AGENDA COVER MEMO

Memorandum Date: February 29, 2024

Order Date: March 5, 2024

TO:	Board of County Commissioners
DEPARTMENT:	County Administration/Policy – Policy Administration
PRESENTED BY:	Steve Adams, Policy Director
AGENDA ITEM TITLE:	In the Matter of Accepting State of Oregon Lottery Bond Proceeds in the amount of $5,000,000 from the Oregon Department of Administrative Services and Delegating Authority to the County Administrator to Execute the Award.

I. MOTION

Move to accept State of Oregon Lottery Bond Proceeds in the amount of $5,000,000 from the Oregon Department of Administrative Services and Delegate Authority to the County Administrator to Execute the Grant Agreement.

II. AGENDA ITEM SUMMARY

The Board is being asked to accept State of Oregon Lottery Bond Proceeds in the amount of $5,000,000 from the Oregon Department of Administrative Services and to Delegate Authority to the County Administrator to Execute the Grant Agreement.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

On January 31, 2023, the adopted order 23-01-31-03 that provided staff with direction for the 2023 Oregon legislative session through the Legislative Principles and Priorities document. Among the highest priorities within the document was guidance to "Seek operational and capital funding Behavioral Health Stabilization Centers."

On August 4, 2023, Governor Kotek signed HB 5030 (Relating to lottery bonds) into law. Section 18 of HB 5030 reads in part as follows:

> (1) For the biennium beginning July 1, 2023, at the request of the Oregon Department of Administrative Services, after the department consults with Lane County, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces $5 million in net proceeds for the purposes described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.
>
> (2) Net proceeds of lottery bonds issued under this section must be transferred to the department for deposit in the ODAS Economic Development Distributions Fund established under ORS 461.553, for distribution to Lane County for construction of a behavioral health facility offering person-centered, trauma-informed services.

Pursuant to this legislatively directed spending, the Department of Administrative Services staff have conferred with Lane County in preparing the attached Grant Agreement in support of an anticipated May 2024 lottery bond sale by the Oregon of the Treasury.

B. Policy Issues

Given the size of the grant agreement, a Board Order is required for the County Administrator to sign the grant agreement. No other policy matter related to behavioral health service delivery by county government are under consideration for this agenda item.

C. Board Goals

This item supports the Lane County Strategic Plan priority – Safe, Healthy County

D. Financial and/or Resource Considerations

There are no match requirements associated with this funding. Lane County continues to seek additional capital and operating funds for the stabilization center. A three year clock for expenditures begins with the receipt by Lane County of these funds (anticipated in mid to late 2024).

E. Health Implications

Behavioral Health Crisis Stabilization services are a critical need in Lane County.

F. Analysis

This agenda item is largely administrative in nature.

G. Alternatives/Options

Accept State of Oregon Lottery Bond Proceeds in the amount of $5,000,000 from the Oregon Department of Administrative Services and Delegate Authority to the County Administrator to Execute the Grant Agreement.

Reject the Board Order and forgo State of Oregon Lottery Bond Proceeds in the amount of $5,000,000 from the Oregon Department of Administrative Services in 2024**.**

IV. RECOMMENDATION

Staff recommend that the Board accept State of Oregon Lottery Bond Proceeds in the amount of $5,000,000 from the Oregon Department of Administrative Services and Delegate Authority to the County Administrator to Execute the Grant Agreement. Staff will execute the grant agreement and continue working with DAS and Treasury to secure these funds for capital purposes.

V. TIMING/IMPLEMENTATION

DAS requires an executed grant agreement by March 8, 2024 in order to include this $5,000,000 item in the 2024 Bond Sale.

VI. FOLLOW-UP

Staff will follow up and return to the Board as needed.

VII. ATTACHMENTS

A. Board Order
B. Department of Administrative Services: State of Oregon Lottery Bonds Grant Agreement

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER AND RESOLUTION NO: 24-03-05-05	In the Matter of Accepting State of Oregon Lottery Bond Proceeds in the amount of $5,000,000 from the Oregon Department of Administrative Services and Delegating Authority to the County Administrator to Execute the Award.

WHEREAS, The Board of County Commissioners adopted Order 23-01-31-03 directing staff to include a legislative priority to secure funding for a Behavioral Health Crisis Stabilization Center; and

WHEREAS, House Bill 5030 received its final vote of the 2023 Legislative Session in the Oregon Senate on June 25, 2023 and was subsequently signed into law by Governor Tina Kotek on August 4, 2023; and

WHEREAS, Section 18 of House Bill 5030 authorized an allocation of $5,000,000 in proceeds from the sale of bonds backed by future Oregon Lottery revenue for use by Lane County for the construction of a behavioral health facility; and

WHEREAS, the Department of Administrative Services requires an executed grant agreement from Lane County by March 8, 2024 for inclusion in the 2024 sale of bonds by the Oregon Office of Treasury;

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDERS and RESOLVES** as follows:

1. Lane County accepts State of Oregon Lottery Bond Proceeds in the amount of $5,000,000 from the Oregon Department of Administrative Services.

2. Lane County delegates authority to the County Administrator to execute award agreement.

ADOPTED this 5th day of March, 2024.

_____

Laurie Trieger, Chair
Lane County Board of Commissioners

STATE OF OREGON LOTTERY REVENUE BONDS
GRANT AGREEMENT
(Governmental Entity – Reimbursement)

Grantee: Lane County
Project Name: Lane County Behavioral Health Stabilization Center
Lottery Bonds Series Number: 2024 Series A

This Grant Agreement ("Agreement"), is made by the State of Oregon, acting by and through its Department of Administrative Services ("DAS"), and Lane County ("Grantee") for financing of the project referred to above and described in Exhibit A (the "Project"). This Agreement becomes effective only when fully signed and approved as required by applicable law and shall expire on the date of the last disbursement of the funds provided under this Agreement or the third anniversary date of the sale of the bonds funding this Agreement, whichever is earlier. This Agreement includes the following exhibits, incorporated into, and made a part of this Agreement:

Exhibit A: Project Description
Exhibit B: Project Budget
Exhibit C: Reimbursement Request Form
Exhibit D: Declaration of Official Intent to Reimburse Project Costs

SECTION 1 – DEFINITIONS OF KEY TERMS

The following capitalized terms have the meanings assigned below.

"Bond Counsel" means a law firm that serves as bond counsel to the State because it has knowledge and expertise in the field of municipal law and issues opinions that are generally accepted by purchasers of municipal bonds.

"Bonds" means the State of Oregon Lottery Revenue Bonds 2024 Series A issued pursuant to House Bill 5030, codified at Oregon Laws 2023 Chapter 599, Section 18, a portion of the sale proceeds of which are funding the Grant.

"Code" means the Internal Revenue Code of 1986, as amended, including any implementing regulations and any administrative or judicial interpretations.

"Date of Issuance" means the date the Bonds are issued, which is expected to be May 1, 2024.

"Default" means an event which, with notice or lapse of time or both, would become an Event of Default.

"Grant Amount" means an amount of proceeds from the sale of the Bonds, not to exceed $5,000,000.

"Grant Closeout Deadline" means 90 days after the earlier of the Grant Completion Date or the Grant Completion Deadline.

"Grant Completion Date" means the date that is thirty days after the date on which DAS has disbursed the entire Grant Amount to Grantee.

"Grant Completion Deadline" means 36 months after the Date of Issuance of the Bonds issued to fund the Project Costs.

"Preliminary Expenditures" means, in relation to Section 4.B. (Project Costs paid by Grantee before the Bonds are Issued), costs such as architectural, engineering, surveying, soil testing, and similar costs for the Project that, in the aggregate, are not in excess of 20% of the Grant Amount. Costs of land acquisition, site preparation and similar costs incident to commencement of construction are NOT preliminary expenditures.

"Private Person" means any person or entity other than a state or local governmental unit or an individual not acting in a trade or business. Accordingly, a Private Person would include the federal government, for-profit organizations, non-profit organizations, and individuals who are acting in a trade or business capacity.

"Private Use" means, subject to certain exceptions, the use of a portion or all of the Project by a Private Person if such use is other than as a member of the general public. Private Use can include ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management contract, service or incentive payment contract, output contract, naming rights contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use by employees of the Grantee solely in their capacity as employees ordinarily will not be considered Private Use.

"Project" means the project described in Exhibit A.

"Project Budget" means the budget for the Project described in Exhibit B.

"Project Costs" means expenditures incurred by Grantee that comply with each of (a) through (g), below. Costs of the Project must be:

(a) reasonable, necessary, and directly related to the Project;

(b) capital expenditures for federal income tax purposes within the meaning of Section 1.150-1(b) of the Code;

(c) eligible or permitted uses under the Act and this Agreement, including Section 4;

(d) not internal costs charged to the Project by the Grantee if such costs are not capital expenditures for federal income tax purposes within the meaning of Section 1.150-1(b) of the Code of the asset being financed;

(e) not payments made to Related Parties, except to the extent that those costs represent out-of-pocket payments to or for the benefit of unrelated parties;

(f) not loans or grants made to third parties; and

(g) not interest payments on interim financing for the Project and may only include principal payments on interim financing for the Project with the prior written consent of DAS.

"Related Parties" means, in reference to governmental units or 501(c)(3) organizations, members of the same controlled group within the meaning of Section 1.150-1(e) of the Code, and in reference to any person that is not a governmental unit or a 501(c)(3) organization, a related person as defined in Section 144(a)(3) of the Code.

"State" means the State of Oregon, acting by and through its agencies including but not limited to DAS, the Office of the State Treasurer and any other agency authorized to administer proceeds and payment of the Bonds.

SECTION 2 – FINANCIAL ASSISTANCE

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

SECTION 3 – REIMBURSEMENTS

A. Reimbursement Requests. The Grant shall be disbursed to Grantee on an expense reimbursement or costs-incurred basis. Grantee must submit each disbursement request for some or all of the Grant Amount using the Reimbursement Request form attached to this Agreement as Exhibit C, containing the information and certifications shown in Exhibit C.

B. Conditions to Disbursement. DAS has no obligation to disburse any of the Grant unless all of the following conditions are met on the date of disbursement:

(1) There is no Default or Event of Default.

(2) The representations and warranties made by Grantee in this Agreement are true and correct as if made on such date.

(3) The Bonds have been issued by the State.

(4) DAS, in the reasonable exercise of its administrative discretion, has sufficient funding, appropriations, limitations, allotments, allocation and other expenditure authority to authorize the disbursement.

(5) DAS (a) has received a completed Reimbursement Request from Grantee, (b) has received any written evidence of materials and labor furnished to or work performed

upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as DAS may require, (c) is satisfied that all items listed in the Reimbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Project Costs, and (d) has determined that the disbursement is only for costs defined as eligible Project Costs.

(6) DAS has received the following items in form and substance satisfactory to DAS:

a. This Agreement duly signed by an authorized officer of Grantee.

b. Such other certificates, documents, opinions, and information as DAS may reasonably require.

(7) Any conditions to disbursement elsewhere in this Agreement or in the other financing documents for this Project are met.

C. Disbursement by DAS. Upon satisfaction of the conditions set forth in Section 3.B, DAS shall disburse or cause to be disbursed some or all the Grant Amount requested by Grantee.

SECTION 4 – USE OF GRANT FUNDS

A. Use of Proceeds. The Grantee shall use the Grant only for the activities described in Exhibit A. Grantee shall use disbursements of the Grant only to reimburse itself for Project Costs in compliance with Grantee's certifications in its Reimbursement Request.

B. Project Costs paid by Grantee before the Bonds are Issued. The Grant cannot be used for Project Costs that were paid more than 60 days before the earlier of the following two dates: (i) the Date of Issuance of the Bonds; and (ii) the date on which a Declaration of Official Intent to Reimburse Project Costs set forth in Exhibit D was executed. Preliminary Expenditures that can be capitalized to the Project are subject to restrictions imposed by 26 CFR 1.150-2(f)(2) but are not subject to the time limitations of this Section 4B.

C. Costs Paid for by Others. Grantee may not use any of the Grant to pay internal costs charged to the Project by Grantee or by Related Parties or to repay the interest owed for any interim financing for the Project. Grantee may not use any of the Grant to repay the principal owed on interim financing for the Project without the prior written consent of DAS.

D. Earnings on Bond Proceeds. Any earnings on proceeds of the Bonds prior to disbursement will be retained by the State.

E. Proceeds Expenditure Deadline. Grantee shall expend the Grant Amount on or before the Grant Completion Deadline.

F. Unexpended Disbursed Proceeds. Grantee shall complete the Project on or before the Grant Completion Deadline. Grantee shall immediately repay to DAS, unless DAS otherwise directs, any portion of the Grant disbursed to Grantee, and any interest earned by Grantee on the Grant disbursement, that are not used for Project Costs or that remain after the earliest of (i) the Grant Completion Date, (ii) the date this Agreement has expired or is terminated; or (iii) the Grant Completion Deadline.

SECTION 5 – REPRESENTATIONS AND WARRANTIES OF GRANTEE

Grantee represents and warrants to the State:

A. Organization and Authority.

(1) Grantee is a County Government validly created and existing under the laws of the State of Oregon.

(2) Grantee has all necessary right, power and authority under its applicable enabling statutes, code, ordinances, or other Oregon law to (a) execute and deliver this Agreement, (b) incur and perform its obligations under this Agreement, and (c) receive financing for and carry out the Project.

(3) This Agreement has been duly authorized by a vote, resolution or other act of the governing body or officer of Grantee, is executed by an authorized representative of Grantee, and when executed by DAS, is legal, valid, and binding, and enforceable in accordance with its terms.

B. Full Disclosure. Grantee has disclosed in writing to DAS all facts that may materially adversely affect the Project, or the ability of Grantee to perform all obligations required by this Agreement. Grantee has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading, regarding the Grant, the Project, and this Agreement. The information contained in this Agreement is true and accurate in all respects.

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

D. No Defaults.

(1) No Defaults or Events of Default exist or occur upon authorization, execution, or delivery of this Agreement.

(2) Grantee has not violated and has not received notice of any claimed violation of any agreement or instrument to which it is a party or by which the Project or its

property may be bound, that would materially adversely affect the Project or the ability of Grantee to perform all obligations required by this Agreement.

E. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Agreement will not: (i) cause a breach of a material agreement, indenture, mortgage, deed of trust, or other instrument, to which Grantee is a party or by which the Project or any of Grantee's property or assets may be bound; (ii) violate any provision of the applicable enabling statutes, code, charter, ordinances or other Oregon law pursuant to which Grantee was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Grantee, the Project or Grantee's properties or operations.

F. Governmental Consent. Grantee has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Agreement and undertaking and completion of the Project, including without limitation, all land use approvals and development permits required under local zoning or development ordinances, state law and federal law for the use of the land on which the Project will be located. "Land use approvals and development permits" includes, but is not limited to, any necessary "land use decision" or "limited land use decision" as those terms are defined by ORS 197.015(10) and (12).

G. Project Budget. The Project Budget as described in Exhibit B represents the total cost of the Project based on contracts entered into or solicited by Grantee or Grantee's estimate of the labor and materials necessary to complete the Project.

SECTION 6 – COVENANTS OF GRANTEE

Grantee covenants as follows for so long as the Bonds and any obligations issued to refund the Bonds are outstanding:

A. Compliance with Laws. Grantee shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Agreement and the Project. These laws, rules, regulations, and orders are incorporated by reference in this Agreement to the extent required by law.

B. Project Reporting Obligations.

(1) Promptly after the Grant Completion Date and in no event later than the Grant Closeout Deadline, Grantee shall furnish the State with a final report on Grantee's expenditure of the Grant; and

(2) Grantee shall provide such additional reports as the State may reasonably request from time to time, including information or documentation that the State determines is necessary to comply with arbitrage and private use restrictions that may apply to the Bonds.

C. Real Property. Legal title to all real property financed with the Grant shall be owned in fee simple by Grantee, free and clear of all encumbrances other than minor encumbrances. Grantee shall maintain a standard form of title insurance policy for the value of the purchase price of the property, and where appropriate will purchase endorsements to that policy in amounts to cover improvements. Where Grantee suffers a loss that is covered by title insurance, insurance proceeds will be paid to the State, not to exceed the amount necessary to call or defease the portion of the Bonds relating to the Project (including all allocable costs of issuance).

D. Operation and Maintenance of the Project. Grantee agrees to construct the Project in accordance with the Project plans, specifications, and budget and to contract with competent, properly licensed, and bonded contractors and professionals in accordance with the Oregon Public Contracting Code and all other applicable federal, state, and local laws regulating construction of the Project. Grantee agrees to have plans and specifications for the Project prepared by a licensed architect or licensed engineer and to require that the Project meets applicable standards of survival in good condition. Prior to commencement of any Project construction, Grantee shall require the general contractor for the Project to procure and maintain in full force and effect throughout the entire time of construction and until one year after the Project is completed, a performance and payment bond for the faithful performance and payment of all of the contractor's obligations for the total cost of the Project. The Grantee shall be named as the obligee on the bond. Grantee shall operate and maintain the Project in good repair and operating condition so as to preserve the public benefits of the Project, including making all necessary and proper repairs, replacements, additions, and improvements until the bonds are no longer outstanding.

E. Insurance, Damage. Grantee shall maintain insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage, or destruction of the Project, at least to the extent that similar insurance is customarily carried by governmental units constructing, operating, and maintaining similar facilities. If the Project or any portion is destroyed, insurance proceeds will be paid to the State, not to exceed the amount necessary to call or defease the portion of the then outstanding Bonds relating to the Project (including all allocable costs of issuance), unless DAS agrees in writing that the insurance proceeds will be used to rebuild the Project.

F. Sales, Leases and Encumbrances. Grantee shall not sell, transfer, encumber, lease, or otherwise dispose of any property paid for with disbursements of the Grant, unless worn out, obsolete, or, in the reasonable business judgment of Grantee, no longer useful in the operation of the Project. Nevertheless, DAS may consent to such disposition if it has received prior written notice from Grantee. In the case of sale, lease, exchange, transfer or other disposition of any substantial portion of or interest in the Project, Grantee shall, within 30 days of receipt of any proceeds from such disposition, pay such proceeds to the State, not to exceed the amount necessary to call or defease the portion of the then outstanding Bonds relating to the Project (including all allocable costs of issuance), unless DAS agrees otherwise in writing.

G. Condemnation Proceeds. If the Project, or any portion of the Project, is condemned, within 30 days of receipt of any condemnation proceeds, Grantee shall pay such proceeds to the State, not to exceed the amount necessary to call or defease the portion of the then outstanding Bonds relating to the Project (including all allocable costs of issuance), unless Grantee has informed DAS in writing that the condemnation proceeds will be used to rebuild the Project.

H. Financial Records. Grantee shall keep accurate books and records regarding use of the Grant and maintain them according to generally accepted accounting principles established by the Governmental Accounting Standards Board in effect at the time.

I. Inspections; Information. Grantee shall permit the State and any party designated by the State: (i) to inspect the Project and (ii) to inspect and make copies of any accounts, books, and records, including, without limitation, Grantee's records regarding receipts, disbursements, contracts, investments, and any other related matters. Grantee shall supply any reports and information related to the Project as the State may reasonably require.

J. Records Maintenance. Grantee shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Project, or the Grant until the date that is three years following the later of the final maturity or earlier retirement of all of the Bonds (including the final maturity or redemption date of any obligations issued to refund the Bonds) or such longer period as may be required by other provisions of this Agreement or applicable law.

K. Notice of Default. Grantee shall give DAS prompt written notice of any Default as soon as any senior administrative or financial officer of Grantee becomes aware of its existence or reasonably believes a Default is likely.

L. 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 and the administrative rules promulgated thereunder ("PWR"), or, if applicable, 40 U.S.C. 3141 et seq. ("Davis-Bacon Act"). If applicable, Grantee shall:

a) be the public agency responsible for compliance with PWR, require its contractors and subcontractors to pay the applicable PWR or Davis-Bacon Act rates, 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 (applicable wage rates are those in effect on the effective date of this Agreement and may be accessed via: BOLI : Prevailing Wage=: For Employers : State of Oregon and https://sam.gov/); and

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.

(2) If Grantee believes the Project is not subject to PWR, Grantee must obtain and provide DAS with a copy of a coverage determination letter from the BOLI that confirms the Project is not subject to PWR requirements before Grantee enters into a contract for construction management, contracts with a contractor to act as general manager of the project or proceeds to act as Grantee's own general contractor.

(3) Grantee 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.

M. Indemnity; Release. To the extent allowed by law, Grantee shall defend, indemnify, save and hold harmless and release the State, its officers and employees from and against any and all claims, demands, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and reasonable attorneys' fees and expenses at trial, on appeal and in connection with any petition for review, arising out of or relating to Grantee, its officers, employees, contractors, or agents in connection with this Agreement, the Project, PWR or Davis-Bacon Act requirements or the tax-exempt status of the Bonds, including without limitation, any expenses incurred or amounts paid in connection with an inquiry, investigation, audit or similar proceeding by BOLI, the Internal Revenue Service, the Securities and Exchange Commission, Municipal Securities Rulemaking Board and any other federal, state, governmental or quasi-governmental body with regulatory jurisdiction over the Bonds, arising from the Project or the actions or omissions of Grantee.

N. Representations and Covenants Regarding the Tax-Exempt Status of the Bonds.

(1) Grantee acknowledges that the Bonds have been or are expected to be issued with the interest paid on the Bonds excludable from gross income for federal income tax purposes and that the uses of the Grant proceeds and the Project by Grantee during the term of the Bonds may impact the tax-exempt status of the Bonds. Grantee agrees to comply with all applicable provisions of the Code necessary to protect the exclusion of interest on the Bonds from federal income taxation.

(2) Grantee shall not, without prior written consent of DAS, permit more than five percent (5%) of the Project to be used in a Private Use by a Private Person if such Private Use could result in the State of Oregon receiving direct or indirect payments or revenues (excluding generally applicable taxes) from the portion of the Project to be privately used.

(3) Unless Grantee receives the prior written approval from DAS, Grantee shall not directly or indirectly use any of the Grant proceeds to make or finance loans to persons other than governmental units, as that term is used in Section 141(c) of the Code.

O. Representations and Covenants Regarding "Arbitrage Bonds". The Grantee shall not directly or indirectly use or permit the use of any of the Grant Amount or any other funds or take any action or omit to take any action, which would cause any Lottery Bonds to be "arbitrage bonds" within the meaning of 26 U.S.C. Section 148(a).

SECTION 7 – DEFAULTS

A. Grantee Default. Any of the following constitutes an "Event of Default" of Grantee:

(1) Any false or misleading representation is made by or on behalf of Grantee, in this Agreement or in any document provided by Grantee to DAS related to this Grant or the Project or in regard to compliance with the requirements of section 103 and sections 141 through 150 of the Code.

(2) Grantee fails to perform any obligation required under this Agreement, other than those referred to in subsection A(1) of this Section 7, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Grantee by DAS, or such longer period as DAS may agree to in writing, if DAS determines Grantee has instituted and is diligently pursuing corrective action.

(3) If and to the extent allowed by law, Grantee initiates or consents to a proceeding or case, or a proceeding or case is commenced without the application or consent of Grantee, seeking: (i) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Grantee, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of Grantee or of all or any substantial part of its assets, or (iii) similar relief in respect to Grantee under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty (60) consecutive days, or an order for relief against Grantee is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

B. DAS Default. DAS will be in default under this Agreement if it fails to perform, observe, or discharge any of its covenants, agreements, or obligations under this Agreement.

SECTION 8 – REMEDIES

A. Remedies. Upon any Event of Default, DAS may pursue any or all remedies in this Agreement, and any other remedies available at law or in equity (including specific performance) to collect amounts due or to become due or to enforce the performance of any obligation of Grantee. Remedies may include, but are not limited to:

(1) Terminating DAS' commitment and obligation to make any further disbursements of the Grant under this Agreement.

(2) Barring Grantee from applying for future grants.

(3) While any of the Grant remains undisbursed, withholding amounts otherwise due to Grantee and applying such amounts to the payment of amounts due under this Agreement.

(4) Requiring repayment upon demand from DAS of all or a portion of the Grant, the State of Oregon's costs of exercising its remedies under this Agreement, and interest on all or any portion of the Grant moneys required to be returned.

B. Application of Moneys. Any moneys collected by DAS pursuant to Section 8.A will be applied first, to pay any reasonable attorneys' fees and other fees and expenses incurred by the State of Oregon; then, to repay any Grant moneys owed; and last, to pay any other amounts due and payable under this Agreement.

C. No Remedy Exclusive; Waiver; Notice. No remedy available to DAS is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right, power or privilege under this Agreement will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. DAS is not required to provide any notice in order to exercise any right or remedy, except as set forth in Section 7.A.2.

D. Grantee Remedies. In the event of default by DAS, Grantee's sole remedy will be for reimbursement of Project Costs reviewed and accepted by DAS, less any claims DAS has against Grantee.

SECTION 9 – MISCELLANEOUS

A. Time is of the Essence. Grantee agrees that time is of the essence under this Agreement.

B. Relationship of Parties; Successors and Assigns; No Third-Party Beneficiaries.

(1) The parties agree that their relationship is that of independent contracting parties and that Grantee is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.

(2) Nothing in this Agreement gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.

(3) This Agreement will be binding upon and inure to the benefit of DAS, Grantee, and their respective successors and permitted assigns.

(4) Grantee may not assign or transfer any of its rights or obligations or any interest in this Agreement without the prior written consent of DAS. In the event of an assignment, Grantee shall pay, or cause to be paid to DAS, any fees or costs incurred because of such assignment, including but not limited to reasonable attorneys' fees of DAS's counsel and Bond Counsel. Any approved assignment is not to be construed as creating any obligation of DAS beyond those in this Agreement, nor does assignment relieve Grantee of any of its duties or obligations under this Agreement.

(5) DAS may assign this Agreement to a successor agency or entity without the consent of or notice to Grantee.

C. Disclaimer of Warranties; Limitation of Liability. Grantee agrees that:

(1) DAS makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.

(2) In no event is DAS, any agency of the State of Oregon or its agents liable or responsible for any direct, indirect, incidental, special, consequential, or punitive damages in connection with or arising out of this Agreement or the existence, furnishing, functioning or use of the Project.

D. Notices. All notices to be given under this Agreement must be in writing and addressed as shown below, or to other addresses that either party may hereafter indicate pursuant to this section. Notices may only be delivered by personal delivery, email or mailed, postage prepaid. Any such notice is effective five calendar days after mailing, or upon actual delivery if personally delivered. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to DAS: Rhonda Nelson, Capital Finance Manager
Department of Administrative Services
155 Cottage St NE
Salem, OR 97301
Phone: (971) 719-1998
Email: Rhonda.Nelson@das.oregon.gov

If to Grantee: Steve Mokrohisky, County Administrator
Lane County
125 East 8th Avenue
Eugene, OR 97401
Phone: 541-514-7522
Email: Steve.Mokrohisky@lanecountyor.gov

E. No Construction Against Drafter. This Agreement is to be construed as if the parties drafted it jointly.

F. Severability. If any term or condition of this Agreement is declared by a court of competent jurisdiction as illegal, invalid, or unenforceable, that holding will not invalidate or otherwise affect any other provision.

G. Survival. The covenants of Grantee under this Agreement related to the tax-exempt status, if any, of the Bonds, the continued operation and maintenance of the Project, default and remedies, including without limitation Sections 6, 7, 8, and 9.G. and I. of this Agreement, shall survive disbursement of the Grant Amount and termination of this Agreement until the Bonds (including the final maturity or redemption date of any obligations issued to refund the Bonds) are no longer outstanding.

H. Amendments, Waivers. This Agreement may be amended only by mutual written agreement of the parties. No waiver or consent is effective unless in writing and executed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.

I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, 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 Agreement 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's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

J. Integration. This Agreement (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 Agreement.

K. False Claims. Grantee will refer to the DAS contact identified for receipt of notices under this Agreement, any credible evidence that a principal, employee, agent, sub-grantee contractor, contractor or other person has submitted a false claim under the False Claims Act, ORS180.750 to 180.785, or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving funds provided under this Agreement.

L. Execution in Counterparts. This Agreement may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

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

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

By: _____
Name: Kate Nass or delegate
Title: Chief Financial Officer

Date: _____

LANE COUNTY

By: _____
Name: Steve Mokrohisky
Title: County Administrator

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ see email approval on file
_____
Sam Zeigler
Senior Assistant Attorney General

EXHIBIT A – PROJECT DESCRIPTION

Project Name: Lane County Behavioral Health Stabilization Center

Project Description: Construction of a behavioral health facility offering person-centered, trauma-informed services.

EXHIBIT B – PROJECT BUDGET

Project Revenues	
Lottery Grant Amount	5,000,000
Lane County Board of County Commissioners	1,000,000
American Rescue Plan Act	7,000,000
Congressionally Directed Spending 2023 -- HRSA	1,500,000
Congressionally Directed Spending 2024 -- HRSA	1,500,000
State and local funding	12,600,000
Total project budget	28,600,000
Expenditure Plan	
Reimbursement	0
June-24	0
July-24	0
August-24	0
September-24	0
October-24	100,000
November-24	100,000
December-24	100,000
January-25	100,000
February-25	100,000
March-25	0
April-25	0
May-25	0
June-25	0
July-25	0
August-25	0
September-25	0
October-25	0
November-25	500,000
December-25	500,000
January-26	500,000
February-26	500,000
March-26	500,000
April-26	500,000
May-26	500,000
June-26	500,000
July-26	500,000
Total	5,000,000

EXHIBIT C – REIMBURSEMENT REQUEST FORM

Dated: [date of request]

Project Name: Lane County Behavioral Health Stabilization Center

Bonds: Lottery Revenue Bonds: 2024 Series A

Date of Grant Agreement: [ ]

Name of Grantee: Lane County

On behalf of Lane County (the "Grantee") I hereby request a total disbursement of $____ under the Grant Agreement listed above (the "Grant Agreement").

I hereby make the following certifications in connection with this Reimbursement Request:

1. As of the date of this Reimbursement Request, Grantee has spent a portion of the Grant Amount in the amount of $[____] as detailed on the attached list and documentation.
2. All of the disbursement requested by this Reimbursement Request (the "Disbursement") will be used to reimburse Grantee for payments that Grantee has made for Project Costs.
3. Grantee is eligible to receive the Disbursement under the terms of the Grant Agreement and has satisfied all conditions that the Grant Agreement requires be satisfied for DAS to make the Disbursement.
4. The invoices or other documents provided to DAS in connection with this Reimbursement Request evidence that the Project Costs to be paid from the Disbursement have been paid by Grantee.
5. All of the Disbursement will be used to pay for Project Costs that have not been previously paid from disbursements under the Grant.
6. All representations of Grantee in the Grant Agreement are true and correct on the date of this Reimbursement Request and all warranties by Grantee in the Grant Agreement continue to be in effect.

The certifications in this Reimbursement Request are true and accurate to the best of my knowledge and belief, after reasonable investigation.

Capitalized terms that are used but are not defined in this Reimbursement Request have the meanings defined for those terms in the Grant Agreement.

Lane County

By: _____
Name: Steve Mokrohisky
Title: County Administrator

Date: _____

EXHIBIT D
DECLARATION OF OFFICIAL INTENT TO REIMBURSE PROJECT COSTS

N/A