

6/1/2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of Amendment #3 increasing funding and updating program language to an Intergovernmental Grant Agreement with Oregon Department of Human Services for Older Americans Act and Oregon Project Independence Programs. Amendment value is \$1,335,733; agreement value is increased to \$10,764,143 for two years. Funding is through the US Department of Health and Human Services and the State of Oregon. Match requirement is \$103,110 of budgeted County General Funds.

Previous Board Action/Review	Original Agreement Approved: 20211104.B.4 Amendment #1 Approved: 20220421 IV.B.vii Amendment #2 Approved: 20220511 Briefed at Issues – 5/30/2023		
Performance Clackamas	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy, and secure communities by addressing the needs of older adults.		
Counsel Review	Yes	Procurement Review	No
Contact Person	Brenda Durbin, Director	Contact Phone	503-655-8641

EXECUTIVE SUMMARY: The Social Services Division of the Health, Housing and Human Services requests approval of the Subrecipient Intergovernmental Grant Agreement #171482-3 with the State of Oregon, Dept. of Human Services, Aging and People with Disabilities, Community Services, and Supports. This amendment provides additional grant funding for the Social Services Division to administer Older Americans Act (OAA) and Oregon Project Independence (OPI) funded services to support services for persons 60 and over living in Clackamas County.

The OAA and OPI-funded services include nutrition programs, evidence-based health promotion activities, family caregiver supports, transportation, case management, information and referral activities, and in-home services. These services link residents with resources to meet their individual needs, helping them to remain independent and active in their communities for as long as possible. Since July 2021, over 445,000 meals have been provided to older adults in Clackamas County. The majority of these meals were delivered to homebound seniors. In addition, over 46,000 rides were provided for seniors and individuals with disabilities, and County senior centers and the Aging & Disability Resource Center answered 13,500 calls for information and assistance.

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RECOMMENDATION: Staff recommends the Board approve this Intergovernmental Grant Agreement and authorize the Chair to sign on behalf of the County.

Respectfully submitted,

Rodney A. Cook

Rodney A. Cook
Health, Housing & Human Services



Grant Agreement Number 171482

**AMENDMENT TO
STATE OF OREGON
INTERGOVERNMENTAL GRANT AGREEMENT**

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

This is amendment number **03** to Grant Agreement Number **171482** between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “**ODHS**” and

**Clackamas County Acting by and through its
Clackamas County Social Services Division (CCSS)
District 2, Type A Serving: Clackamas County
Attention: Brenda Durbin
PO Box 2950 - 2051 Kaen Road
Oregon City, Oregon 97045
Telephone: 503-655-8640
Facsimile: 503-655-8889**

**E-mail address: brendadur@clackamas.us; teresachr@clackamas.us;
ADS-ContractBilling@clackamas.us;**

hereinafter referred to as “**Recipient**”, “**AAA**” (or “Agency” when applicable), or “**County**” interchangeably.

1. This amendment shall become effective when this amendment has been fully executed by every party and, when required, approved by the Oregon Department of Justice. Recipient’s performance of the program described in Exhibit A, Part 1, “Program Description” as amended by this Amendment 03 may start on **July 1, 2022**, shall be governed by the terms and conditions of the amended Agreement, and for such expenses incurred by Recipient may be reimbursed once the amendment is effective in accordance with the schedule of payments in Exhibit A, Part 2, “Disbursement and Financial Reporting”.

2. The Agreement is hereby amended as follows: language to be deleted is ~~struck through~~; new language is shown **underlined and bold**.

a. Section 3. “Grant Disbursement Generally” as follows:

3. Grant Disbursement Generally. The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **\$10,764,143.00** ~~\$9,428,410.00~~. ODHS will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. ODHS will disburse the grant to Recipient as described in Exhibit A, Part 2.

b. Exhibit A, Part 2, “Disbursement and Financial Reporting”, Section 1. “Funding Appropriations”, Subsection b. as follows:

b. Payment for all work performed under this Agreement shall be subject to the provisions of ORS 293.462 and disbursements under this Agreement shall both be based on the allocations as set forth in the table below and made on a reimbursement basis, upon ODHS approval of AAA’s disbursement request.

Older Americans Act	\$3,512,184 <u>\$4,317,799</u>	CFDA 93.041, 93.043, 93.044, 93.045, 93.052
American Rescue Plan (ARP)	\$1,759,461	CFDA 93.043, 93.044, 93.045, 93.052
Expanding Access to COVID-19 Vaccine (VAC5)	\$63,728	CFDA 93.044
NSIP	\$305,062 <u>\$299,355</u>	CFDA 93.053
IT Admin Funds	\$7,293	
Continued Sequestration Mitigation	\$214,495	
Oregon Project Independence (age 60+ or age under 60 with an Alzheimer’s Disease or related disorder diagnosis)	\$1,572,864 <u>\$2,097,152</u>	
Oregon Project Independence (age 19-59 with disability)	\$0	
Unspent ’19-’21 Biennia Funding: FFCRA (\$0) CARES (<u>\$188,793</u> \$177,256) HDC5 (\$230,575)	\$407,831 <u>\$419,368</u>	CFDA 93.044, 93.045, 93.052
Other State Funds	\$0	
SLFRF Home Delivered Meals	\$157,233	CFDA 93.045

OPI-M & FCAP Ongoing Case Management	\$1,222,537	CFDA 93.778
Diversity, Equity, and Inclusion Bonus Funding	\$205,722	
Allocation Total	\$9,428,410 \$10,764,143	

- c. Exhibit A, Part 2, “Disbursement and Financial Reporting”, Section 1. “Funding Appropriations”, Subsection c. as follows:
 - c. AAA will be allowed to carry-forward into the 2023-2025 biennium **greater no more than the ten (10) percent traditional cap amount** of the full 2021-2023 biennial allocation of Older American Act Title IIIB, IIIC1, IIIC2, IIID, IIIE and VIIB funds not fully expended during the Agreement period **as long as AAA has completed the ODHS provided survey outlining AAA’s intended carry-forward amount and plan to reach the typical ten (10) percent cap at the end of the 2023-2025 biennium.**
 - d. Exhibit A, Part 2, “Disbursement and Financial Reporting”, Section 1. “Funding Appropriations”, Subsection h. as follows:
 - h. If permitted by the federal Supplemental Nutrition Funding (HDC5), AAA may use HDC5 funds to provide allowable Home Delivery Nutrition Program Services (Title IIIC2). ~~Funds must be fully expended by September 30, 2022.~~ **Funds not expended by the expiration date of this Grant Agreement may be carried forward into the 2023-2025 biennium as long as they are fully expended by September 30, 2023** and AAA shall timely provide any necessary reporting information requested by ODHS.
 - e. For services provided on and after the effective date of this amendment, Exhibit F, “Privacy and Security Agreement” is hereby superseded and restated in its entirety, as set forth in Exhibit F, “Privacy and Security Agreement”, attached hereto and incorporated herein by this reference.
 - f. For services provided on and after the effective date of this amendment, Exhibit F-1 “Third Party Information System Access Request” is hereby superseded and restated in its entirety, as set forth in Exhibit F-1, “Third Party Information System Access Request”, attached hereto and incorporated herein by this reference.
3. Except as expressly amended above, all other terms and conditions of the original Agreement and any previous amendments are still in full force and effect.
 4. **Certification.** Without limiting the generality of the foregoing, by signature on this Amendment, the Recipient hereby certifies under penalty of perjury that:
 - a. Recipient acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Recipient further acknowledges that in addition to the remedies under this Agreement, if it makes

(or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Recipient;

- b.** The information shown in Section 5 “Recipient Information”, is Recipient’s true, accurate and correct information;
- c.** To the best of the undersigned’s knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- d.** Recipient and Recipient’s employees and agents connected with the program(s) funded with this grant are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:
<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- e.** Recipient is not listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal procurement or Non-procurement Programs” found at: <https://www.sam.gov/SAM>;
- f.** Recipient is not subject to backup withholding because:
 - (1) Recipient is exempt from backup withholding;
 - (2) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (3) The IRS has notified Recipient that Recipient is no longer subject to backup withholding; and
- g.** Recipient hereby certifies that the FEIN or SSN provided to ODHS is true and accurate. If this information changes, Recipient is required to provide ODHS with the new FEIN or SSN within 10 days.

5. **Recipient Information.** Recipient shall provide the information set forth below.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Recipient Name (exactly as filed with the IRS): _____

Clackamas County

Street address: _____ 2051 Kaen Road _____

City, state, zip code: _____ Oregon City, OR 97045 _____

Email address: _____ Brendadur@clackamas.us _____

Telephone: _____ (503) 655-8641 _____ Facsimile: _____ (503) 655-8889 _____

Recipient Proof of Insurance. Recipient shall provide the following information upon submission of the signed Agreement Amendment. All insurance listed herein must be in effect prior to Agreement Amendment execution.

Workers' Compensation: Does Recipient have any subject workers, as defined in ORS 656.027? (Check one box): YES NO *If YES, provide the following information:*

Workers' Compensation Insurance Company: _____ Self Insured _____

Policy #: _____ Expiration Date: _____

RECIPIENT, BY EXECUTION OF THIS AMENDMENT, HEREBY ACKNOWLEDGES THAT RECIPIENT HAS READ THIS AMENDMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

6. Signatures.

**Clackamas County Acting by and through its
Clackamas County Social Services Division
By:**

Authorized Signature

Printed Name

Title

Date

**State of Oregon acting by and through its Oregon Department of Human Services
By:**

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Approved via e-mail by
Wendy J. Johnson, Senior Assistant Attorney General
Oregon Department of Justice

March 21, 2023

Date

EXHIBIT F
Privacy and Security Agreement

1. **PURPOSE.** Recipient requires the Access described in Exhibit F-1, *Third Party Information System Access Request* (Form MSC 0785), which is hereby incorporated into this Exhibit F by reference, to perform the Grant Activities. The terms and conditions of this Privacy and Security Agreement govern:
 - 1.1. Recipient's Use of Data;
 - 1.2. Recipient's Access to ODHS' Information Assets and Systems;
 - 1.3. The periodic exchange of Data between ODHS' and Recipient's systems via electronic means; and
 - 1.4. The interconnection between ODHS' and Recipient's respective networks and information systems.
2. **TERM.** This Privacy and Security Agreement is effective for a period coterminous with the Intergovernmental Grant Agreement ("Agreement"), subject to review at least annually by ODHS, unless terminated earlier by either party in accordance with the "Suspension or Termination" section of this Privacy and Security Agreement.
3. **DEFINITIONS.** The following definitions apply to this Privacy and Security Agreement:
 - 3.1. "Access" means the ability or the means necessary to read, communicate, or otherwise use ODHS or State Data, Network and Information Systems, and Information Assets
 - 3.2. "Breach" means the acquisition, access, exposure, use, or disclosure of Data or an Information Asset in a manner not in compliance with applicable law, rule, or policy, or Data loss, misuse, or compromise.
 - 3.3. "Client Records" includes any client, applicant, or participant information regardless of the media or source, collected by Recipient in the course of completing the Grant Activities, provided through the Network and Information Systems to Recipient, or otherwise exchanged between the parties.
 - 3.4. "Data" means information created, transmitted, or stored through the Network and Information Systems, including metadata, personal information, and Client Records.
 - 3.5. "Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of any Network and Information System or Information Asset. An Incident is an observable, measurable occurrence that is a deviation from expected operations or activities. An Incident may be a Breach, failure to protect a User's identification (ID), or theft of computer equipment that uses or stores any Information Asset.
 - 3.6. "Individual Access Request (IAR)" refers to the ODHS form used to authorize a User, identify the User's job assignment, and the required access to Network and

Information System(s). It generates a unique alpha/numeric code used to access the ODHS Network and Information Systems.

- 3.7. "Information Asset(s)" refers to all information provided through ODHS, regardless of the source, which requires measures for security and privacy. Includes Data.
 - 3.8. "Network and Information System(s)" means ODHS' and the State of Oregon's computer infrastructure which provides personal communications; Data such as Client Records; Access to other Information Assets, regional, wide area, and local networks; and the internetworking of various types of networks.
 - 3.9. "User" means any individual authorized to access Network and Information Systems and who has an been assigned a unique log-on identifier.
- 4. CHANGES TO PRIVACY AND SECURITY AGREEMENT.** Other than as allowed under this section, Recipient shall be requested to submit input to a revised *Third Party Information System Access Request* (Form MSC 0785), to request changes to Exhibit F-1. ODHS will review Recipient's request and, if approved in writing by ODHS, the parties will amend the Agreement in accordance with Exhibit B, Section 24.
- 4.1. **Point of Contact Changes.** Each party will provide notification to the other of any change of its respective point(s) of contact noted in Exhibit F-1, including any technical lead, and name an interim or replacement person in any such notice. Exhibit F-1 will be deemed amended to include the updated information.
 - 4.2. **Administrative Changes.** Recipient may request updates to Exhibit F-1 that are administrative in nature and do not modify the mode of Access or type of data by submitting a written request to ODHS. Upon written acceptance by ODHS, Exhibit F-1 will be deemed amended to include the updated information.
- 5. NOTIFICATIONS.**
- 5.1. **Points of Contact.** The parties have designated their respective technical leads in Exhibit F-1. The parties will facilitate direct contacts between technical leads. The parties will provide notification to the other of any changes in technical point of contact information.
 - 5.2. **Breach Notification.** In the event Recipient or its subcontractors or agents discover or are notified of an Incident or a Breach, including a failure to comply with Recipient's confidentiality obligations under this Agreement, Recipient shall immediately notify ODHS' Program Sponsor identified in Section 4 of Exhibit F-1 (or delegate) of the Incident or Breach. If ODHS determines that an Incident or Breach requires notification of ODHS clients, or other notification required by law, ODHS will have sole control over the notification content, timing, and method, subject to Recipient's obligations under applicable law.
 - 5.3. **Requests for Data.** In the event Recipient receives a third-party request for Data, including any electronic discovery, litigation hold, or discovery searches, Recipient shall first give ODHS notice and provide such information as may be reasonably necessary to enable ODHS to protect its interests.

- 5.4. **Changes in Law.** Each party will provide notice to the other of any change in law, or any other legal development, which may significantly affect its ability to perform its obligations.
6. **GRANT OF LICENSE.** Subject to Recipient’s compliance with the Agreement, Recipient is hereby granted a non-exclusive, non-transferable, and revocable authorization to Access and use Information Assets only in accordance with this Agreement and applicable laws, rules, and policies. Recipient and its employees, contractors, and agents shall not manipulate any URL or modify, publish, transmit, reverse engineer, participate in any unauthorized transfer or sale of, create derivative works of, or in any way exploit the content or software comprising this Access, or Information Assets made available through this Access.
7. **DATA PRIVACY.** In addition to Recipient’s obligations under Exhibit A, Part 3, “Special Provisions”, Section 2 regarding Confidentiality of Information:
- 7.1. **Generally.** Recipient shall hold all Client Records, and other information as to personal facts and circumstances obtained by Recipient on ODHS clients, as confidential, using the highest standard of care applicable to the Client Records, and shall not divulge any Client Records without the written consent of the client, the client’s attorney, the responsible parent of a minor child, or the minor child’s guardian except as required by other terms of this Privacy and Security Agreement or applicable law.
- 7.2. **Limited Purposes.** Recipient shall limit the use or disclosure of Data concerning clients to persons directly connected with the administration of this Privacy and Security Agreement or the Agreement. Confidentiality policies apply to all requests from outside sources.
- 7.3. **Privacy Protections.** Data may include information, such as Client Records, subject to specified confidentiality protections under state or federal law. Recipient shall comply with laws, regulations, and policies applicable to the information described in Exhibit F-1, including as specified in this Agreement.
- 7.4. **Training.** Recipient’s employees, subcontractors, and agents who will Access Data have received training on the privacy and security obligations relating to the Data, including Client Records. Recipient shall provide periodic privacy and security training to its employees, subcontractors, and agents.
8. **SECURITY REQUIREMENTS.**
- 8.1. **Compliance with Laws, Regulations, and Policies.** Recipient and its employees, contractors, and agents shall comply with all applicable state and federal laws and regulations, and State of Oregon policies governing use and disclosure of Data (including Client Records) and Access to Information Assets, including as those laws, regulations, and policies may be updated from time to time. Applicable laws, regulations, and policies include but are not limited to:

- 8.1.1. ODHS and OHA Information Security and Privacy Policies:
<https://www.oregon.gov/oha/FOD/OIS-ISPO/Pages/Policies.aspx>
- 8.1.2. ODHS and OHA Privacy and Confidentiality administrative rules, OAR Chapter 407, Division 14, and OAR Chapter 943, Division 14.

The Health Insurance Portability and Accountability Act (HIPAA), including as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”), and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164, Recipient shall comply with HIPAA Compliance included in this Agreement in Exhibit A, Part 3, Section 1 in connection with Recipient’s Access.
- 8.1.3. The Oregon Consumer Identity Theft Protection Act, ORS 646A.600 through 646A.628, to the extent applicable.
- 8.1.4. Oregon’s Statewide Information and Cyber Security Standards:
<https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf>.
- 8.2. **Responsible for Compliance.** Recipient is responsible for the compliance of its employees, agents, and subcontractors with this Agreement and with any third-party licenses to which Access is subject.
- 8.3. **Privacy and Security Measures.** Recipient represents and warrants it has established and will maintain privacy and security measures that meet or exceed the standards set in laws, rules, and regulations applicable to the safeguarding, security and privacy of Data, including Client Records, all Information Assets, regardless of the media, and all Network and Information Systems. Recipient shall monitor, periodically assess, and update its security controls and risk to ensure continued effectiveness of those controls.
- 8.4. **Security Risk Management Plan.** Recipient shall ensure the level of security and privacy protection required in accordance with this Privacy and Security Agreement is documented in a security risk management plan. Recipient shall make its security risk management plan available to ODHS for review upon request.
- 8.5. **Audit Rights and Access.** Recipient shall maintain records in such a manner as to clearly document its compliance with and performance under this Privacy and Security Agreement, and provide ODHS, the Oregon Secretary of State, the federal government, and their duly authorized representatives access to Recipient’s officers, agents, contractors, subcontractors, employees, facilities and records for ODHS to:
 - 8.5.1. Determine Recipient’s compliance with this Privacy and Security Agreement,
 - 8.5.2. Validate Recipient’s written security risk management plan, or
 - 8.5.3. Gather or verify any additional information ODHS may require to meet any state or federal laws, rules, or orders regarding Information Assets.

- 8.5.4. Access to facilities, systems, and records under this section will be granted following reasonable notice to Recipient. Records include paper or electronic form, system security logs, and related system components and tools (including hardware and software), required to perform examinations and audits, and to make excerpts and transcripts, including for data forensics.

9. ACCESS TO ODHS SYSTEMS.

- 9.1. **ODHS Review of User Requests.** If required for Access, ODHS will review requests, including forms such as the IAR, and will:
 - 9.1.1. Notify Recipient of the approval or denial of its request for each User for whom Access has been requested;
 - 9.1.2. Provide any unique log-on identifier required for authorized Access;
 - 9.1.3. Provide updates to approved inquiry processes and instructions to Recipient.
- 9.2. **Recipient's Responsibilities for User Accounts.** Recipient shall facilitate completion of any forms (such as the IAR) for each person for whom Access is requested.
 - 9.2.1. Recipient is responsible for all activities that occur through its Access, including for any acts related to a lost or stolen User ID or password.
 - 9.2.2. Recipient is responsible for ensuring information provided by its Users is accurate, complete, and up to date.
 - 9.2.3. Recipient shall immediately notify ODHS when a User, group of Users, or Recipient, no longer requires Access whether due to changes in duties or due to changes in Recipient's programs related to this Agreement.
- 9.3. **Security and Disposal.** Recipient shall maintain security of equipment, and ensure the proper handling, storage and disposal of all Information Assets accessed, obtained, or reproduced by Recipient and its Users to prevent inadvertent destruction or loss. Recipient shall ensure proper disposal of equipment and Information Assets when authorized use ends, consistent with Recipient's record retention obligations and obligations regarding Information Assets under this Agreement.
- 9.4. **Prevention of Unauthorized Access.** Recipient shall prevent any Access to State of Oregon Network and Information Systems by its Users that is not authorized in accordance with this Agreement and applicable law, and shall implement and maintain safeguards to prevent unauthorized access.
- 9.5. **Access from Outside the US and its Territories.** Recipient Access to the state network from outside the US and its territories is prohibited unless approved through the [Geofencing Exception Process, ODHS/OHA 090-009-05](#).
 - 9.5.1. Recipient shall not allow use of any Information Asset in any country or territory in any manner prohibited by governing applicable law, rule, or policy.

- 9.6. **Authorized Access and Use Only.** No User may Access or use Data for any purpose other than those specifically authorized through this Agreement.
- 9.6.1. Users shall not use Access to obtain or attempt to obtain any Data or Information Assets not authorized or intentionally made available.
- 9.6.2. The use and disclosure of any Information Asset is strictly limited to the minimum information necessary to the exchange of Data between the parties described in Exhibit F-1.
- 9.6.3. Except as otherwise specified or approved by ODHS, neither Recipient nor its Users may modify, alter, delete, or destroy any Information Asset.
- 9.7. **Revocation or Termination of Access.** Breach, or wrongful use or disclosure of Information Assets by Recipient or its Users, may cause the immediate revocation of the Access granted through this Agreement, in the sole discretion of ODHS, or ODHS may specify a reasonable opportunity for Recipient to cure the unauthorized use or disclosure and end the violation, and terminate the Access if Recipient does not do so within the time specified by ODHS. Legal actions also may be taken for violations of applicable regulations and laws.
- 9.8. **No Unauthorized Distribution.** Recipient shall not sell, make available, or provide Information Assets in any form to any other persons or organizations, and shall not use the Information Assets for any purposes other than as allowed under this Agreement and applicable law.
- 9.9. **No Impairment.** Recipient shall not use this Access in any manner which could damage, disable, overburden, or impair Network and Information Systems or interfere with any other entity's use or benefit of Network and Information Systems.
- 9.10. **Prohibition on Data Mining.** Recipient shall not capture, maintain, scan, index, share or use Data stored or transmitted by virtue of this interconnection, or otherwise use any data-mining technology, for any non-authorized activity. For purposes of this requirement, "non-authorized activity" means the data mining or processing of data, stored or transmitted through the Network and Information Systems, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security analysis that is not explicitly authorized in this Agreement.
- 9.11. **Incidents and Breaches.** Recipient shall comply, and shall cause its subcontractors to comply, with any requirements for identifying and addressing an Incident or Breach. This requirement applies regardless of whether the Incident or Breach was accidental or otherwise.

10. SUSPENSION OR TERMINATION.

- 10.1. This Privacy and Security Agreement may be terminated at any time by written agreement of the parties.
- 10.2. This Privacy and Security Agreement may be terminated by either party upon thirty (30) calendar days' written notice to the other party.
- 10.3. Access and this Privacy and Security Agreement may be terminated immediately upon written notice from Recipient if Access is no longer needed by Recipient.
- 10.4. ODHS may immediately revoke the Access granted Recipient for Recipient's failure to comply with the requirements of this Privacy and Security Agreement. In such event, ODHS will provide subsequent written notice to Recipient's point of contact. ODHS may, to the extent it determines it is reasonable and able to do so, provide advance notice to Recipient to cure any deficiency or breach of this Privacy and Security Agreement.
- 10.5. Either party may terminate this Privacy and Security Agreement, and ODHS may modify Access, upon written notice if there are changes to or revised interpretations of federal or state laws, rules, or regulations, or if either party has changes in policies that require such action.

11. RETURN OF INFORMATION ASSETS. Upon expiration or termination of the Agreement or this Privacy and Security Agreement for any reason whatsoever, Recipient shall immediately deliver to ODHS all of ODHS' Information Assets, including Data and Client Records, that are in the possession or under the control of Recipient in whatever stage and form of recordation such property is expressed or embodied at that time.

- 11.1. Except as necessary to meet obligations under [Exhibit B, Section 14], Records Maintenance and Access, Recipient shall not retain any copies of Information Assets. Recipient shall notify ODHS of any conditions that make returning all ODHS Information Assets not feasible. Upon ODHS' written acknowledgement that returning all Information Assets is not feasible, Recipient shall purge or destroy retained Data in all its forms in accordance with the most current version of NIST SP 800-88 (or other agreed-upon standard) and on request provide ODHS with written certification of sanitization.
- 11.2. Recipient shall maintain protections required by law or the Agreement for any retained State of Oregon Information Asset for so long as Recipient (including through any subcontractor) retains it.

12. INDEMNIFICATION AND INSURANCE. Indemnification and insurance coverages provided by Recipient under the Agreement apply to this Privacy and Security Agreement.

13. COSTS. Each party will bear its own costs related to the acquisition of all equipment, software, data lines or connections necessary for Access, unless otherwise agreed to by written agreement between the parties. Each party is responsible for securing compatible hardware, equipment, and software, and network connections. Each party is responsible for

complying with the licenses for third party products, including software and services that allow Access.

- 14. SURVIVAL.** Access and rights to use Information Assets ceases upon termination of this Privacy and Security Agreement. Rights and obligations which expressly or by their nature survive termination do so survive, and include this section, provisions regarding warranties and liabilities, indemnification, and confidentiality and non-disclosure.
- 15. INTERPRETATION.** Any ambiguity in this Privacy and Security Agreement will be resolved to permit ODHS to comply with applicable privacy and security laws and State of Oregon and ODHS policies interpreting those laws.
- 16. SUBCONTRACTORS.** Recipient shall ensure all subcontractors providing services related to this Privacy and Security Agreement are held to the same requirements as Recipient.

EXHIBIT F-1
THIRD PARTY INFORMATION SYSTEM ACCESS REQUEST

EXHIBIT F-1 (7 PAGES) STARTS ON NEXT PAGE

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