

INTERGOVERNMENTAL AGREEMENT
(Pursuant to Resolution & Order No. 2023-058)

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into by and between **LINN COUNTY**, a political subdivision of the State of Oregon, of P.O. Box 100, Albany, Oregon, 97321 ("County"), and **LINN-BENTON HOUSING AUTHORITY**, a public body corporate and politic of the State of Oregon, of 1250 Queen Ave SE, Albany, OR 97322.

BRIEF PROGRAM ABSTRACT: Mental Health Houseless Project (hereinafter referred to as the "Program")

TOTAL NOT-TO-EXCEED AMOUNT: \$2,500,000.00

WHEREAS, County requires the work and services described herein, and Linn-Benton Housing Authority (“LBHA”) agrees to perform all the work and services described herein, now, therefore, IT IS AGREED:

1. **Term of Intergovernmental Agreement.** This Agreement shall be effective and services required hereunder shall commence on July 1, 2023 and shall terminate on June 30, 2028.
2. **Consideration.** County shall pay LBHA a one-time lump sum payment of \$2,500,000.00 via electronic transfer, but not in excess of 2,500,000.00, for performing the work and delivering the deliverables required of LBHA under this Agreement, as described in the OHA Grant Agreement Number 177747, attached hereto as Exhibit A (“Grant Agreement”). County Agrees to pay within 30 days of execution of this Agreement. County shall make payment only after Oregon Health Authority’s (“OHA”) consent to this Agreement under Section 14 of Exhibit B of the Grant Agreement. LBHA will assume all obligations and responsibilities of County to OHA under the Grant Agreement related to the provision of the services in Section 3 of this Agreement, including but not limited to Exhibit A and Exhibit B, Section 14, of the Grant Agreement with the exception of the reporting requirements required by OHA as provided in Exhibit A, Part 1, Section 2 of the Grant Agreement. The County will remain responsible for all Reporting Requirements in Exhibit A, Part 1, Section 2 of the Grant Agreement.
3. **LBHA Services.** LBHA agrees to perform the following services as requested by County:
 - a. LBHA shall build 8-10 rental units for behavioral health supportive housing (See Exhibit D of the Grant Agreement, “New Build” 8 unit supportive housing) (the “Project”);
 - b. Manage predevelopment activities and construction of rental units;
 - c. Submit their project plan to County once completed;
 - d. Complete a Declaration of Restrictive Covenant with OHA for the property on which the rental units are to be built, in accordance with Exhibit A Part 3 Special Terms and Conditions of the Grant Agreement;
 - e. Provide an accounting of all expenditures incurred in completing the rental units;
 - f. **Monthly Reporting:** Brief Description of activities provided and financial accounting of funds used and include all barriers experienced during project, provided by the 10th of each month for the prior month until funds are exhausted;
 - g. **Quarterly Reporting:** Provide a detailed description of all activities, successful stories and barriers experienced, due on April 10th, July 10th, October 10th and January 10th until money is exhausted; and

- h. Monthly and Quarterly reports are to be emailed to Tanya Thompson, Mental Health Program Manager at tthompson@co.linn.or.us or a specified designee.
4. **Declaration of the nature of the contractual relationship.** LBHA and County are independent government entities and not employees of or agents of each other. Neither party shall be responsible for any claims, demands or causes of action of any kind or character arising in favor of any person, on account of personal injuries, or death, or damage to property occurring, growing out of, incident to, or resulting directly or indirectly from the operations or activities of the other party.
5. **Representations and Warranties.**
- a. **County Representations and Warranties.** County represents and warrants to LBHA that:
- i. County is a unit of local government duly organized and validly existing under the laws and jurisdiction of the State of Oregon. County has the power and authority to enter into and perform this Agreement pursuant to ORS 190.003 to 190.130;
 - ii. The making and performance by County of this Agreement: (a) has been duly authorized by all necessary action of County; (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any County ordinance or other organizational document; and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is party or by which County may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement, other than those that have already been obtained;
 - iii. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County enforceable in accordance with its terms;
- b. **LBHA Representations and Warranties.** LBHA represents and warrants to County that:
- i. LBHA is a unit of local government duly organized and existing under the laws and jurisdiction of the State of Oregon. LBHA has the power and authority to enter into and perform this Agreement pursuant to ORS 190.003 to 190.130;
 - ii. The making and performance by LBHA of this Agreement: (a) has been duly authorized by all necessary action of the Board of Commissioners of LBHA; (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency; and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which LBHA is party or by which LBHA may be bound or affected. No further authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by LBHA of this Agreement, other than those that have already been obtained; and
 - iii. This Agreement has been duly executed and delivered by LBHA and constitutes a legal, valid and binding obligation of LBHA enforceable in accordance with its terms.
 - iv. LBHA has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and LBHA will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade, or profession; and
 - v. LBHA shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

- c. **County and LBHA Representations.**
- i. Both the County and LBHA represent and acknowledge that, upon completion of the Project, the parties intend to enter into a long term lease, whereby the County will lease the project from LBHA.
6. **Amendments.** This Agreement may be amended to the extent permitted by applicable statutes, administrative rules, ordinances, and Linn County Code. No amendment shall bind either party unless in writing and signed by both parties.
7. **Insurance.**
- a. **Workers Compensation.** To the extent applicable, each party represents and warrants that it maintains and will maintain in full force and effect coverage sufficient to meet the requirements of Oregon workers' compensation law.
- b. **General Liability.** To the extent applicable, each party represents and warrants that it maintains and will maintain in full force and effect liability insurance covering activities and operations described in this Agreement for the duration of the Agreement.
- c. **Professional Liability.** To the extent applicable, each party shall obtain and at all times keep in effect professional liability insurance as required by law.
8. **Indemnification.** To the fullest extent permitted by law, and in accordance with Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, each party shall indemnify, defend, save, and hold harmless the other party and its officers, employees and agents from and against all claims, suits, actions, liabilities, damages, losses, or expenses, arising solely out of the acts or omissions of the party, its officers, agents, or employees performing under this Agreement.
9. **Compliance with Laws.** Each party agrees to comply with all federal, state, and local laws, codes, regulations, and ordinances applicable to the provision of services under this Agreement, including, without limitation, the provisions of ORS 279B.220 through 279B.235 and the provisions of: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 (Pub L No 101- 336), ORS 659.425, and all amendments of and regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.
10. **Termination.**
- a. **For Convenience.** Either party may terminate this Agreement without specifying any reason for termination by giving written notice of intent to terminate, in writing, mailed at least 30 days before the intended termination date to the party at the party's address given above. Such termination shall be without liability or penalty. No such termination shall prejudice any obligations or liabilities of either party already accrued prior to the effective date of termination. Neither party may terminate this Agreement for convenience once payment has been made by County to LBHA under Section 2 of this Agreement.
- b. **For Cause.** It is further agreed that either party may immediately terminate this Agreement, upon five business days of receipt of written notice, without liability or penalty for any of the following causes:
- i. A party breaches any of the provisions of this Agreement and fails to remedy said breach within thirty (30) days of its receipt of written notice of the breach;
- ii. A party lacks lawful funding, appropriations, limitations, or other expenditure authority at levels sufficient to allow either party to perform in accordance with the provisions of this Agreement; or
- iii. Federal, state, or local laws, regulations, or guidelines are modified or interpreted in such a way that the services under this Agreement are thereafter prohibited.
- c. **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 the party's reasonable control. The

affected party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Agreement. Either party may terminate this Agreement upon written notice after reasonably determining such delay or default will reasonably prevent successful performance of this Agreement.

11. **Waiver.** The failure of either party to enforce any provision of this agreement shall not constitute a waiver by that party of that or any other provision of this agreement, or the waiver by that party of the ability to enforce that or any other provision in the event of any subsequent breach.
12. **Records Maintenance; Access.** Both parties shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, both parties shall maintain any other records pertinent to this Agreement in such a manner as to clearly document both parties' performance hereunder. Parties acknowledge and agrees that County, the Oregon Secretary of State's Office, the Federal Government and their duly authorized representatives shall have access to such fiscal records and all other documents that are pertinent to this Agreement for the purpose of performing audits and examinations and making copies, transcripts and excerpts. All such fiscal records and documents shall be retained by parties for a minimum of six (6) years (except as required longer by law) following final payment and termination of this Agreement, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.
13. **Assignment; Delegation; Successors.** Neither party shall assign, delegate, nor transfer any of its rights or obligations under this Agreement without the other party's prior written consent; provided however, the County acknowledges and consents to LBHA's assignment to a to-be-formed entity related and controlled by LBHA. A party's written consent does not relieve the other party of any obligations under this Agreement, and any assignee, transferee, or delegate is considered the agent of that party. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to the Agreement and their respective successors and assigns.
14. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court or tribunal of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision, and the obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
15. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. No waiver, consent, modification or change of terms or provisions of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.
16. **Governing Law, Jurisdiction, Venue, & Attorney Fees.** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflict of laws rules or doctrines. Any claim, action, suit, or proceeding (collectively, "the claim") between County (and/or any other agency or department of Linn County) and LBHA that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Linn County for the State of Oregon. Provided, however, if the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Each party hereby consents to the in personam jurisdiction of said courts. Each party shall at all times be responsible for the party's attorney fees, costs, and disbursements in regards to the claim, including any appeals.
17. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid,

addressed to the parties at the addresses first set forth below. Any notice or other communication shall be deemed to be given at the expiration of forty-eight (48) hours after the deposit in the United States mail. The addresses to which notices or other communications shall be mailed may be changed from time to time by giving written notice to the other party as provided in this section.

a. County Contact Information

Terri McQueen
Contract and Recruitment Manager
Linn County Department of Health Services
P.O. Box 100
Albany, OR 97321
(541) 924-6916
tmqueen@co.linn.or.us

b. LBHA Contact Information

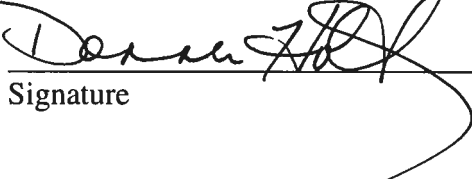
Linn-Benton Housing Authority
1250 Queen Avenue SE
Albany, Oregon 97322
Attention: Executive Director
541-918-7314
donna@l-bha.org

- 18. Counterparts.** This Agreement and any subsequent amendments may be executed in any number of counterparts (including by facsimile, PDF, or other electronic transmission), each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one agreement binding on all parties.
- 19. Survival.** All rights and obligations shall cease upon termination of this agreement, except for those rights and obligations that by their nature or express terms survive termination of this agreement. Termination shall not prejudice any rights or obligations accrued to the parties prior to termination.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by the duly authorized persons whose signature appear below. Each party, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Each person signing this Agreement represents and warrants to have the authority to execute this Agreement.

LINN-BENTON HOUSING AUTHORITY

LINN COUNTY BOARD OF COMMISSIONERS



Signature

Donna Holt, Executive Director

Roger Nyquist, Chairman

William C. Tucker, Vice Chair

Sherrie Sprenger, Commissioner

5/20/2023

Date

Date

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Todd Noble
Linn County Administrative Officer

Deputy/County Attorney for Linn County