



RESOLUTION NO. 7081

A RESOLUTION AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH LINN COUNTY SHERIFF'S OFFICE (LCSO) FOR COMPLETION OF A RADIO IMPROVEMENT PROJECT.

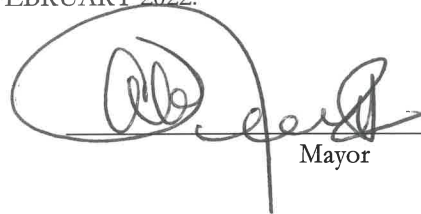
WHEREAS, the existing fire radio communications system is experiencing poor coverage, with public safety impact, due to topography, hardware, and available frequency limitations; and

WHEREAS, funding awarded from the State of Oregon via the Coronavirus State Fiscal Recovery Fund provides for radio system upgrades; and

WHEREAS, the scope of the agreement assigns LCSO the responsibility of research, scope development, contracting, and implementation, including, but not limited to, replacement of the fire radio infrastructure and moving it to an updated system throughout the populated areas of Linn County.


NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the Albany Fire Chief execute an intergovernmental agreement with Linn County Sheriff's Office for the radio improvement project (Attachment A).

DATED AND EFFECTIVE THIS 23RD DAY OF FEBRUARY 2022.




Mayor

ATTEST:



City Clerk



INTERGOVERNMENTAL AGREEMENT
(Pursuant to Resolution & Order No. 2022-013)

THIS AGREEMENT is made and entered into by and between **LINN COUNTY**, a political subdivision of the State of Oregon, P.O. Box 100, Albany, Oregon, 97321 ("County"), and the **City of Albany Fire Department, Lebanon Rural Fire Protection District, Sweet Home Fire District, Scio Rural Fire Protection District, Brownsville Rural Fire District, Tangent Rural Fire District, Halsey-Shedd Rural Fire Protection District, Harrisburg Fire & Rescue** ("Parties"), all governments subject to provisions of law within the State of Oregon.

BRIEF PROGRAM ABSTRACT: Fire Radio Improvement Project (the "Project")

TOTAL NOT-TO-EXCEED AMOUNT: \$1,200,000.00

WHEREAS, ORS 190.010 permits a unit of local government to enter into a written agreement with any other unit of local government for the performance of any or all functions and activities that the agency has authority to perform; and

WHEREAS, the Parties collectively require the performance of services in order to complete the Fire Radio Improvement Project, and the Linn County Sheriff's Office has agreed to complete the Fire Radio Improvement Project on the Parties behalf; and

WHEREAS, The State of Oregon, Department of Administrative Services ("DAS") has awarded to the Linn County Sheriff's Office funding for the Fire Radio Improvement Project via the Coronavirus State Fiscal Recovery Fund Grant Agreement (the "Grant Agreement"). The Grant Agreement has been fully executed between DAS and the County, and is attached hereto as Exhibit 1 and incorporated herein; and now, therefore, IT IS AGREED:

1. **Term of Intergovernmental Agreement.** This Agreement shall be effective and services required hereunder shall commence upon signature of this Agreement and shall terminate on October 21, 2024, unless otherwise terminated or extended as provided herein.
2. **Consideration.** The Coronavirus State Fiscal Recovery Fund Grant shall fund up to \$1.2M of the Fire Radio Improvement Project ("Project").
3. **Governance.** The Parties shall provide governance oversight of the Project during regularly monthly Fire Defense Board Meetings and other meetings as necessary for successful completion of the Project. The Parties agree to authorize expenditure requests brought forth by the County. For Project expenditures from the Grant Agreement monies of \$1.2M, authorization of the Parties is by majority vote.
4. **County Services.** County agrees to perform certain work on behalf of the Parties for the research, scope development, contracting, and implementation of the Project, including, but not limited to, replacement of the fire radio infrastructure and moving it to an IP-based interconnected Voted/Simulcast LMR system, with an increase in on-the-hip radio coverage throughout the populated areas of Linn County. This project is further outlined in Exhibit 1.
5. **Declaration of the nature of the contractual relationship.** The Parties and County are independent contractors 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.

6. Representations and Warranties.

a. County Representations and Warranties. County represents and warrants to the Parties 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;
- iv. County 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 County 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. County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

b. Parties Representations and Warranties. The Parties represent and warrant to County that:

- i. Each Party is a unit of local government duly organized and validly existing under the laws and jurisdiction of the State of Oregon. Party 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 the Parties of this Agreement: (a) has been duly authorized by all necessary action of the Parties; (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 the Parties are party or by which Parties 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 the Parties of this Agreement, other than those that have already been obtained; and
- iii. This Agreement has been duly executed and delivered by the Parties and constitutes a legal, valid and binding obligation of the Parties enforceable in accordance with its terms.

7. 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.

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 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.
 - b. **For Cause.** It is further agreed that either party may immediately terminate this Agreement 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 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. The Parties acknowledge and agree 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 the 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. 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 the Parties 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 regard 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 their common addresses as set forth on each Party's respective agency webpage, addressed to the Chief. 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 County contact person as provided in this section.
- a. County Contact Information**
 Undersheriff Micah Smith
 Linn County Sheriff's Office
 Division 1 115 Jackson St SE
 Albany, OR 97322
 (541) 812-9200
 msmith@LinnSheriff.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 COUNTY FIRE DEFENSE BOARD

LINN COUNTY BOARD OF COMMISSIONERS

Chief Shane Wooton, Albany Fire Department

Chairman

Chief Kevin Rogers, Brownsville Rural Fire

Vice Chair

Chief Travis Hewitt,
Halsey-Shedd Rural Fire Protection District

Commissioner

Chief Bart Griffith, Harrisburg Fire & Rescue

Date

Chief Joseph Rodondi, Lebanon Rural Fire Protection District

Interim Chief Rich LaBelle, Scio Rural Fire Protection District

Chief Dave Barringer, Sweet Home Fire District

Interim Chief Jim Stearns, Tangent Rural Fire

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Undersheriff Micah Smith
Linn County Sheriff's Office

Jodi Gollehon
Deputy County Attorney for Linn County

**CORONAVIRUS STATE FISCAL RECOVERY FUND
GRANT AGREEMENT**

Contract Number: 8069

This grant agreement (“Contract”), dated as of the date the Contract is fully executed, is between the State of Oregon, acting through its Oregon Department of Administrative Services (“DAS”), and Linn County (“Recipient”). This Contract becomes effective only when fully signed and approved as required by applicable law (“Effective Date”). Unless extended or terminated earlier in accordance with its terms, this Contract shall expire **October 1, 2024**.

This Contract includes Exhibit A - Contact Information, Use of Funds/Project Description and Reporting Requirements, Exhibit B - Insurance Requirements and Exhibit C - Federal Award Identification.

Pursuant to Oregon Laws 2021, chapter 669, section 74, DAS is authorized to distribute grant funds from funds received by the State of Oregon under the federal American Rescue Plan Act Coronavirus State Fiscal Recovery Fund (codified as 42 U.S.C. 802) for the purpose of Linn County Public Safety Improvements as more particularly described in Exhibit A.

SECTION 1 - KEY GRANT TERMS

The following capitalized terms have the meanings assigned below.

Grant Amount: \$1,540,000.00.

Completion Deadline: June 30, 2024.

SECTION 2 - FINANCIAL ASSISTANCE

DAS shall provide Recipient, and Recipient shall accept from DAS, a grant (the “Grant”) in an aggregate amount not to exceed the Grant Amount.

DAS’s obligations are subject to the receipt of the following items, in form and substance satisfactory to DAS and its Counsel:

- (1) This Contract duly signed by an authorized officer of Recipient; and
- (2) Such other certificates, documents, opinions and information as DAS may reasonably require.

SECTION 3 - DISBURSEMENT

A. Full Disbursement. Upon execution of this Contract and satisfaction of all conditions precedent, DAS shall disburse the full Grant to Recipient.

B. Financing Availability. DAS’s obligation to make, and Recipient’s right to request disbursement under this Contract terminate on the Completion Deadline.

C. Conditions to Disbursements. DAS has no obligation to disburse Grant funds unless:

- (1) DAS has sufficient funds currently available for this Contract; and
- (2) DAS has received appropriations, limitations, allotments or other expenditure authority sufficient to allow DAS, in the exercise of its reasonable administrative discretion, to make payment, and notwithstanding anything in the Contract, occurrence of such contingency does not constitute a default.

SECTION 4 - USE OF GRANT

As more particularly described in Exhibit A, Recipient will use the Grant for Linn County Public Safety Improvements (the "Project"). Recipient may only use Grant funds to cover Project costs incurred during the period beginning March 3, 2021, and ending on the Completion Deadline ("Eligible Costs"). Recipient must disburse the entire Grant Amount on Eligible Costs no later than the Completion Deadline.

SECTION 5 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to DAS as follows:

A. Organization and Authority.

- (1) Recipient is a local government, as that term is defined in ORS 174.116, validly organized and existing under the laws of the State of Oregon.
- (2) Recipient has all necessary right, power and authority under its organizational documents and applicable Oregon law to execute and deliver this Contract and incur and perform its obligations under this Contract.
- (3) This Contract has been authorized by an ordinance, order or resolution of Recipient's governing body if required by its organizational documents or applicable law.
- (4) This Contract has been duly executed by Recipient, and when executed by DAS, is legal, valid and binding, and enforceable in accordance with their terms.

B. Compliance with Coronavirus State Fiscal Recovery Fund. Recipient will comply with the terms, conditions and requirements of the federal Coronavirus State Fiscal Recovery Fund (codified at 42 U.S.C. 802) from which the Grant is funded, including all implementing regulations (31 CFR 35.1 *et seq.*) and other guidance promulgated by the U.S. Department of the Treasury (collectively, the "CSFRF").

C. Full Disclosure. Recipient has disclosed in writing to DAS all facts that materially adversely affect the Grant, or the ability of Recipient to perform all obligations required by this Contract. Recipient has made no false statements of fact, nor omitted information necessary to prevent any statements from being misleading. The information contained in this Contract, including Exhibit A, is true and accurate in all respects.

D. Pending Litigation. Recipient has disclosed in writing to DAS all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Grant or the ability of Recipient to perform all obligations required by this Contract.

SECTION 6 - COVENANTS OF RECIPIENT

Recipient covenants as follows:

A. Notice of Adverse Change. Recipient shall promptly notify DAS of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient related to the ability of Recipient to perform all obligations required by this Contract.

B. Compliance with Laws.

- (1) Recipient will comply with the requirements of all applicable federal, state and local laws, rules, regulations, and orders of any governmental authority, except to the extent an order of a governmental authority is contested in good faith and by proper proceedings.
- (2) Recipient is responsible for all federal or state tax laws applicable to its implementation of the Project and its use of the Grant or compensation or payments paid with the Grant.

C. Federal Audit Requirements. The Grant is federal financial assistance, and the associated Assistance Listings number is 21.027. Recipient is a subrecipient.

- (1) If Recipient receives federal funds in excess of \$750,000 in Recipient's fiscal year, it is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at its own expense submit to DAS a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to DAS the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Contract.
- (2) Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If Recipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the funds received under this Contract.
- (3) Recipient shall save, protect and hold harmless DAS from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Contract. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and the State of Oregon.
- (4) Recipient is authorized to use the Grant to pay itself for those administrative costs that are eligible costs under the CSFRF to implement the Project. DAS's approval of Recipient's administrative costs does not preclude the State of Oregon from later recovering costs from Recipient if the U.S. Department of the Treasury disallows certain costs after an audit.

D. System for Award Management. Recipient must comply with applicable requirements regarding the federal System for Award Management (SAM), currently accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM.

E. Employee Whistleblower Protection. Recipient must comply, and ensure the compliance by subcontractors or subrecipients, with 41 U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Recipient must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

F. Compliance with 2 CFR Part 200. Recipient must comply with all applicable provision of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including the Cost Principles and Single Audit Act requirements.

G. Federal Funds. DAS's payments to Recipient under this Grant will be paid by funds received by DAS from the United States Federal Government. Recipient, by signing this Grant certifies neither it nor its employees, contractors, subcontractors or subrecipients who will administer this Contract are currently employed by an agency or department of the federal government.

- H. Insurance. Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers, insuring against liability, in the coverages and amounts described in Exhibit B.
- I. Return of Undisbursed Grant Funds. Recipient must return to DAS any Grant funds not disbursed by the Completion Deadline.
- J. Financial Records. Recipient will cooperate with DAS to provide all necessary financial information and records to comply with CSFRF reporting requirements, as well as provide DAS the reporting required in Exhibit A. Recipient will keep proper books of account and records on all activities associated with the Grant, including, but not limited to, invoices, cancelled checks, payroll records, instruments, agreements and other supporting financial records documenting the use of the Grant. Recipient will maintain these books of account and records in accordance with generally accepted accounting principles and will retain these books of account and records until five years after the Completion Deadline or the date that all disputes, if any, arising under this Contract have been resolved, whichever is later.
- K. Inspection. Recipient shall permit DAS, and any party designated by DAS, the Oregon Secretary of State's Office, the federal government and their duly authorized representatives, at any reasonable time, to inspect and make copies of any accounts, books and records related to the administration of this Contract. Recipient shall supply any Contract-related information as DAS may reasonably require.
- L. Notice of Event of Default. Recipient shall give DAS prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.
- M. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless DAS and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors, that is related to this Contract; however, the provisions of this section are not to be construed as a waiver by DAS of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.
- N. Representations and Covenants Regarding Prevailing Wage.
- (1) The prevailing wage rate requirements that may apply to the Project are set forth in ORS 279C.800 through 279C.870, the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) and Oregon Laws 2021, chapter 678, section 17 (collectively, state "PWR"), or, if applicable, 40 U.S.C. 3141 et seq. (federal "Davis-Bacon Act"). If applicable, Recipient shall:
 - a) comply with PWR, require its contractors and subcontractors to pay the applicable PWR or Davis-Bacon Act rates, as applicable, and to comply with all other Oregon Bureau of Labor and Industries ("BOLI") requirements pursuant to the PWR, including on all contracts and subcontracts and in filing separate public works bonds with the Construction Contractors Board;
 - b) pay to BOLI, within the required timeframe and in the appropriate amount, the project fee required by OAR 839-025-0200 to 839-025-0230, including any additional fee that may be owed upon completion of the Project; and

- c) unless exempt under Section 17(2) of Oregon Laws 2021, chapter 678, if Recipient is a “public body” and the Project is a “qualified project,” as those terms are defined in Section 17(3) of Oregon Laws 2021, chapter 678, Recipient shall require each contractor in a contract with an estimated cost of \$200,000 or greater to:
- i. Enter into a project labor agreement that, at a minimum, provides for payment of wages at or above the prevailing rate of wage;
 - ii. Employ apprentices to perform 15 percent of the work hours that workers in apprenticeable occupations perform under the contract, in a manner consistent with the apprentices’ respective apprenticeship training programs;
 - iii. Establish and execute a plan for outreach, recruitment and retention of women, minority individuals and veterans to perform work under the contract, with the aspirational target of having at least 15 percent of total work hours performed by individuals in one or more of those groups; and
 - iv. Require any subcontractor engaged by the contractor to abide by the requirements set forth in subparagraphs (i), (ii) and (iii) above, if the work to be performed under the subcontract has an estimated cost of \$200,000 or greater.
- (2) Recipient represents and warrants that it is not on the BOLI current List of Contractors Ineligible to Receive Public Works Contracts and that it will not contract with any contractor on this list.
- (3) Pursuant to ORS 279C.817, Recipient may request that the Commissioner of BOLI make a determination about whether the Project is a public works on which payment of the prevailing rate of wage is required under ORS 279C.840.

SECTION 7 - DEFAULT

- A. Recipient Default. Any of the following constitutes an “Event of Default” of Recipient:
- (1) Misleading Statement. Any materially false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Grant.
 - (2) Failure to Perform. Recipient fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Contract, other than those referred to in subsection A of this section, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by DAS. DAS may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.
- B. DAS Default. DAS will be in default under this Contract if it fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Contract.

SECTION 8 - REMEDIES

- A. DAS Remedies. Upon the occurrence of an Event of Default, DAS may pursue any remedies available under this Contract, at law or in equity. Such remedies include, but are not limited to, termination of DAS's obligations to make the Grant or further disbursements, return of all or a portion of the Grant Amount, payment of interest earned on the Grant Amount, and declaration of ineligibility for the receipt of future awards from DAS. If, as a result of an Event of Default, DAS demands return of all or a portion of the Grant Amount or payment of interest earned on the Grant Amount, Recipient shall pay the amount upon DAS's demand. DAS may also recover all or a portion of any amount due from Recipient by deducting that amount from any payment due to Recipient from the State of Oregon under any other contract or agreement, present or future, unless prohibited by state or federal law. DAS reserves the right to turn over any unpaid debt under this Section 8 to the Oregon Department of Revenue or a collection agency and may publicly report any delinquency or default. These remedies are cumulative and not exclusive of any other remedies provided by law.
- B. Recipient Remedies. In the event of default by DAS, Recipient's sole remedy will be for disbursement of Grant funds for Eligible Costs of the Project, not to exceed the total Grant Amount, less any claims DAS has against Recipient.

SECTION 9 - TERMINATION

In addition to terminating this Contract upon an Event of Default as provided in Section 8, DAS may terminate this Contract with notice to Recipient under any of the following circumstances:

- A. If DAS anticipates a shortfall in applicable revenues or DAS fails to receive sufficient funding, appropriations or other expenditure authorizations to allow DAS, in its reasonable discretion, to continue making payments under this Contract.
- B. There is a change in federal or state laws, rules, regulations or guidelines so that the uses of the Grant are no longer eligible for funding.

This Contract may be terminated at any time by mutual written consent of the parties.

SECTION 10 - MISCELLANEOUS

- A. No Implied Waiver. No failure or delay on the part of DAS to exercise any right, power, or privilege under this Contract will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.
- B. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

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

- C. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or DAS at the addresses listed in Exhibit A, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.
- Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.
- D. Amendments. This Contract may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties.
- E. Severability. If any provision of this Contract will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision.
- F. Successors and Assigns. This Contract will be binding upon and inure to the benefit of DAS, Recipient, and their respective successors and assigns, except that Recipient may not assign or transfer its rights, obligations or any interest without the prior written consent of DAS.
- G. Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.
- H. Integration. This Contract (including all exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.
- I. No Third-Party Beneficiaries. DAS and Recipient are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives or provides, or is intended to give or provide, to third persons any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- J. Survival. The following provisions, including this one, survive expiration or termination of this Contract: Sections 6 (excepting 6.H, Insurance), 7, 8, 10.B, 10.C, 10.L and 10.M.
- K. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.


- L. Attorney Fees. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract will be entitled to recover from the other its reasonable attorney fees and costs and expenses at trial, in a bankruptcy, receivership or similar proceeding, and on appeal. Reasonable attorney fees shall not exceed the rate charged to DAS by its attorneys.
- M. Public Records. DAS's obligations under this Contract are subject to the Oregon Public Records Laws.

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




STATE OF OREGON
acting by and through its
Department of Administrative Services

LINN COUNTY

By: 
 DAS Authorized Representative

George Naughton
 DAS Chief Financial Officer

By: 
 Authorized Representative Signature

Roger Nyquist, Chairman
 Authorized Representative Name and Title

Date: 12/20/21

Date: 12-14-2021

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

s/ Samuel B. Zeigler 11/22/2021
 Samuel B. Zeigler, Senior Assistant Attorney General

EXHIBIT A
CONTACT INFORMATION, USE OF FUNDS/ PROJECT DESCRIPTION AND REPORTING REQUIREMENTS

Contact Information:

DAS

State of Oregon, acting by and through its
 Department of Administrative Services
 155 Cottage St. NE
 Salem, OR 97301-3966

Contract Administrator: Stephanie Tyrer

Telephone: 971-374-3308

Email: statefiscal.recoveryfund@das.oregon.gov

Recipient

Linn County

1115 Jackson Street SE
 Albany, Oregon 97322-3245

Contact: Captain Micah Smith

Telephone: 541-812-9200

Email: msmith@linnsheiff.org

Use of Funds/ Project Description:

Recipient shall complete the following projects:

Project #1 – Fire Radio Improvement Project - replacement of the fire radio infrastructure, moving it to IP based interconnected Voted/Simulcast LMR system, with an increase in on-the-hip radio coverage throughout the populated areas of Linn County.

Project #2 – Lewis Creek County Park Water Safety Barrier - purchase, assemble and install Worthington Tuffboom Small Craft Barrier (SCB).

Project #3 – Radio Infrastructure Snowcat - purchase a snowcat and trailer for use in mountain top radio locations during winter for service/repair of radio infrastructure.

Reporting Requirements:

Schedule

Report Name	Frequency	Due Dates
Project Performance Plan	One-Time	January 15, 2022
Quarterly Report	Quarterly	April 15 th , July 15 th , October 15 th , January 15 th
Annual Report	Annually	January 15, 2022; July 15 th annually thereafter

Project Performance Plan

Recipient shall submit to DAS, using a template and instructions provided by DAS, the following information in the Project Performance Plan:

1. Problem Statement
2. Goal

3. Rationales
4. Assumptions
5. Resources
6. Activities
7. Outputs
8. Short-Term Outcomes
9. Intermediate Outcomes
10. Long-Term Outcomes

Quarterly Reports

Recipient shall submit Quarterly Reports to DAS which shall include such information as is necessary for DAS to comply with the reporting requirements established by 42 U.S.C. 802, guidance issued by the U.S. Treasury, and 2 CFR Part 200 (known as the "Super Circular"). The reports shall be submitted using a template provided by DAS that includes the following information:

1. Expenditure Report
 - a) Quarterly Obligation Amount
 - b) Quarterly Expenditure Amount
 - c) Projects
 - d) Primary Location of Project Performance
 - e) Detailed Expenditures (categories to be provided by DAS)
2. Project Status Update
 - a) Status of project: not started, completed less than 50 percent, completed 50 percent or more, completed.
 - b) Progress since last update including project outputs and achieved outcomes.
 - c) Identify barriers/risks to outcomes and describe actions taken to mitigate delays/risks to the overall project goal.
 - d) Optional: Share with DAS community outreach/engagement or other positive local news stories.

Annual Reports

Recipient shall submit to DAS a report annually on the following, as applicable, using a template provided by DAS:

1. How the Project is Promoting Equitable Outcomes, if applicable
2. How the Project is Engaging with the Community, if applicable

Administrative Costs

Recipient shall also deliver to DAS no later than July 15, 2024, an accounting of all of its direct administrative costs paid by this Grant accompanied by a certification statement that all such costs comply with the CSFRF. Grant funds may not be used to pay for any costs incurred after the Completion Deadline. For any unexpended Grant funds that were allocated for administrative costs as provided in the not-to-exceed amount above, DAS will direct Recipient on how to return or expend any such funds.

EXHIBIT B – INSURANCE REQUIREMENTS

Recipient shall obtain at Recipient's expense the insurance specified in this Exhibit B before performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Recipient shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to DAS. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Recipient shall pay for all deductibles, self-insured retention and self-insurance, if any.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require and ensure that each of its subcontractors complies with these requirements. If Recipient is a subject employer, as defined in ORS 656.023, Recipient shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Recipient is an employer subject to any other state's workers' compensation law, Contactor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY:

Required Not required

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

AUTOMOBILE LIABILITY INSURANCE:

Required Not required

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

EXCESS/UMBRELLA INSURANCE:

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Recipient's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the

Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:

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

CONTINUOUS CLAIMS MADE COVERAGE:

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

- (i) Recipient's completion and DAS's acceptance of all Services required under the Contract, or
- (i) DAS or Recipient termination of this Contract, or
- (ii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Recipient shall provide to DAS Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance DAS has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:

Recipient or its insurer must provide at least 30 days' written notice to DAS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Recipient agrees to periodic review of insurance requirements by DAS under this Contract and to provide updated requirements as mutually agreed upon by Recipient and DAS.

STATE ACCEPTANCE:

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

**EXHIBIT C
FEDERAL AWARD IDENTIFICATION
(REQUIRED BY 2 CFR 200.332(A)(1))**

(i) Subrecipient* Name: <i>(must match name associated with UEI)</i>	Linn County
(ii) Subrecipient's Unique Entity Identifier (UEI):	833266026 (DUNS)
(iii) Federal Award Identification Number (FAIN):	SLFRP4454
(iv) Federal award date: <i>(date of award to DAS by federal agency)</i>	July 23, 2021
(v) Grant period of performance start and end dates:	Start: March 3, 2021 End: June 30, 2024
(vi) Grant budget period start and end dates:	Start: March 3, 2021 End: June 30, 2024
(vii) Amount of federal funds obligated by this Grant:	\$1,540,000.00
(viii) Total amount of federal funds obligated to Subrecipient by pass-through entity, including this Grant:	\$
(ix) Total amount of the federal award committed to Subrecipient by pass-through entity**: <i>(amount of federal funds from this FAIN committed to Recipient)</i>	\$1,540,000.00
(x) Federal award project description:	Coronavirus State Fiscal Recovery Fund
(xi) a. Federal awarding agency:	U.S. Department of the Treasury
b. Name of pass-through entity:	Oregon Department of Administrative Services
c. Contact information for awarding official of pass-through entity:	Stephanie Tyrer, COVID Fiscal Relief Mgr. statefiscal.recoveryfund@das.oregon.gov
(xii) Assistance listings number, title and amount:	Number: 21.027 Title: Coronavirus State and Local Fiscal Recovery Funds Amount: \$2,648,024,988.20
(xiii) Is award research and development?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
(xiv) a. Indirect cost rate for the federal award:	
b. Is the 10% de minimis rate being used per 2 CFR § 200.414?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

* For the purposes of this Exhibit C, "Subrecipient" refers to Recipient and "pass-through entity" refers to DAS.

** The total amount of federal funds obligated to the Subrecipient by the pass-through entity is the total amount of federal funds obligated to the Subrecipient by the pass-through entity during the current state fiscal year.