to partially fund a Probation Deputy assigned to the Crook County Specialty wellness court. This Probation Deputy is a key member of the specialty court team which has seen positive impacts in stabilizing clients with SPMI diagnosis.</p>
Program Category:	Other Programs and Services
Program Objectives:	This program will be able to proactively address all four of the goals of the Justice Reinvestment Grant Program by 1) reducing recidivism, (2) reducing utilization of prison capacity, (3) increasing public safety and (4) holding offenders accountable.
Method(s) of Evaluation:	The Drug Court Coordinator will keep accurate records of all sanctions and incentives awarded. Community Corrections will additionally keep data current in the DOC system for review and research and to provide information needed to complete the CJC required quarterly reports.

Monthly Average to be Served: 50

Type of Offender(s) Served:

- Probation
- Parole/Post-Prison
- Local Control

Crime Category:

- Felony
- Misdemeanor

Gender:

- Male
- Female

Risk Level:

- High
- Medium
- Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(i.e., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(i.e., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- State Grant-In-Aid Fund \_\_\_\_\_
- DOC M57 Supplemental Fund \_\_\_\_\_
- CJC Justice Reinvestment Grant           \$379,920.00
- CJC Treatment Court Grant \_\_\_\_\_

County General Fund

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Supervision Fees

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Biennial Carryover (GIA, M57, FSAPP)

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Other Fees (revenue)

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Other State or Federal Grant

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Other: Please Identify

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Additional Comments:

## AGENDA ITEM REQUEST



**Date:**

*September 4, 2023*

**Meeting date desired:**

*September 20, 2023*

**Subject:**

*Master Services Agreement with Smart Communications, regarding inmate communications services.*

**Background and policy implications:**

*This agreement would replace a soon-to-expire agreement with the same company, providing exclusive right to install and operate inmate communications equipment in the Crook County Jail. The inmate is charged an established rate depending on what types of calls he or she makes (local, long distance, etc.) These rates are higher than the costs which members of the general public are charged, to help off-set the expenses incurred by security provisions made necessary by the carceral environment. For instance, the system includes means to record telephone calls to help prevent the harassment of victims.*

**Budget/fiscal impacts:**

*The County is paid a rebate on the calls inmates place, equal to forty-three percent (43%) of revenues generated from all phone calls made on its Inmate Telephone System, regardless of call type or call rate, and fifty percent (50%) of revenue generated from incoming voicemail messages. For the 2021-2022 calendar year, the revenue generated was well into five figures.*

**Requested by:**

*Eric Blaine, County Counsel  
Eric.Blaine@CrookCountyOR.gov  
541-416-3919*

**Presenters:**

*Crook County Sheriff's Office*

**Legal review (only if requested):**

*Legal has reviewed for legal sufficiency.*

**Elected official sponsor (if applicable):** *N/A*



## **Master Services Agreement**

This Master Services Agreement (this “Agreement”) is by and between Crook County, a political subdivision of the state of Oregon, hereinafter referred to as “Customer,” and Smart Communications Holding, Inc. and/or its designated subsidiary or assignee, with principal offices located at 10491 72<sup>nd</sup> Street, Seminole, FL 33777, hereinafter referred to as “Provider.”

This Agreement supersedes any and all other agreements made between the Parties, written, oral or otherwise.

Whereas, Customer desires that Provider install an inmate communications system(s) and provide inmate communications and maintenance services according to the terms and conditions in this Agreement, and according to the Schedules, which are incorporated by reference into this Agreement, and;

Whereas, Provider agrees to install the inmate communications system(s) and provide inmate communications and maintenance services according to the terms and conditions in this Agreement, and according to the Schedules, which are incorporated by reference into this Agreement.

Now therefore, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

1. Systems. This Agreement specifies the general terms and conditions under which Provider will perform certain inmate related services and systems (the “System(s)”) for the Customer. Additional terms and conditions with respect to the Systems will be specified in the Schedules entered into by the Parties and attached (the “Schedules”). The Schedules are incorporated into this Agreement and are subject to the terms and conditions of this Agreement. In the event of any conflict between this Agreement and a Schedule, the terms of the Schedule shall govern.

2. Use of Systems and Exclusivity. In exchange for Provider installing, providing, and supporting its System and inmate communication services throughout Customer’s Facility at no cost to Customer, Customer acknowledges, agrees, and grants to Provider the exclusive right to provide such services in Customer’s Facility. Provider shall have the exclusive right to install, maintain, and derive revenue from and through Provider’s inmate communication services and Systems including, without limitation, the related hardware and software, located in the Customer Facility as identified on the Schedules. Customer agrees that it will not resell, grant, or provide access to Provider’s services or System, directly or indirectly, to any third party unless agreed to by Provider in a separate written agreement. During and subject to the terms and conditions of this Agreement, and upon the going live of each respective service, Provider shall be the sole and exclusive provider of inmate telephone services (ITS) and all inmate communication services available on or provided by a tablet or kiosk system as set forth in the accompanying Schedule(s), including but not limited to video and data services (e.g., electronic video visitation, electronic messaging and email, texting, photo delivery, and electronic entertainment) and inmate software applications (e.g., electronic delivery of routine postal mail, electronic medical or general requests, electronic grievances, electronic law library, and electronic education).

3. Hardware and Software License. For the term of this Agreement, Provider grants Customer a non-exclusive, non-transferable license to access and use certain proprietary computer software and hardware products and materials in connection with our inmate services and Systems. Provider will provide free of charge all Software upgrades, modifications, and updates. All hardware upgrades, modifications and updates will be done at Provider’s sole discretion.

Provider makes no representation or warranty as to the legality of monitoring or archiving such communications and activities.

4. Ownership. Smart Communications is and shall remain the owner of the equipment provided by Smart Communications whether or not physically attached to real estate.

5. License Restrictions: The Software is to be used solely in connection with Provider’s Services by Customer and

inmates housed at Customer's Facility in connection with Provider's services and Systems. The Hardware is to be used solely by inmates housed at Customer's Facility to access Provider's services and Systems. Unless and only to the extent that this Agreement expressly permits, Customer must not:

- i. permit any parent, subsidiary, affiliated entity or third party to use the Hardware or Software;
- ii. rent, lease, lend, assign, sublicense, encumber or otherwise transfer or attempt to transfer the Hardware or Software or any portion thereof;
- iii. alter, create derivatives of, or modify the Hardware or Software in any way, or allow a third party to do so;
- iv. connect the Software or Hardware to any third-party products or services that were not approved of in writing by Provider;
- v. distribute or otherwise make the Hardware or Software or any password, key, or other access code for the Software available to any third party;
- vi. reverse engineer, decompile, or disassemble the Hardware or Software, or allow a third party to do so;
- vii. defeat or work around any access restrictions or encryption in the Software, or allow a third party to do so;
- viii. remove, minimize, block, or modify any titles, logos, trademarks, copyright and patent notices, digital watermarks, disclaimers, or other legal notices that are included in the Software, whether or not they are Provider's or a third party's;

6. Title. Provider shall have and retain all rights, title, and interest in the products and services provided to Customer. The Hardware, Software, Systems, networking, and cabling, including all modifications and updates of Software, shall at all times remain the sole and exclusive property of the Provider. Any trade secrets, methodology and processes of our services and Systems constitute proprietary information of Provider, regardless of any part or portion thereof is the subject of a valid copyright or patent. During the term of this agreement and for the time period(s) as stated in the Schedule for Systems, we will provide you access to the records.

7. Term. This Agreement shall commence on June 1, 2023, and shall continue for a period of five (5) years. After this original term, this Agreement shall automatically renew annually for one (1) year terms unless either Party notifies the other Party with written notice of non-renewal at least ninety (90) days prior to the expiration of the then current term. Notwithstanding, the parties agree that the terms and conditions herein shall govern for so long as Provider continues to provide its system and services.

8. Limitation of Liability. To the maximum extent permitted by applicable law, Provider shall indemnify and hold harmless Customer, his agents, servants and employees from any and all claims, actions, lawsuits, judgments or liabilities of any kind whatsoever deriving from negligent acts or omissions of the Provider, its agents or sub-contractors. Each Party agrees that it shall be solely responsible for the negligent or wrongful acts of its own employees. However, nothing contained herein shall constitute a waiver by Customer of its sovereign immunity or other applicable State Statutes. Notwithstanding anything to the contrary in this Agreement or Schedules, in no event will Provider's liabilities under this agreement, whether under contract law, tort law, warranty, or otherwise, exceed the total amount of revenue received by Provider pursuant to this agreement, during the twelve (12) month period before the date the claim arose.

9. Confidential Information and Non-Disclosure. The parties acknowledge that in their performance of their duties hereunder either party may communicate to the other (or its designees) certain confidential and proprietary information, including without limitation information concerning the party's services and know-how, technology, techniques, or business or marketing plans related thereto (collectively, the "Confidential Information") all of which are confidential and proprietary to, and trade secrets of, the disclosing party (the "Disclosing Party"). As a condition to the receipt of the Confidential Information from the Disclosing Party, the receiving party (the "Receiving Party") shall, at all times during and after the term of this Agreement (i) not disclose in any manner, directly or indirectly, to any third party any portion of the Confidential Information; (ii) not use the Confidential Information in any fashion except to perform its duties hereunder or with the Disclosing Party's express prior written consent; (iii) disclose the Confidential Information, in whole or in part, only to employees and agents who need to have access thereto for the Receiving Party's internal business purposes; (iv) take all necessary steps to ensure that its employees and agents are

informed of and comply with the confidentiality restrictions contained in this Agreement; and (v) take all necessary precautions to protect the confidentiality of the Confidential Information received hereunder and exercise at least the same degree of care in safeguarding the Confidential Information as it would with its own confidential information, and in no event shall apply less than a reasonable standard of care to prevent disclosure. The Receiving Party shall promptly notify the Disclosing Party of any unauthorized disclosure or use of the Confidential Information. The Receiving Party shall cooperate and assist the Disclosing Party in preventing or remedying any such unauthorized use or disclosure. The term “Confidential Information” does not include, and the obligations and undertakings set out in this section do not apply to: (a) Information which now is in the public domain or publicly known at the time of disclosure or hereafter comes into the public domain or generally known through no fault of the Receiving Party, otherwise than by reason of breach of this Agreement; (b) Information the disclosure of which is requested or required by law, regulation, court order or a regulatory agency, provided that, prompt notice of such requested disclosure shall be given to the Disclosing Party, if legally permitted, so that Disclosing Party may seek appropriate remedy to prevent such disclosure or waive compliance with the provisions of this Agreement and the Receiving Party, its directors, officers, employees, agents and advisers shall reasonably co-operate with the Disclosing Party, at the Disclosing Party’s sole cost and expense, if the Disclosing Party elects to challenge the validity of such requirement and/or take such steps as the Disclosing Party may reasonably require to avoid or limit such disclosure; (c) Information that was previously known to the Receiving Party free of any obligation of confidentiality; (d) Information that is independently developed by the Receiving Party without reference to or use of the Confidential Information; or (e) Information that is disclosed to the Receiving Party by a third party not under or in violation of, as the case may be, any confidentiality undertaking to the Disclosing Party. Subsections (a) through (e) of this paragraph notwithstanding, the parties agree that the technology behind the Providers Services and Systems is Confidential Information and is a trade secret of Provider.

10. Default and Termination. If either party defaults in the performance of any obligation under this agreement, then the non-defaulting Party must give written notice to the defaulting Party specifically describing the nature of default and clearly notifying the defaulting party that the written notice is being provided pursuant to this provision. The defaulting Party shall have thirty (30) days after receipt of notice of default to cure. If it is not reasonable to cure the default within 30 days, then the right to cure period shall be extended to a reasonable cure period as long as the defaulting Party has made good faith attempts to cure the default. Upon termination of this Agreement, Provider shall remove all hardware and software Systems except for the cabling and conduit which shall become the property of the Customer. Provider shall have the right to immediately terminate this Agreement if Customer breaches the Confidentiality or Non-Disclosure provisions of this Agreement.

11. Insurance. Provider shall maintain General Liability Insurance including but not limited to bodily injury, property damage and personal injury with limits of not less than \$1,000,000 combined single limit covering all work performed under this contract. Provider shall maintain automobile insurance including bodily injury and property damage including all vehicles owned, leased, hired and non-owned vehicles with limits of not less than \$1,000,000 combined single limit covering all work performed under this contract. Provider shall provide Worker’s Compensation Insurance, on behalf of all employees who are to provide a service under this contract, as required by applicable law, and Employers Liability with limits of not less than \$100,000 per employee per accident. Customer agrees to furnish to Provider timely written notice of any claim, demand, or cause of action made or brought against Customer or where Provider is listed as a Co-Defendant arising out of or relating to the Systems and Services we provide to you.

12. Employees. Provider represents that it has, or will secure at its own expense, all personnel required in performing its obligations under this Agreement. All of the services required hereunder will be performed by the Provider or under its supervision and all personnel engaged in the work shall be fully qualified to perform such services. Provider and any subcontractors used in the performance of the responsibilities listed herein must maintain a drug-free workplace policy. Customer acknowledges that Provider is an independent contractor and nothing in this Agreement is intended nor shall be construed to create an agency relationship, and employer/employee relationship, a joint venture relationship or any other relationship allowing Customer to exercise control or discretion over the manner by which Provider performs hereunder. Provider expressly agrees that it shall be solely responsible for supervising its employees, that it shall comply with all rules, regulations, orders, standards and interpretations promulgated pursuant to the OSHA Act of 1970, including but not limited to training, recordkeeping, providing personal protective equipment, lock/tag out procedures, material safety data sheets and labeling. Provider certifies that neither it nor any

subcontractors used to accomplish its obligations hereunder, shall employ unauthorized aliens. Provider certifies that in accordance with the provisions of Title VII of the 1968 Civil Rights Act as amended by the Equal Employment Opportunity Act of 1972 and Executive Order 11914, that neither it nor any subcontractors used to accomplish its obligations hereunder discriminate on the basis of race, color, sex, religion, age, national origin or disability in their employment practices.

### Miscellaneous

13. Warranty Against Contingent Fees. Provider warrants that no person or selling agency has been employed or retained to solicit this contract upon an agreement of understanding for commission, percentage, brokerage or contingency, except bona fide employees or selling agents maintained by the Provider for the purpose of securing business.

14. Subcontracts. Provider shall be allowed to use subcontractors for the purpose of completing the provisions of this Agreement.

15. Provider Personnel. All Provider personnel being permitted to work in the Customer Jail Facility will be subject to a security/background check by the Office of the Sheriff.

16. Provider Cooperation. Provider shall, at all times observe and comply with all Federal, State, and local municipal laws, ordinances, rules and regulations in any way affecting the Agreement. The Provider shall maintain regular communications with Customer, or its designees, and shall actively cooperate in all matters pertaining to this Agreement.

17. Public Information. Neither the Provider nor the Customer shall publish any findings based on data obtained from the operation of this agreement without the prior consent of the other party, whose written consent shall not be unreasonably withheld.

18. Permits and Licenses. All permits and licenses required by Federal, State, local laws, rules, and regulations necessary for the implementation of the work undertaken by the Provider pursuant to the Agreement shall be served and paid for by the Provider. It is the responsibility of the Provider to have and maintain the appropriate certificate(s) valid for work to be performed and valid for the jurisdiction in which the work is to be performed for all persons working on the job for whom a certificate is required.

19. Third-party Rights. The rights, obligations and duties contained in this Agreement shall exist exclusively between the Parties. The Parties expressly agree and intend that they alone shall have the exclusive rights to seek legal or equitable enforcement, remedy, injunctive relief or to bring a breach of Agreement action. The Parties do not intend to create, nor shall this Agreement be construed to create in any other individual or entity the status of a third-party beneficiary.

20. Public Entity Crime. Provider confirms its understanding that a “public entity crime” as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any state or of the United States and involving antitrust, fraud, bribery, collusion, racketeering, conspiracy, or material misrepresentation. Provider hereby certifies that neither its officers, directors, executives, partners, employees, members, nor agents who are active in the management of Contractor have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

21. Waiver of Breach. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof.

22. Compliance with Laws. Provider shall comply with all Federal, State and local laws, rules, and regulations applicable to the services or payments for services under this Agreement.

23. Governing Law. The parties mutually consent to the jurisdiction of and agree that any litigation arising hereunder shall be brought in an Oregon federal or Oregon state court of competent jurisdiction and governed by the laws of the state of Oregon.

24. Attorney Fees. In the event of litigation concerning this Agreement, the Parties shall each be responsible for their own attorney's fees and costs.

25. Completeness of Agreement. This Agreement, together with any additional or supplementary Schedules or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the Parties hereto. This Agreement may be amended or revised only in writing and signed by all the parties.

26. Force Majeure. Provider will not be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder for any reason beyond its control, including without limitations, strikes, inmate disturbances, failure of Customer to provide proper security services, acts of God, civil or military authority, acts of public enemy, war, terrorism, accidents, fires, explosions, earthquakes, floods, or any similar cause beyond the reasonable control of either Party.

27. Assignment. Provider may assign this Agreement or any interest herein at any time to any parent, successor, or subsidiary with prior written notice to Customer.

28. Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement which shall remain in full force and effect and enforceable in accordance with its terms.

29. Matters to be Disregarded. The titles of the several sections, subsections and paragraphs set for in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

30. Interpretation. The language in this Agreement is to be construed according to its plain meaning and not strictly for or against either party. The parties have reviewed this Agreement and no ambiguities are known to exist; however, to the extent any ambiguity is later discovered, any rule that such ambiguity is to be resolved for or against either party does not apply.

31. Notices. Any notices, demands, payments or reports required by this Agreement shall be in writing and sufficient if sent by the parties hereto via registered or certified United States mail, postage prepaid, to the notice addresses noted below the Parties signatures on the signature page.

32. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Agreement. Any signature page of any such counterpart, or any telecopy or other electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any telecopy or other electronic transmission of a signature shall be deemed an original and shall bind the party who made such signature.

33. Authority. Each Party represents and warrants that it has the authority to enter into this Agreement, and that the individual signing on its behalf likewise has authority to do so.





**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by the duly authorized Officers and Agents and have set their hands and seals hereto as of the day and year written below.

**Customer: Crook County, OR**

**Provider: Smart Communications Holding, Inc.**

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Email: \_\_\_\_\_

Email: \_\_\_\_\_

**Notice Address:**  
308 NE 2nd Street  
Prineville, OR 97754

**Notice Address:**  
10491 72<sup>nd</sup> St.  
Seminole, FL 33777

## Schedule of Services Agreement

This Schedule is between Crook County, a political subdivision of the state of Oregon, hereinafter referred to as “Customer,” and Smart Communications Holding, Inc. and/or its designated subsidiary or assignee, with principal offices located at 10491 72<sup>nd</sup> Street, Seminole, FL 33777, hereinafter referred to as “Provider.” This Schedule is part of and governed by the Master Service Agreement, the “Agreement”, executed by the Parties. The terms and conditions of the Agreement are incorporated herein by reference.

The Customer’s Facility Name and address is: Crook County Jail, 308 NE 2nd Street, Prineville, OR 97754

Commission Payments shall be remitted to the following:

Payee: Crook County

Address: 308 NE 2nd Street, Princeville, OR 97754

Provider and Customer agree to the following terms and conditions in connection with Provider’s installation and provision of inmate communication services to Customer’s Facility:

### Inmate Telephone System

1. Customer grants to Provider the exclusive right to install and maintain Inmate Telephone Services within and throughout Facility, including for any future expansion of telephone service to buildings or locations under control of Facility, during the term of this Agreement.
2. Provider shall establish rates for telephone services as set forth below.

INMATE TELEPHONE SYSTEM PER MINUTE CALL RATES			
Call Type	Collect	PrePaid Collect	PrePaid Debit
Local	\$0.16	\$0.12	\$0.12
IntraLATA	\$0.25	\$0.21	\$0.21
InterState	\$0.25	\$0.21	\$0.21
InterLATA	\$0.25	\$0.21	\$0.21
International	\$0.75	\$0.75	\$0.75

3. This Agreement includes all other premises, whether now existing (e.g., if a different vendor has a contract and equipment at such premises, this clause applies at the earliest termination opportunity) or subsequently acquired, under the control of Customer within Provider’s service areas. Customer will advise Provider in writing, of newly opened, acquired, or available premises, promptly, and Provider can evaluate installation of its telephone services at these premises.

4. In consideration of the compensation paid to Customer under this Agreement, Customer expressly waives carrier selection rights, where applicable, and Provider expressly reserves the right to select and/or contract for the local, intraLATA and interLATA carrier selections for the telephones subject to this Agreement and intended for placement at Customer locations.

### **Smart Communications' Responsibilities (Inmate Telephone System)**

5. Provider's telephone services and system are provided by way of Provider's Smart-EVO™ ITS terminals, which will be installed in quantities and at locations that are mutually agreed upon by both parties.
6. Provider shall service and maintain its telephone system and Smart-EVO™ ITS terminals at Provider's expense, except as otherwise agreed upon herein.
7. Provider shall comply with the Americans with Disabilities Act (ADA) for all equipment it provides.

### **Commissions and Payments**

8. Provider agrees to pay Customer certain commissions collected from its inmate phone system. Said commission is based upon Customer's grant to Provider exclusivity for the services described herein, including secure two-way electronic messaging, video visitation, and entertainment.
9. Provider shall make monthly commission payments to Customer in the amount of forty-three percent (43%) of revenues generated from all phone calls made on its Inmate Telephone System, regardless of call type or call rate. Provider shall additionally pay commission of fifty percent (50%) of revenue generated from incoming voicemail messages.
10. Starting the first month after Provider's system and services are installed and live, Provider will pay Customer said commission payments on or before the 30th day of the month.
11. Commission schedule is based on rate caps as of the time Provider's proposal was made. To the extent the Federal Communications Commission (FCC) or other governing body changes allowable rates, Provider shall have the right to renegotiate commissions, which the parties agree to do in good faith.

### **Customer's Responsibilities (Inmate Phone System)**

12. Customer agrees to provide adequate space for installation of Provider's Smart-EVO™ ITS terminals, and easy accessibility for inmate use during the normal operating hours. In the event Customer is not the owner of the premises, Customer shall, where necessary, obtain permission from the building owner or owner's agent for the placement of the ITS terminals, and shall be responsible for any fees for use of required riser cable and electric power.
13. Customer agrees to maintain the area around the ITS terminals and ensure safe and ready access by inmates.
14. Customer agrees to allow Provider access to perform maintenance during the established hours of accessibility as jointly agreed by the parties, except when access must be denied to ensure the safety of Provider service personnel and/or to maintain institutional control.
15. Customer agrees to allow Provider, with prior written approval of Customer, access to and use of house cable and inside wire at no cost, in order to install and provide telephone service. Any new house cable or inside wire required during the contract term will be at the sole expense of the Provider, unless otherwise negotiated with Customer.
16. Customer agrees that any relocation, expansion, addition, or removal of ITS hardware, equipment, or terminals, which would result in extraordinary expenses must be agreed to by Provider in advance of the cost being incurred or alternately, the cost be paid by Customer.
17. Customer agrees to exercise reasonable and ordinary care to prevent the loss through theft or damage to the ITS terminals and equipment from any source.

18. Customer agrees to, at its option, purchase and provide enclosures at its own expense for Telephones. In the event Customer elects to provide its own enclosures, Customer shall be responsible for installation and maintenance of said enclosures.

19. Customer represents and warrants that Provider's ITS system will be installed on property owned by the Customer, or if Customer is not the owner of the premises, Customer has obtained permission from the Facility's owner or owner's agent.

### **SmartKiosks™ and Secure Network**

20. Provider's SmartKiosk™ system and its entire supporting infrastructure are provided at no cost to Customer or inmates.

21. The SmartKiosk™ is a custom, ruggedized and correctional grade kiosk of Provider's custom specifications that will connect to its secure network.

22. The SmartKiosk™ software operating system and applications are all custom-compiled for a corrections environment to ensure that only the minimum operating system components and applications are present. The inmate only has access to applications that are approved for their use, and the operating system is only allowed to connect to Provider's dedicated secure wireless network within the facility.

23. The network itself is designed to facilitate applications within a corrections environment. Provider utilizes a deny-by-default policy on all traffic, so nothing may traverse the network unless specifically allowed and enabled. Provider utilizes a defense-in-depth strategy which employs many layers of security. If any one layer of security is breached, there are many others to provide continuing protection.

24. Each SmartKiosk™ is assigned to a specific housing area and will only allow inmates within that housing area to sign in and use the Kiosk. Customer shall determine which inmates have access to the SmartKiosks™.

### **SmartInmate™ Electronic Messaging**

25. Provider will provide a fully functional electronic messaging system for the inmates of the Customer's Facility (SmartInmate™), accessible via Provider's SmartKiosk™ devices. Provider is responsible for providing and installing all of the hardware, the software to include the operating systems and application software, and all networking requirements needed for operation of the system. Provider shall be exclusively entitled to all revenue derived from electronic messaging and photo delivery.

26. Provider will provide at no cost to Customer the labor for the installation of the SmartInmate™ electronic messaging system.

27. Provider will provide at no cost to Customer the labor, hardware, and software needed for the continued operating, maintaining, and networking of the electronic messaging system.

28. Provider is responsible for all the costs and future costs associated with any modification, reconfiguration, or upgrade of the electronic messaging system at the Customer's Facility. These costs do not include the costs of the actual electrical power.

29. Provider will provide each inmate at Customer's Facility with credits for two (2) messages per week at no charge, to satisfy the needs of indigent inmates.

30. Customer shall have the capability of monitoring and reviewing all electronic messages and attachments sent through the electronic messaging system, except those messages deemed to be privileged under law between

attorney and client. Further, Provider will maintain a record of all electronic messages sent through the electronic messaging system for a period of seven (7) years from the time the message is sent.

31. Friends and Family can access the electronic messaging and photo delivery system via the SmartInmate.com website.

32. Electronic Messaging. Each “email” message (up to 30,000 characters in length) is billed at fifty cents (\$0.50), which corresponds to 50 credits.

33. Photo Delivery Service. Each approved photo is billed at one dollar (\$1.00), which corresponds to 100 credits.

### **Customer’s Responsibilities (SmartInmate™ Electronic Messaging)**

34. Customer will provide access to the Customer Jail Facilities and space within the Facilities, subject to operational security requirements, for Provider to install, network, and maintain the electronic messaging system. Emergency access to the system will be granted as needed Monday through Friday 8:00 am to 4:00 pm. Non-emergency access will be granted within twenty-four (24) hour notice by Provider.

35. Customer will include information regarding the SmartInmate™ messaging system in Facility’s Inmate Handbook and in all other areas where information on the Inmate Telephone System is located.

36. Customer will provide information regarding the SmartInmate™ messaging system in at least one location next to the inmate mailing address on Customer’s website, with a link to the SmartInmate.com website.

37. Upon completion of installation and appropriate system testing, Customer will allow the electronic messaging to go live within forty-eight (48) hours’ notice of system availability.

38. Customer will provide a list electronically twice each day of all inmates residing in the Customer Jail Facilities and their current housing assignments. Provider will use this listing to ensure that each inmate is authorized to use only those kiosks and tablets appropriate to their housing assignment.

39. Customer will give prompt notice, in writing, to Provider of any trouble or irregularity in the functioning of the electronic messaging system, as a whole.

### **Patented MailGuard Postal Mail Elimination® System**

40. Provider is the exclusive licensee of MailGuard®, the patented postal mail elimination system covered by U.S. Patent Nos. 10,0291,617, 11,457,013, and multiple pending patent applications.

41. Provider shall provide its patented MailGuard Postal Mail Elimination® system at no cost to Customer. Provider’s MailGuard® service converts regular incoming postal mail into an electronic document that is delivered to the inmate recipient via the SmartKiosk™ within the Customer’s Facility.

42. Provider shall provide all the equipment and support services to operate the MailGuard® system and transmit incoming routine postal mail into an electronic document to be delivered to the inmate on the SmartKiosk™ at no cost to Customer.

43. For purposes of this agreement, “routine mail” means all regular incoming correspondence between inmates, family and friends and excludes all legal mail, packages, books, magazines, periodicals and religious mail. All legal mail, packages, books, magazines, or other non-routine inmate mail will still be sent to Customer’s Facility for delivery.

44. MailGuard® will only integrate with and transmit incoming routine mail to the SmartKiosk™.

45. Provider is responsible for all the future costs associated with any modification, reconfiguration, or upgrade of the MailGuard® system at the Customer Jail Facilities. These costs do not include the costs of the actual electrical power.
46. MailGuard® shall become the Inmates' designated Agent to process and electronically deliver incoming routine inmate mail pursuant to Customer's mail policy which shall promote the intent of this Agreement.
47. Customer will instruct and publish on its website that all incoming routine mail must be sent to the designated Post Office Box for electronic delivery via the MailGuard® system.
48. Provider shall be solely responsible for the cost of maintaining the Post Office Box designated by the Customer for incoming routine mail to be sent.
49. Provider will retrieve incoming routine mail from the designated Post Office Box and process and transmit that mail in an expeditious manner.
50. The MailGuard® public website will allow inmates to log into their account and retrieve electronic copies of their processed incoming routine mail for thirty (30) days from the date of their release from the Customer's Facility.
51. Provider will maintain electronic records for a period of seven (7) years from the date of the inmate's release from the Customer's Facility. During the term of this Agreement and upon request, we will provide Customer with electronic copies of the requested record for the purpose of inspecting, examining, and auditing the Provider's records directly relevant to Customer's Facility.
52. MailGuard® will provide Customer with the capability of monitoring and reviewing all electronic mail sent through the MailGuard® system, except those messages deemed to be privileged under law between attorney and client.

#### **Customer's Responsibilities (MailGuard®)**

53. Customer shall be responsible for informing inmates and inmates' friends and family that all routine correspondence must be sent to the designated MailGuard® Post Office Box. Customer will include information regarding the MailGuard® system in the Inmate Handbook and in all other areas where information regarding the Inmate Mail Policy and Procedures are located.
54. Customer will provide information regarding Customer's incoming postal mail policy, the MailGuard® system and the MailGuard® procedure for processing and/or disposing of all incoming mail and pictures in at least one location next to the inmate mailing address on the Customer's website and very clearly state that all incoming routine mail MUST be mailed to the MailGuard® designated Post Office Box.
55. Customer will instruct on its website that all incoming routine mail must be sent to the designated Post Office Box for electronic delivery via the MailGuard® system and display information regarding the Customer's incoming postal mail policy, the MailGuard® system and the MailGuard® procedure for processing and/or disposing of all incoming mail and pictures.
56. Should the Customer receive incoming routine mail instead of the designated Post Office Box, the Customer will return the mail to the sender.
57. Upon completion of installation and appropriate system testing, Customer will allow the MailGuard® system to go live within forty-eight (48) hours' notice of system availability.

58. Customer will provide a list electronically twice each day of all inmates residing in the Customer Jail Facilities and their current housing assignments.

59. Customer will give prompt notice in writing to Provider of any trouble or irregularity in the functioning of the MailGuard® system.

### **Video Visitation**

60. Provider will provide at no cost to Customer a video visitation system for the inmates of Customer's Facility. Provider is responsible for providing all hardware (i.e. tablets and kiosks), the software (including the operating systems and application software), and all networking requirements needed for operation of the system. Provider shall have the exclusive right over any other vendor to provide the services of and to derive revenue from remote video visitation.

61. Provider's video visitation system will be accessible to inmates via Provider's SmartKiosks™.

62. Provider will provide at no cost to Customer onsite video visitation (public) kiosks and/or lobby kiosks in the quantity and at the locations as agreed by the Parties.

63. Provider will provide at no cost to Customer the labor, hardware, and software needed for the continued operating, maintaining, and networking of the video visitation system, including any public or lobby kiosks.

64. Provider is responsible for all the costs and future costs associated with any modification, reconfiguration, or upgrade of the video visitation system at Customer's Facility. These costs do not include the costs of the actual electrical power.

65. Provider will provide Customer with the capability of monitoring the video visitations, except those visitations deemed to be privileged under law between attorney and client. Provider will maintain a record of all parties of the video visitation system for a period of seven (7) years from the time of the visitation.

66. Friends and Family can access and purchase and schedule the video visitation sessions via the Smartjailmail.com website.

67. Remote video visitation will be made available to inmates 7 days a week, in keeping with the same hours and time availability of the inmate phone system.

68. Remote video visitation will be billed at \$7.50 per thirty-minute session, subject to change by mutual agreement of the parties. Onsite video visitation shall be provided at no charge.

69. Provider shall pay Customer a commission in the amount of twenty-five percent (25%) of the gross revenue collected from the use of remote video visitation services on its system.

70. Provider shall pay commissions to Customer on a monthly basis, no later than thirty (30) calendar days from the end of each calendar month for which the remote video visitation services are provided.

### **Grievances, General and Medical Requests**

71. Provider will additionally deploy applications for Inmate electronic general and medical requests as well as well as electronic grievance forms, available via SmartKiosk™ devices.

72. Provider's system presents Inmates with a list of available forms, and once a form has been selected and submitted, it is automatically routed to the appropriate person or department for processing.



**Customer Training**

73. Upon the installation of Provider’s system, Provider shall provide Customer staff with extensive training for all services and features available to Customer pursuant to this Agreement. In addition, Provider will provide refresher or new training sessions to Customer staff as necessary, including as new staff is hired by Customer.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by the duly authorized Officers and Agents and have set their hands and seals hereto as of the day and year written below.

**Customer: Crook County, OR**

**Provider: Smart Communications Holding, Inc.**

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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



## AGENDA ITEM REQUEST



**Date:**

*September 12, 2023*

**Meeting date desired:**

*September 20, 2023*

**Subject:**

*Proposed "Supplement" to opioid settlement distribution agreement with State of Oregon.*

**Background and policy implications:**

*There are many class action proceedings regarding claims of harm suffered by local public entities by opioid manufacturers, distributors, and wholesalers. One such group is called the "Jansen" defendants, who were parties to one such proceeding. Separate class action proceedings involved Allergan, Teva, Walgreens, and Walmart. A third case involved the bankruptcy of a company named Mallinckrodt.*

*The State of Oregon would not allow any of the Jansen settlement funds to be apportioned to Oregon local governments unless those governments executed a Statewide Settlement Agreement, which, among other features, sent 45% of the settlement funds to the State, and placed limits and use requirements on local governments.*

*The Agreement was not well-drafted to address the settlements of the other (non-Jansen) lawsuits. Local governments and the State collaborated on the attached Supplement, which would address (1) the Allergan, Teva, Walgreens, and Walmart settlement; (2) the Mallinckrodt Bankruptcy; and (3) any future, similar class action settlement agreement bearing on the opioid epidemic.*

**Budget/fiscal impacts:**

*By itself, this Supplement does not add or reduce any funding to Crook County. It does impose conditions on how funds which the County may receive out of opioid settlements may be used – however, such use restrictions are in line with other commitments and restrictions already effective upon the County. For instance, the Supplement states that funds received from, say, the Walmart settlement, may only be used as that settlement agreement specifies. One such restriction is that local governments may not use more than 5% of the funds for administrative purposes.*

**Requested by:**

*Eric Blaine, County Counsel  
Eric.blaine@CrookCountyOR.gov  
541-416-3919*

**Presenters:**

*Eric Blaine, County Counsel*

**Legal review (only if requested):**

*Legal has reviewed the Supplement agreement.*

**Elected official sponsor (if applicable):**

*N/A*

**Oregon Supplement to Statewide Allocation Agreement**  
**under the**

**MALLINCKRODT PLC, et al. Bankruptcy and Additional Settling Company Agreements**

This Oregon Supplement to Statewide Allocation Agreement (this “Agreement”) is between the State of Oregon and the OR Participating Subdivisions and supplements the terms and conditions of the OSA (defined below) and governs the allocation, distribution and use of (i) NOAT II Funds paid to Oregon for NOAT II Approved Abatement Uses under the Mallinckrodt Reorganization Plan, (ii) Additional Company Settlement Funds paid to Oregon for Opioid Remediation under each of the Additional Settling Company Agreements described in Section 1.b below, and (iii) additional settlement agreements arising out of multi-state opioid related litigation as set forth in Section 4(d) of this Agreement and Section 8 of the OSA. It is the Parties’ intent that this Agreement is made a part of the OSA as of the effective date of the OSA.

**1. Introduction**

- a. **Mallinckrodt.** Mallinckrodt PLC *et al* (“Debtors”), filed for bankruptcy protection in October 2020. *In re Mallinckrodt plc*, U.S. Bankruptcy Court, D. Del., Case No. 20-12522 *et al.* (JTD) (jointly administered). On April 20, 2021, Debtors filed their *Joint Plan of Reorganization of Mallinckrodt plc and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code*, ECF No. 2074 (as amended from time to time,<sup>1</sup> the “NOAT II Reorganization Plan”). The NOAT II Reorganization Plan contemplates the filing of Plan Supplements with proposed forms of the operative documents to implement the NOAT II Reorganization Plan upon its confirmation. On August 6, 2021, the Debtors filed the proposed form of the *National Opioid Abatement Trust II Agreement* (as amended from time to time, the “NOAT II Agreement”) as Exhibit D to the Plan Supplement, ECF No. 3610-1. On September 4, 2021, Debtors filed the proposed form of trust distribution procedures for the National Opioid Abatement Trust II (as amended from time to time,<sup>2</sup> the “NOAT II Distribution Procedures”), ECF No. 4149. To qualify for distributions under the NOAT II Distribution Procedures, each state may file a Statewide Allocation Agreement providing an agreed-upon allocation or method for allocating the NOAT II Funds for that state.
- b. **Additional Settlements.** Each of the Additional Settling Companies (as defined below) has entered into a separate settlement agreement with multiple states, including Oregon (each, such agreement, an “Additional Settling Company Agreement” and, collectively, the “Additional Settling Company Agreements”), under which each Additional Settling Company agrees to pay amounts into a national settlement fund, from which a fund administrator established as set forth in the Additional Settling Company Agreements may distribute funds to individual states to be used for Opioid Remediation pursuant to the terms of each of the Additional Settlement Company Agreements. To qualify for distribution of settlement funds under each Additional Settling Company Agreement, each state may file a Statewide Allocation Agreement providing an agreed-upon

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<sup>1</sup> Debtors have filed amended proposed plans of reorganization on September 9, 2021, December 2, 2021, December 29, 2021, and January 6, 2022, and may further amend the Plan prior to the Bankruptcy Court’s ruling on confirmation.

<sup>2</sup> Debtors filed an amended proposed form of the NOAT II Trust Distribution Procedures on October 11, 2021, ECF No. 4664.

allocation or method for allocating the Additional Company Settlement Funds for that state with respect to funds distributed to the state under the Additional Settling Company Agreement.

- c. **Statewide Allocation Agreement.** In December 2021, the State of Oregon and OR Participating Subdivisions entered into the State of Oregon Subdivision Agreement Regarding Distribution and Use of Settlement Funds (“OSA”) in which the State and its subdivisions agreed to distribution allocations of Oregon Settlement Funds paid to Oregon under the Distributor and Janssen Agreements and related opioid matters. It is the intention of the State and the OR Participating Subdivisions that the portions of OSA incorporated into this Agreement, constitute a Statewide Allocation Agreement for purposes of both the NOAT II Plan and each of the Additional Settling Company Agreements. To that end, Oregon submitted the OSA to the NOAT II trustees in satisfaction of the SAA requirements under the NOAT II Distribution Procedures. On July 1, 2022, the NOAT II trustees acknowledged Oregon’s filing of the OSA in the Mallinckrodt bankruptcy proceeding. In addition, Oregon has submitted the OSA to describe the distribution plan for each of the Additional Settling Company Agreements.
- d. **Relationship to OSA.** Section 8 of the OSA provides that the allocation percentages between the State of Oregon and the OR Participating Subdivisions, and between and among the OR Participating Subdivisions, set forth in the OSA will apply to future multistate opioid settlements with distributors, manufacturers and pharmacies, subject to consideration of the terms of such settlements. The purpose of this Agreement is to clarify which provisions of the OSA are applicable to (i) the distribution of NOAT II Funds to avoid any potential confusion in the administration of the NOAT II Funds in accordance with the NOAT II Plan, and (ii) the distribution of the Additional Company Settlement Funds to avoid any potential confusion in the administration of the Additional Company Settlement Funds in accordance with the Additional Settling Company Agreements.

## 2. Definitions

The following terms shall have the meaning set forth below when used in this Agreement. Additional terms defined within this Agreement shall have that meaning when used in this Agreement. In addition, terms used in this Agreement that are defined in the OSA will have that meaning unless otherwise defined in this Agreement.

- a. *Additional Company Settlement Funds* means funds distributed to Oregon for Opioid Remediation under an Additional Settling Company Agreement.
- b. *Additional Settling Company* means, each of the following entities individually, and *Additional Settling Companies* means the following entities collectively:
  - i. *Allergan*, which means Allergan Finance, LLC (f/k/a Actavis, Inc., which, in turn, was f/k/a/ Watson Pharmaceuticals, Inc.) and Allergan Limited (f/k/a Allergan plc, which, in turn, was f/k/a Actavis plc). Allergan does not include Teva Pharmaceuticals Industries Ltd. (“Teva Ltd.”), Teva Pharmaceuticals USA, Inc. (“Teva USA”), Cephalon, Inc. (“Cephalon”), Actavis LLC (f/k/a Actavis Inc.) (“Actavis LLC”), Watson Laboratories, Inc. (“Watson”), Actavis Pharma,

Inc. (f/k/a Watson Pharma, Inc.) (“Actavis Pharma”), Actavis Elizabeth LLC (“Actavis Elizabeth”), Actavis Kadian LLC (“Actavis Kadian”), Actavis Laboratories FL, Inc. (f/k/a Watson Laboratories, Inc. - Florida) (“Actavis Labs FL”), Actavis Laboratories UT, Inc. (f/k/a Watson Laboratories, Inc. - Utah) (“Actavis Labs UT”), Actavis Mid Atlantic LLC (“Actavis Mid”), Actavis South Atlantic LLC (“Actavis South”), Actavis Totowa LLC (“Actavis Totowa”), or Anda, Inc. (“Anda”).

- ii. *CVS*, which means CVS Health Corporation and CVS Pharmacy, Inc. and all of their past and present direct and indirect parents and subsidiaries.
- iii. *Teva*, which means (i) Teva Pharmaceutical Industries Ltd. and (ii) all of its respective past and present direct or indirect parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns, including but not limited to Teva Pharmaceuticals USA, Inc., Actavis LLC (f/k/a Actavis Inc.), Actavis Elizabeth LLC, Actavis Kadian LLC, Actavis Pharma, Inc. (f/k/a Watson Pharma, Inc.), Actavis Kadian LLC, Actavis Laboratories UT, Inc. (f/k/a Watson Laboratories, Inc. - Utah), Actavis Mid Atlantic LLC, Actavis Totowa LLC, Actavis Laboratories FL, Inc. (f/k/a Watson Laboratories, Inc. - Florida), Actavis South Atlantic LLC, Warner Chilcott Company LLC, and Watson Laboratories, Inc., and Anda Inc.
- iv. *Walgreens*, which means Walgreen Co., and
- v. *Walmart*, which means Walmart, Inc.

- c. *Additional Settlement Funds* means both NOAT II Funds and Additional Company Settlement Funds.
- d. *NOAT II Plan* means, collectively, the NOAT II Reorganization Plan and its Plan Supplements, the NOAT II Agreement, and the NOAT II Distribution Procedures, and any modifications or supplements to any of the foregoing.
- e. *NOAT II Funds* means any funds distributed under the NOAT II Plan to the State and the OR Participating Subdivisions for NOAT II Approved Abatement Uses.
- f. *NOAT II Approved Abatement Uses* means opioid remediation activities for which NOAT II Funds may be used pursuant to Schedules A and B of the NOAT II Distribution Procedures.
- g. *Opioid Remediation*, when used herein in reference to the expenditure of Additional Company Settlement Funds, has the meaning set forth in the Additional Settling Company Agreement under which the Additional Company Settlement Funds were paid to Oregon.

### **3. General Terms**

- a. This Agreement is subject to the requirements of the NOAT II Plan and applicable law with respect to the distribution of NOAT II Funds. Terms used in this Agreement relating

solely to the distribution of NOAT II Funds have the same meaning as in the NOAT II Plan unless otherwise defined herein.

- b. This Agreement is subject to the requirements of each individual Additional Settling Company Agreement and applicable law with respect to distribution of Additional Company Settlement Funds distributed under that Additional Settling Company Agreement. Terms used in this Agreement relating to the distribution of Additional Company Settlement Funds under an Additional Settling Company Agreement have the same meaning as in that Additional Settling Company Agreement unless otherwise defined herein.
- c. This Agreement applies to:
  - i. the distribution of NOAT II Funds under the NOAT II Plan and does not affect any other distribution of funds under the NOAT II Plan, including but not limited to attorney fees;
  - ii. the distribution of Additional Company Settlement Funds dedicated to Opioid Remediation under each Additional Settling Company Agreement, and does not affect any other distribution of funds under that or any other Additional Settling Company Agreement, including but not limited to attorney fees.
- d. Pursuant to the NOAT II Plan, all NOAT II Funds distributed pursuant to this Agreement will be used for NOAT II Approved Abatement Uses.
- e. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Allergan is a party (the “Allergan Agreement”) will be used for Opioid Remediation pursuant to and as defined in the Allergan Agreement.
- f. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which CVS is a party (the “CVS Agreement”) will be used for Opioid Remediation pursuant to and as defined in the CVS Agreement.
- g. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Teva is a party (the “Teva Agreement”) will be used for Opioid Remediation pursuant to and as defined in the Teva Agreement.
- h. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Walgreens is a party (the “Walgreens Agreement”) will be used for Opioid Remediation pursuant to and as defined in the Walgreens Agreement.
- i. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Walmart is a party (the “Walmart Agreement”) will be used for Opioid Remediation pursuant to and as defined in the Walmart Agreement.

#### **4. Oregon State Allocation of Additional Settlement Funds**

As provided in the OSA, the Additional Settlement Funds payable to Oregon, and the amounts paid to Oregon under the NOAT II Plan and each of the Additional Settlement Agreements shall be

allocated as follows: 45% to the State (“State of Oregon Allocation”) and 55% to the OR Participating Subdivisions (“Oregon Participating Subdivision Allocation”).

- a. **State of Oregon Allocation.** Forty-Five percent (45%) of the total Additional Settlement Funds paid to Oregon will be allocated to the State and used by the State for (i) with respect to NOAT II Funds distributed to the State under the NOAT II Plan, for NOAT II Approved Abatement Uses, and (ii) with respect to Additional Company Settlement Funds distributed under an Additional Settling Company Agreement, for Opioid Remediation as defined and permitted by the terms of that Additional Settling Company Agreement.
- b. **OR Participating Subdivision Allocation.** Fifty Five percent (55%) of total Additional Settlement Funds paid to Oregon will be allocated to OR Participating Subdivisions and used by the OR Participating Subdivisions for (i) with respect to NOAT II Funds distributed to the State under the NOAT II Plan, for NOAT II Approved Abatement Uses, and (ii) with respect to Additional Company Settlement Funds distributed under an Additional Settling Company Agreement, for Opioid Remediation as defined and permitted by the terms of that Additional Settling Company Agreement. Additional Settlement Funds allocated to OR Participating Subdivisions, whether NOAT II Funds or Additional Company Settlement Funds, shall be distributed to OR Participating Subdivisions in the same proportion and manner as OR Subdivision Funds are distributed under the Section 4(c) of the OSA.
- c. **Administration of Distributions.** Direct distributions of Additional Settlement Funds shall be administered according to (i) with respect to NOAT II Funds, the NOAT II Plan, and (ii) with respect to Additional Company Settlement Funds, the Additional Settling Company Agreement under which such Additional Company Settlement Funds are paid, each consistent with this Agreement and the instructions submitted to the applicable administrator of the NOAT II Plan or Additional Settling Company Agreement by the OR Participating Subdivisions.
- d. **Other Settlements.** This Agreement applies to the distribution of NOAT II Funds received by Oregon under the NOAT II Plan and the Additional Company Settlement Funds received by Oregon under the Additional Settling Company Agreements. In addition, consistent with Section 8 of the OSA, the allocation and distribution between the State and OR Participating Subdivisions of any funds other than the NOAT II Funds, the Additional Settlement Funds or the Oregon Settlement Funds (as defined in the OSA) received by Oregon under any other multistate opioid settlements based on the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling or marketing of opioids, or the consultants, agents or associates of distributors, manufacturers or pharmacies (such funds, “Future Settlement Funds”), will be governed by Sections 3, 4(a)-(c), 5-8, and 10 of the OSA, as well as any additional agreements entered into between the State and the OR Participating Subdivisions relevant to the Future Settlement Funds, subject to consideration of other terms of such settlements that impact allocation of Future Settlement Funds; provided that any reference in those sections of the OSA to either the Distributor Settlement Agreement or the Janssen Settlement Agreement shall be read to mean the applicable settlement under which Oregon receives the Future Settlement Funds with respect to distribution of those Future Settlement Funds.

## 5. Additional Compliance Obligations

- a. **NOAT II Funds.** Each OR Participating Subdivision that receives a distribution of NOAT II Funds is responsible for meeting all requirements of the NOAT II Plan, including limitations on spending the funds and accounting and reporting requirements. These include, but are not limited to, the following:
  - i. In accordance with the terms of the NOAT II Plan, no OR Participating Subdivision that receives an allocation may expend more than 5% of the NOAT II Funds for expenses incurred in administering the distributions for the NOAT II Approved Abatement Uses, including the process of selecting programs to receive distributions of NOAT II Funds.
  - ii. In accordance with the terms of the NOAT II Plan, no portion of any NOAT II Funds may be used to pay attorneys' fees or costs.
  - iii. All OR Participating Subdivision receiving direct distribution of funds through this Agreement must comply with the reporting requirements set forth in the NOAT II Plan. Reporting for cities that do not elect direct distribution will be the responsibility of the County to whom that City's funds were distributed.
  - iv. NOAT II Funds distributed to a county are not required to be spent exclusively for NOAT II Approved Abatement Uses in any city, but must be used only for NOAT II Approved Abatement Uses and reported in accordance with all requirements of the NOAT II Plan.
- b. **Additional Company Settlement Funds.** Each OR Participating Subdivision that receives a distribution of Additional Company Settlement Funds under an Additional Settling Company Agreement is responsible for meeting all requirements of the Additional Settling Company Agreement under which it received the Additional Company Settlement Funds, including limitations on spending the Additional Company Settlement Funds and accounting and reporting requirements under the Additional Settling Company Agreement under which it received the Additional Company Settlement Funds. These include, but are not limited to, the following:
  - i. No OR Participating Subdivision that receives an allocation of Additional Company Settlement Funds may expend the funds for expenses incurred in administering the funds for Opioid Remediation in excess of any limits set forth in the Additional Settling Company Agreement under which it received the Additional Company Settlement Funds.
  - ii. No portion of any Additional Company Settlement Funds may be used to pay attorneys' fees or costs.
  - iii. With respect to reporting requirements applicable to the expenditure of Additional Company Settlement Funds, reporting for cities that do not elect direct distribution will be the responsibility of the County to whom that City's funds were distributed.
  - iv. Additional Company Settlement Funds distributed to a county are not required to be spent exclusively for Opioid Remediation in any city, but must be used only for Opioid Remediation in compliance with the Additional Settling Company Agreement under which they were paid to



the county.

- c. **OSA Reporting and Auditing.** The provisions of Sections 5 (State and Subdivision Reporting and Oversight) and 6 (Audits) of the OSA apply to the OR Participating Subdivision's reporting of expenditures and the Parties' respective audit rights related to Additional Settlement Funds; provided that any reference in those sections of the OSA to either the Distributor Settlement Agreement or the Janssen Settlement Agreement shall be read to mean (i) the NOAT II Plan with respect to the reporting of the use of and audits related to the NOAT II Funds, and (ii) the Additional Settling Company Agreements with respect to any Additional Company Settlement Funds. The Parties may cooperate to coordinate reporting obligations under the OSA and this Agreement with respect to the Distributor Settlement Agreement, the Janssen Settlement Agreement, the NOAT II Plan, and the Additional Settling Company Agreements.

## 6. **Agreements Among Local Governments**

OR Participating Subdivisions may form agreements or ventures, or otherwise work in collaboration with federal, state, local, tribal or private sector entities in pursuing NOAT II Approved Abatement Uses or Opioid Remediation, subject to any restrictions applicable to such federal, state, local, tribal or private sector entities. Further, provided that (i) all NOAT II Funds are used for NOAT II Approved Abatement Uses, a county and any cities or towns within the county may agree to reallocate NOAT II funds paid to them among themselves, provided that all direct distributions of NOAT II Funds must meet the requirements of the NOAT II Plan, including regular accountings; and (ii) all Additional Company Settlement Funds paid under an Additional Company Settlement Agreement are used for Opioid Remediation consistent with the Additional Settling Company Agreement under which the Additional Company Settlement Funds were distributed, a county and any cities or towns within the county may agree to reallocate Additional Settlement Funds paid to them pursuant to an Additional Settling Company Agreement among themselves, provided that all direct distributions of the Additional Settlement Funds must meet the requirements of the Additional Settling Company Agreement under which they were distributed.

## 7. **Designation of Additional Settlement Funds**

By signing this Agreement, the Attorney General designates the Additional Settlement Funds distributed to the State under this Agreement as paid to the State pursuant to judgments or settlements arising from the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling of opioids, or the consultants, agents or associates of distributors, manufacturers or pharmacies. Accordingly, all Additional Settlement Funds paid to the State shall be deposited in the Opioid Settlement Prevention, Treatment and Recovery Fund established by Oregon Laws 2022, Chapter 63, Section 5(1).

## 8. **Miscellaneous**

- a. **Interpretation.** This Agreement supplements, is made a part of, and is incorporated into the OSA. Except as set forth herein, the terms of the OSA govern the distribution, use and other obligations related to the Additional Settlement Funds.
- b. **Signature Page; Counterparts.** This Agreement may be executed electronically and in counterparts, each of which shall be considered an original, but which together shall constitute one and the same agreement.

**Signature Page**

**OR Participating Subdivisions:**

OR Participating Subdivisions have executed this Agreement via DocuSign

Oregon Subdivision:

\_\_\_\_\_

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

**State of Oregon, acting by and through  
the Oregon Department of Justice**

Title: \_\_\_\_\_

By: \_\_\_\_\_  
Lisa M. Udland  
Deputy Attorney General