

March 26, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval for Amendment #6 to Agreement #646 to a Revenue Agreement
with Providence Health Plan (PHP), Providence Health Assurance (PHA)
for the new Oregon Health Plan Compliance Provisions**

Purpose/Outcomes	Provides Clackamas Health Centers (CHC) reimbursement for Provider Services serving Oregon Health Plan (OHP) members treated at CHC clinics.
Dollar Amount and Fiscal Impact	CHC is eligible to receive payment for services furnished to persons enrolled in Providence Health Assurance Plans. This is a no maximum agreement. No County General Funds are involved. No matching funds required.
Funding Source	Providence Health Plan and Providence Health Assurance
Duration	Effective January 1, 2020 and no expiration.
Previous Board Action	The Board last reviewed and approved this contract on October 18, 2018, agenda item A3.
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
Counsel Review	County Counsel has reviewed and approved this document. It was approved on December 19, 2019.
Contact Person	Deborah Cockrell 503-742-5495
Contract No.	646_06

BACKGROUND:

Clackamas Health Centers (CHC) of the Health, Housing and Human Services Department requests the approval of Amendment #6 to Agreement #646 to a Revenue agreement with PHP/PHA for the purpose of providing Provider Services.

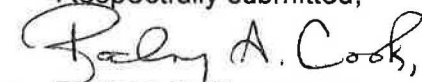
PHP/PHA and CHC desire to enter into this Professional Services Agreement under which CHC will provide medical services as a Network Provider. The current OHP Compliance Provisions will be replaced with the new OHP Compliance Provisions as regulated under OAR 410-141-3830, OAR 410-141-3825 and OAR 410-141-3820.

This is a revenue contract for CHC. The total amount of the agreement is unknown because the number of authorized patients cannot be projected with certainty. No County General Funds are involved. The Agreement is effective January 1, 2020 and will continue until terminated. This is a retro-active request due to verifying language in the agreement is supportive of services.

RECOMMENDATION:

Staff recommends the Board approval of this contract and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

 Rachel A. Cook, H3S deputy / for

Richard Swift, Director
Health, Housing, and Human Services

#646_06

**AMENDMENT
TO THE
PROVIDENCE HEALTH PLAN, PROVIDENCE HEALTH ASSURANCE AND PROVIDENCE PLAN PARTNERS
PROVIDER AGREEMENT**

Effective January 1, 2020, the Agreement between PROVIDENCE HEALTH PLAN, PROVIDENCE HEALTH ASSURANCE and PROVIDENCE PLAN PARTNERS (Health Plan) and Clackamas County Health, Housing, and Human Services Deptment, Health Centers Division is amended as follows:

Modification of the Oregon Health Plan Compliance Provisions.

The current Oregon Health Plan Compliance Provisions will be replaced with the new Oregon Health Plan Compliance Provisions, a copy of which is attached. The new Oregon Health Plan Compliance Provisions is included in the Agreement and is a part of this Amendment.

Except as specifically provided by this Amendment, the Agreement shall remain unmodified and in full force and effect.

As stated in the Amendments paragraph of the Agreement, if state or federal law, government agency regulations or accrediting agency requirements change and affect any provisions of this Agreement, then this Agreement will be deemed amended to conform with such changes effective the date such changes become effective.

**PROVIDENCE HEALTH PLAN, PROVIDENCE HEALTH ASSURANCE AND PROVIDENCE PLAN
PARTNERS
OREGON HEALTH PLAN (OHP) LINE OF BUSINESS
HEALTH PLAN OHP NETWORKS EXHIBIT**

OREGON HEALTH PLAN COMPLIANCE PROVISIONS

Adhere to Terms. Network Providers who participate in the Oregon Health Plan shall adhere to the terms and conditions outlined below.

Oregon Revised Statutes. The Oregon Revised Statutes concerning the Oregon Health Plan and Oregon Administrative Rules promulgated by Oregon Health Authority (OHA) to implement the Oregon Health Plan program take precedent over Health Plan's Agreement with OHA.

Supersede. To the extent that this Exhibit contains different terms from the existing Agreement, the terms of this Exhibit will supersede any conflicting provisions of the existing Agreement for OHP business.

OHP. Oregon Health Plan and Affiliated Programs will hereinafter be referred to as OHP.

DEFINITIONS

Coordinated Care Organization (CCO). A corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization's members.

Medical Assistance Program (MAP). A program for payment of health services provided to eligible Oregonians, including Medicaid and CHIP services under the OHP Medicaid Demonstration Project and Medicaid and CHIP services under the State Plan.

Managed Care Entity (MCE). As stated in 42 CFR 457.10, an entity that enters into a contract to provide services in a managed care delivery system including but not limited to coordinated care organizations, dental care organizations, mental health organizations, and primary care case managers.

Member. An OHP client enrolled with an MCE.

Oregon Health Authority (OHA). The agency established in ORS Chapter 413 that administers the funds for Titles XIX and XXI of the Social Security Act. It is the single state agency for the administration of the medical assistance program under ORS chapter 414. The agencies under the authority of the Oregon Health Authority are the Public Health Division, Health Systems Division, External Relations, Health Policy and Analytics, Fiscal and Operations, Health System Division, Office of Equity and Inclusion, and the Oregon State Hospital.

Participating Network Provider. A Network Provider that has a contractual relationship with an MCE and is on their panel of Network Providers.

Patient-Centered Primary Care Home (PCPCH). Clinics that have been recognized for their commitment to quality and coordinated care. At its heart, this model of care fosters strong relationships with patients and their families. Clinics improve care by catching problems earlier, focusing on prevention, wellness and management of chronic conditions.

Prioritized List of Health Services. The listing of conditions and treatment pairs developed by the Health Evidence Review Commission for the purpose of administering OHP.

Subcontractor. Any Network Provider or any other individual, entity, facility, or organization that has entered into a subcontract to provide for any portion of work under this Agreement.

Third Party Liability (TPL), Third Party Resource (TPR), or Third Party Payer. A medical or financial resource that, under law, is available and applicable to pay for medical services and items for an Oregon Health Authority client.

DESCRIPTION OF MEDICAL SERVICES

Notification of Covered Services. Pursuant to state law, Covered Services may be expanded, limited or otherwise changed by the Oregon Health Evidence Review Commission (HERC), or by the Legislative Assembly. Any such changes shall be reflected by MAP in duly promulgated amendment(s) to the Oregon Administrative Rules pertinent to the Oregon Health Plan. MAP shall notify the CCO within 30 days of the effective date of the rule change. The rule, as amended, shall be binding upon the CCO and its health plans as of its effective date, without need for any amendment(s) to the agreement between the CCO and MAP. In turn, Health Plan shall notify Network Provider about the amendment(s) within 5 business days of CCO notification to Health Plan, and the amendment(s) in Covered Services shall be binding upon Network Provider as of the effective date of the amendment(s) in Covered Services, without need for any amendment to this Agreement.

STATEMENT OF WORK

Prioritized List. The provision of services is subject to the parameters contained in OAR 410-141-3830, OAR 410-141-3825 and OAR 410-141-3820.

Performing the Work. Network Provider, its employees, and agents are performing the work under this Agreement independent of any capacity as officers, employees, or agents of the State as those terms are used in ORS 30.265.

ADHERENCE TO CCO ADMINISTRATIVE RULES

Claim Submission. Network Provider shall submit all billings for Members to Health Plan within four (4) months of the date of service. However, Network Provider may, if necessary, submit its billings to Health Plan within twelve (12) months from the date of service under the following circumstances: (1) Billing is delayed due to retroactive deletions or enrollments; (2) Pregnancy of the Member; (3) Medicare is the primary payer, unless Health Plan is responsible for Medicare reimbursement; (4) Cases involving third-party resources; or (5) Other cases that delay the initial billing to Health Plan unless the delay was due to the Network Provider's failure to verify a Member's eligibility.

Comply With MAP Rules. Network Provider shall comply with all duly promulgated MAP Rules in OAR Chapter 410, including those rules pertaining to the provision of health care and services, OAR Chapter 410, Division 120 and 141, whether in effect at the time this Agreement is signed or as adopted or amended during the term of this Agreement.

Culturally Competent Care. Network Provider shall deliver services in a culturally competent manner to all Members, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation or gender identity. These efforts must ensure that Members have access to covered services, available treatment options and alternatives that are delivered in a manner that meet their unique needs, preferred language and ability to understand.

Debarment and Suspension. In accordance with 42 CFR 438.808(b) neither Health Plan nor contracted Network Provider or subcontracted providers shall contract with or employ individuals listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". 45 CFR Part 76

Drug Free Workplace. Network Provider and all subcontracted providers shall maintain a drug-free workplace and comply with the Department of Human Services, and Division of Medical Assistance Programs rules and regulations.

Pro-Children Act. Network Provider shall comply and require all Subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et seq.).

Requirements of 42 CFR. Network Provider must fulfill the requirements of 42 CFR Part 438 Managed Care that are appropriate to the services or activity delegated under this Agreement.

TRUTH IN LOBBYING ACT CERTIFICATION

Network Provider shall comply with 45 CFR Part 93 by certifying, to the best of Network Provider's knowledge and belief, that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of Network Provider, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, Network Provider shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and Subcontractors shall certify and disclose accordingly.

d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

e. No part of any federal funds paid to Network Provider under this Contract shall be used other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

f. No part of any federal funds paid to Network Provider under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

h. No part of any federal funds paid to Network Provider under this Contract may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under Section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

Indemnify MAP. Network Provider is solely responsible for all liability arising from a failure by Network Provider to comply with the terms of this certification. Additionally, Network Provider promises to indemnify MAP for any damages suffered by MAP as a result of Network Provider's failure to comply with the terms of this certification.

ACCESS TO RECORDS AND FACILITIES

Maintain Records. Network Provider shall maintain financial, medical and other records pertinent to this Agreement to the extent necessary to clearly reflect actions taken.

Member Records. Members may request and receive a copy of his or her medical records and request that they be amended or corrected as specified in 45 CFR Part 164.

Timely Access. Network Provider shall provide timely access to records and facilities and cooperate with OHA or any of its other designees, agents or subcontractors (or any combination, or all, of them) in collection of information may include, without limitation: through consumer surveys, on-site reviews, medical chart reviews, financial reporting and financial record reviews, interviews with staff, and other information for the purposes of monitoring compliance with this Agreement, including but not limited to verification of services actually provided, and for developing and monitoring, and analyzing performance and outcomes.

External Quality Review. Network Provider in conformance with 42 CFR 438.350 and 438.358 Subpart E, and 42 CFR 457.1250 shall cooperate with OHA or its designees by providing access to records and facilities, and sufficient information for the purpose of an annual External Quality Review an independent professional review of CCO compliance with all applicable state and federal rules, the CCO contract with OHA and of the quality outcomes and timeliness of, and access to services provided under this Agreement.

Confidentiality. Subject to the requirements of 42 CFR Part 431, Subpart F, Network Provider shall not use, release, or disclose any information concerning a Member for any purpose not directly connected with the administration of MAP's, Health Plan's or Network Provider's responsibilities under this Agreement or under Title XIX of the Social Security Act, except on written consent of the Member, his or her attorney, or, if appropriate, his or her legally-responsible parent or guardian, or as required or permitted by law. Network Provider shall ensure that its agents, employees, and officers with access to Member records understand and comply with this confidentiality provision.

CONDITIONS OF PARTICIPATION

Member Rights and Responsibilities. Network Provider will comply with all Member rights and responsibilities as specified in OAR 410-141-3590 MCE Member Relations, Member Rights and Responsibilities.

Patient Centered Primary Care Home. If Network Provider is a Personal Physician/Primary Care Physician (PCP) clinic, Network Provider shall participate in Oregon's PCPCH program and shall continually strive to increase its Tier rating up to Tier 3 and above.

Care Transitions. Health Plan agrees to i. specify processes for requesting hospital admission or specialty services; and ii. establish performance expectations for communication and medical records sharing for specialty treatments at the time of hospital admission or at the time of hospital discharge for the purpose of facilitating after-hospital follow up appointments and care. If Network Provider is a patient-centered primary care provider they agree to be accountable for successful transitions of care transitioning members into the most appropriate settings, as described in the Rules and Regulations.

Compliance with Service Authorization Handbook. Network Provider agrees to comply with the policies and procedures set forth in the Service Authorization Handbook.

Coordinate Care. Network Provider/Patient Centered Primary Care Home shall coordinate Member's care for both Covered and non-covered services. Network Provider/Patient Centered Primary Care Home shall not be responsible for providing non-covered services, but shall be responsible for coordinating such care for the Member.

Quality Improvement. Network Provider shall participate in internal or external quality improvement activities of Health Plan or those of OHA if requested to do so.

Provisions That Apply. Provisions that apply to the Health Plan and its agreement with the CCO shall also apply to Network Provider.

Cooperate With. Network Provider shall cooperate with all processes and procedures of child, elder, nursing home, developmentally disabled or mentally ill abuse protective services, investigation and reporting requirements described in any of the following laws: (1) OAR 407-045-0000 through 407-045-0370 (abuse investigations by the Office of Investigations and Training); (2) ORS 430.735 through 430.765 (persons with mental illness or developmental disabilities); (3) ORS 124.005 to 124.040 (elderly persons and persons with disabilities abuse); and (4) ORS 441.650 to 441.680 (residents of long term care facilities).

Data. Network Provider shall provide to Health Plan data for reporting requirement used for the analysis of delivery system capacity, consumer satisfaction, financial solvency, encounter, utilization and quality improvement, and other requirements within the time frames requested by Health Plan in order for Health Plan to make its reporting requirements to the State.

Certify Claims Information. Network Provider shall certify that all claims submissions and/or information are true, accurate, and complete. Payment of Covered Services by Health Plan is from federal and state funds, and therefore any falsification or concealment of material fact by Network Provider when submitting claims may be prosecuted under federal and state laws.

THIRD PARTY LIABILITY

Third Party Liability. If a Member has other insurance coverage available for payment of Covered Services, such resources are primary to the coverage provided by Health Plan under this Agreement and must be exhausted prior to payment for such Covered Services by Health Plan. Member cost-sharing incurred as part of such other coverage shall be paid to such insurer by Health Plan. Network Provider shall report any other primary, third-party insurance to which a Member may be entitled within a timeframe that enables Health Plan to report such information to OHA within thirty (30) days of the Network Provider becoming aware that the applicable Member has such coverage.

Third Party Liability Records. Network Provider shall maintain records of Network Provider's action related to Third Party Liability recovery and make those records available for OHA review.

Potential Third Party Liability. Network Provider shall not refuse to provide Covered Services to a Member because of a potential Third Party Liability for payment for the Covered Service.

Reimbursing Medicare. If the Third Party has reimbursed Network Provider, or if a Member, after receiving payment from the Third Party Liability, has reimbursed Network Provider, Network Provider must reimburse Medicare up to the full amount the Network Provider received, if Medicare is unable to recover its payment from the remainder of the Third Party Liability payment.

HOLD HARMLESS

Hold Harmless. Network Provider shall not bill, charge, seek compensation, remuneration or reimbursement from, or have recourse against the State or any Member for Covered Services provided during the period for which capitation payments were made by the State through MAP to Health Plan with respect to said Member even if the Health Plan becomes insolvent. Network Provider may not bill Member for any amount greater than would be owed by the Member if the Health Plan provided the services directly (i.e., no balance billing by providers).

Continuity of Care. Network Provider shall continue to provide Covered Services during periods of Health Plan insolvency or cessation of operations through the period for which capitation payments were made to Health Plan.

DELEGATION

Delegation. If Health Plan chooses to delegate the complaint and appeal process, except the adjudication of final appeals, Network Provider shall have written policies and procedures for accepting, processing and responding to all complaints and appeals from Member. Health Plan shall monitor delegated responsibilities on an ongoing basis. Health Plan retains all its legal remedies, including rights of revocation, if the activities are not performed satisfactorily.

NON COVERED SERVICES

Fee for Service. Network Provider shall comply with OAR 410-141-1280, Billing and OAR 410-141-1340 Payment under the Oregon Health Plan when submitting Fee-For-Service claims for Oregon Health Plan services provided to Members that are not Covered Services under the Health Plan.

Billing Member. Network Provider may bill a Member for payment of non-Covered Services not within the scope of the coverage offered by the CCO, subject to requirements of the OHA about how those arrangements may be made under appropriate waiver. The Member must be informed in advance of receiving the specific service that it is not covered, the estimated cost of the service, and that the Member or Member's representative is financially responsible for payment for the specific service. Network Provider must use the designated OHP waiver form. Network Provider must be able to document in writing signed by the Member or Member's representative, that the Member was provided this information and the Member knowingly and voluntarily agreed to be responsible for payment.

WORKERS COMPENSATION

Workers Compensation. If Network Provider is a subject employer under the Oregon Workers Compensation law, Network Provider shall comply with ORS 656.017, which requires employers to provide Workers Compensation coverage for all of their employees.

FULLY QUALIFIED HEALTH CENTER / RURAL HEALTH CENTERS

Fully Qualified Health Center. When applicable, Fully Qualified Health Centers (FQHCs) and Rural Health Centers (RHCs) rate of reimbursement shall be not less than the level and amount of payment which the Health Plan would make for the same services furnished by a provider that is not a FQHC or RHC consistent with the requirements of 42 USC §1396b (m)(2)(A)(ix) and BBA 4712 (b)(2).

MISCELLANEOUS FEDERAL REQUIREMENTS

Environmental Protection. If the sums payable to Network Provider under this Agreement exceed \$100,000, Network Provider shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act, (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 USC. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (2 CFR Part 1532), which prohibit the use under non-exempt federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Any violations shall be reported in writing to OHA, United States Department of Health and Human Services, and the appropriate Regional Office of the federal EPA.

Energy Policy. Network Provider shall comply with any applicable mandatory standards and policies relating to energy efficiency which are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et seq. (Pub. L. 94-163).

Non-Discrimination. Network Provider shall comply with all federal and state laws and regulations including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities) the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, and all amendments to those acts and all regulations promulgated thereunder. Network Provider shall also comply with all applicable requirements of State civil rights and rehabilitation statutes and rules.

OASIS. To the extent applicable, Contractor shall comply with, and shall require Subcontractors to comply with, the Outcome and Assessment Information Set reporting requirements and notice requirements for skilled services provided by Home Health Agencies, pursuant to CMS requirements published in 42 CFR 484.20, and such subsequent regulations as CMS may issue in relation to the OASIS program.

Equal Employment Opportunity. If the sums payable to Network Provider exceed \$10,000, Network Provider shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

Laboratories. Laboratories contracted by Health Plan and used by Network Provider shall comply with the Clinical and Laboratory Improvement Amendments (CLIA 1988), 42 CFR Part 493 Laboratory Requirements and ORS 438 (Clinical Laboratories, which require that all laboratory testing sites providing services under this Agreement shall have either a Clinical Laboratory Improvements (CLIA) certificate of waiver or a certificate of registration along with a CLIA identification number. Those laboratories with certificates of waiver will provide only eight types of tests permitted under the terms of their waiver. Laboratories with certificates of registration may perform a full range of laboratory tests.

Patient Self-Determination. Network Provider shall comply with the requirements of 42 CFR Part 489, Subpart I "Advance Directives" and OAR 410-120-1380 which establishes, among other requirements the requirement for compliance with Section 4751 of the Omnibus Budget Reconciliation Act of 1991 (OBRA) and 127.649, Patient Self-Determination Act.

Consent Forms. Network Provider shall complete and have Members sign an accurately completed OHA Hysterectomy Consent form prior to performing hysterectomy surgeries. An accurately completed signed OHA Consent to Sterilization form must be obtained prior to performing tubal ligations and vasectomies. These OHA forms must be submitted to Health Plan upon filing of claim for these services.

Federal Provisions. Without limiting the generality of the foregoing, Network Provider agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to this agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) 45 CFR Part 84 which implements, Title V, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Section 1557 of the Patient Protection and Affordable Care Act (ACA), (e) Executive Order 11246, as amended, (f) the Health Insurance Portability and Accountability Act of 1996, as amended, (g) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (h) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (i) the Mental Health Parity and Addiction Equity Act of 2008, as amended, (j) CMS regulations (including 42 CFR Part 438, subpart K) and guidance regarding mental health parity, including 42 CFR 438.900 et. seq.; (k) all regulations and administrative rules established pursuant to the foregoing laws, (l) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (m) all federal laws requiring reporting of Member abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to this Contract and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 USC. 14402.

Comply with Federal Law. Network Provider and all subcontracted providers shall comply with all applicable state and federal law.

FRAUD, WASTE AND ABUSE

Fraud, Waste and Abuse. Network Provider shall comply with Health Plan's Fraud, Waste and Abuse reporting requirements and to cooperate with processes and procedures of Fraud, Waste and Abuse investigations, reporting requirements, and related activities by Health Plan, OHP, OHA/Provider Audit Unit or the Department of Justice Medicaid Fraud Control Unit.

Acknowledged and agreed to on behalf of Clackamas County, by and through its Health, Housing and Human Services Department, through its Health Centers Division.

Signing on behalf of the Board of Commissioners by:

Richard Swift - Director

Date

March 26, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Board Order
Designating a Clackamas County HUD Certifying Officer

Purpose/Outcome	Designating the Community Development Division Manager and in his/her Absence the Department of Health, Housing and Human Services Deputy Director or Director as the Certifying Officer to Approve Request for Release of Funds and Certification, and Consolidated Plan Consistency Determinations
Dollar Amount and Fiscal Impact	N/A No financial impact
Funding Source	Annual allocations of federal funds
Duration	Indefinitely
Previous Board Action/Review	Board Order No. 2008-94 signed June 26, 2008
Counsel Review	County Counsel has review and approved on March 10, 2020.
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build public trust through good government
Contact Person	Mark Sirois, 503-650-5664

Clackamas County Department of Health, Housing and Human Services (H3S), through its Community Development Division, requires certain employee positions to act as a Certifying Officer under federal regulations, 24 C.F.R. Part 58, 24 C.F.R. Part 91, and other federal statutes and regulations.

A Certifying Officer is required for H3S to comply with all federal funding requirements of the Community Development Block Grants, HOME Partnerships Grants, Emergency Solutions Grants, the Continuum of Care Grants and any other grants from the Department of Housing and Urban Development (HUD).

The Certifying Officer means an official authorized to execute a Request for Release of Funds and Certification (as defined by 24 C.F.R. 58.2), make Consolidated Plan Consistency Determinations (as defined by 24 C.F.R. 91.5 and 91.510), and otherwise has the legal capacity to carry out the responsibilities of 24 CFR 58.13.

The Board previously approved the Community Development Director and, in his/her absence, the Department of Human Services Director to serve as the Certifying Officer to approve a Request for Release of Funds and Certification and Consolidated Plan Consistency Determinations, as those terms are defined under applicable federal statutes and regulations.

The position titles previously approved to serve as a Certifying Officer no longer exist.

RECOMMENDATION

Staff respectfully recommends the Board approve the attached order formally designating the Community Development Division Manager and in his/her Absence the Department of Health, Housing and Human Services Deputy Director or Director as the Certifying Officer to Approve Request for Release of Funds and Certification, and Consolidated Plan Consistency Determinations, effective immediately.

Sincerely,

Handwritten signature of Richard Swift in cursive, with the text "HHS Deputy" written in the middle of the signature.

Richard Swift

Clackamas County Administrator

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of the Approval of Designating the Community Development Division Manager and in his/her Absence the Department of Health, Housing and Human Services Deputy Director or Director as the Certifying Officer to Approve Request for Release of Funds and Certification, and Consolidated Plan Consistency Determinations



Board Order No. _____
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Whereas, the Clackamas County Department of Health, Housing and Human Services (H3S), through its Community Development Division, requires certain employee positions to act as a Certifying Officer under federal regulations, 24 C.F.R. Part 58, 24 C.F.R. Part 91, and other federal statutes and regulations, where applicable;

Whereas, the Certifying Officer means an official authorized to execute a Request for Release of Fund and Certification (as defined by 24 C.F.R. 58.2), make Consolidated Plan Consistency Determinations (as defined by 24 C.F.R. 91.5 and 91.510), and otherwise has the legal capacity to carry out the responsibilities of 24 CFR 58.13;

Whereas, a Certifying Officer is required for H3S to comply with all federal funding requirements of the Community Development Block Grants, HOME Partnerships Grants, Emergency Solutions Grants, the Continuum of Care Grants and any other grants from the Department of Housing and Urban Development (HUD);

Whereas, the Board previously approved the Community Development Director and, in his/her absence, the Department of Human Services Director to serve as the Certifying Officer to approve a Request for Release of Funds and Certification and Consolidated Plan Consistency Determinations, as those terms are defined under applicable federal statutes and regulations;

Whereas, the position titles previously approved to serve as a Certifying Officer no longer exist;

Whereas, the Board agrees that it is necessary to authorize the H3S, Community Development Division Manager and the Director of H3S to act as a Certifying Officer;

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of the Approval of Designating the Community Development Division Manager and in his/her Absence the Department of Health, Housing and Human Services Deputy Director or Director as the Certifying Officer to Approve Request for Release of Funds and Certification, and Consolidated Plan Consistency Determinations



Board Order No. _____
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NOW THEREFORE, the Clackamas County Board of County Commissioners ordered as follows:

The following positions are authorized to serve as a Certifying Officer, as defined by 24 C.F.R. 58.2, for purposes of executing a Request for Release of Funds and Certification, making a Consolidated Plan Consistency Determinations, and carrying out the responsibilities set forth in 24 C.F.R. 58.13, on behalf of the Board of Clackamas County Commissioners:

1. The Clackamas County Department of Health, Housing and Human Services, Community Development Division Manager; and
2. The Deputy Director of the Clackamas County Department of Health, Housing and Human Services; and
3. The Director of the Clackamas County Department of Health, Housing and Human Services.

DATED this _____ day of _____, 2020

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

March 26, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Board Order Authorizing the Community Development Division Manager to sign Housing Rehabilitation Program loan and grant documents

Purpose/Outcome	Authorizing the Community Development Division Manager and in his/her Absence the Department of Health, Housing and Human Services Deputy Director or Director to sign all documents Related to Loans and Grants under the Housing Rehabilitation Program and the Clackamas Homebuyer Assistance Program.
Dollar Amount and Fiscal Impact	N/A Housing Rehab Program Loans and Grants between \$2,000 and \$35,000 each.
Funding Source	Department of Housing and Urban Development (HUD) and North Clackamas Renewal Area (NCRA) funds
Duration	Indefinitely
Previous Board Action/Review	Board Order No. 2006-519 signed November 30, 2006
Counsel Review	County Counsel reviewed and approved on March 11, 2020.
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build public trust through good government
Contact Person	Mark Sirois, 503-650-5664

The Clackamas County Department of Health, Housing and Human Services (H3S), through its Community Development Division, requires certain employee positions to sign all documents related to loans and grants under the Housing Rehabilitation Program and the Clackamas Home Buyer Assistance Program.

The Board previously approved the Community Development Director and, in his/her absence, the Department of Human Services Director to sign all documents related to loans and grants under the Housing Rehabilitation Program and the Clackamas Home buyer Assistance Program. This signature authority has enabled the program to operate

in an efficient manner and has provided assurance to the title companies involved in the transactions.

The position titles previously approved to sign all documents related to loans and grants no longer exist.

RECOMMENDATION

Staff respectfully recommends the Board approve the attached order formally authorizing the Community Development Division Manager and in his/her Absence the Department of Health, Housing and Human Services Deputy Director or Director as the Certifying Officer to Approve Request for Release of Funds and Certification, and Consolidated Plan Consistency Determinations, effective immediately.

Sincerely,

Handwritten signature of Richard Swift in cursive, with the text "HHS Deputy / For" written in the middle of the signature.

Richard Swift

Clackamas County Administrator

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of the Approval of Authorizing the Community Development Division Manager and in his/her Absence the Department of Health, Housing and Human Services Deputy Director or Director to sign all documents Related to Loans and Grants under the Housing Rehabilitation Program and the Clackamas Homebuyer Assistance Program



Board Order No. _____

Page 1 of 1

Whereas, the Clackamas County Department of Health, Housing and Human Services (H3S), through its Community Development Division, requires certain employee positions to sign all documents related to loans and grants under the Housing Rehabilitation Program and the Clackamas Home Buyer Assistance Program;

Whereas, the Board previously approved the Community Development Director and, in his/her absence, the Department of Human Services Director to sign all documents related to loans and grants under the Housing Rehabilitation Program and the Clackamas Home buyer Assistance Program. This signature authority has enabled the program to operate in an efficient manner and has provided assurance to the title companies involved in the transactions;

Whereas, the position titles previously approved to sign all documents related to loans and grants no longer exist;

Whereas, the Board agrees that it is necessary to authorize the H3S, Community Development Division Manager, Deputy H3S Director and the Director of H3S to sign all related loan and grant documents to continue operating the Housing Rehabilitation Program and the Clackamas Homebuyer Assistance Program in an efficient manner;

NOW THEREFORE, the Clackamas County Board of County Commissioners ordered as follows:

The following positions are authorized to sign all documents Related to Loans and Grants under the Housing Rehabilitation Program and the Clackamas Home buyer Assistance Program, on behalf of the Board of Clackamas County Commissioners:

1. The Clackamas County Department of Health, Housing and Human Services, Community Development Division Manager; and
2. The Deputy Director of the Clackamas County Department of Health, Housing and Human Services; or
3. The Director of the Clackamas County Department of Health, Housing and Human Services.

DATED this _____ day of _____, 2020

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of the Approval of Approval
Of Authorization for the Community
Development Division Director to Sign
All Documents Related To Loans and
Grants under the Housing Rehabilitation
Program and the Clackamas
Homebuyer Assistance Program

ORDER NO. 2006-519

This matter coming on at this time to be heard, and it appearing to this Board that Gary DiCenzo, Director of Clackamas County Department of Human Services, has recommended to this Board the approval of Authorization for the Community Development Division Director to Sign All Documents Related To Loans and Grants under the Housing Rehabilitation Program and the Clackamas Homebuyer Assistance Program, and the Board being fully advised;


The Board of Commissioners has approved former CDD Directors to sign all loan and grant documents. This signature authority has enabled the program to operate in an efficient manner and has provided assurance to the title companies involved in the transactions. In the past, the CDD Director was identified by name. This request ties the signature authority to the position of CDD Director.

This Board finds that it would be in the best interest of Clackamas County to approve said authorization,

IT IS THEREFORE HEREBY ORDERED that Clackamas County approve said Community Development Director or the Director's designee to be authorized to sign all documents related to loans and grants under the Housing Rehabilitation Program and the CHAP Program on behalf of the Board of County Commissioners.

ADOPTED this 30th day of Nov, 2006.

BOARD OF COUNTY COMMISSIONERS


Chair


Recording Secretary



COPY

Gary DiCenzo
Director

DEPARTMENT OF HUMAN SERVICES

PUBLIC SERVICES BUILDING
2051 KAEN ROAD #239 | OREGON CITY, OR 97045

November 30, 2006

Board of Commissioners
Clackamas County

Members of the Board:

Board Order No. 2006 519 Approval of Authorization for the Community Development Division Director to Sign All Documents Related To Loans and Grants under the Housing Rehabilitation Program and the Clackamas Homebuyer Assistance Program

The Community Development Division (CDD) of the Department of Human Services requests approval for the CDD Director or the Director's designee to sign all documents related to loans and grants under the Housing Rehabilitation Program and the Clackamas Homebuyer Assistance Program.

The Board of Commissioners has approved former CDD Directors to sign all loan and grant documents. This signature authority has enabled the program to operate in an efficient manner and has provided assurance to the title companies involved in the transactions. In the past, the CDD Director was identified by name. This request ties the signature authority to the position of CDD Director. County Counsel has indicated that this is allowable.

CDD has operated a Housing Rehabilitation Loan Program since 1979. The Rehab Program offers loans of up to \$35,000 to low- and moderate-income homeowners to assist with needed home repairs. The program also provides grants of up to \$2,500 to low- and moderate-income residents who have physical disabilities to assist with access and safety improvements.

The Clackamas Homebuyer Assistance Program (CHAP) offers loans of up to \$10,000 to assist qualified low-income first-time homebuyers pay for downpayment and reasonable closing costs. Funds are provided in the form of zero-percent interest deferred-payment loans.

Several legally binding documents are signed and recorded as part of the loan and grant process. A lien is recorded against the property in the amount of the loan and is released when the loan is repaid. The program guidelines also allow subordination of the County's lien under certain conditions. The documents include: Loan/Grant Approval; Loan/Grant Agreement; Satisfaction of Mortgage; Request for Reconveyance; Change Orders and Amendments; Appointment of Successor Trustee; Lost Note or Trust Deed; Insurance Checks; and CHAP Commitment Letter.

Com Dev Director signature authority - cd.doc
11/20/2006 1:08 PM

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March 26, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Federal Subrecipient Grant Agreement with
Clackamas Women's Services for
Emergency Shelter Services

Purpose/Outcomes	Agency will provide emergency shelter bednight services to serve un-housed individuals and families in Clackamas County who are survivors of domestic violence, and connect these individuals and families with permanent housing and other positive exit destinations.
Dollar Amount and Fiscal Impact	\$58,306
Funding Source	Federal Department of Homeland Security Emergency Food and Shelter Program (EFSP) grant funds, Phase 36.
Duration	July 1, 2019 to March 31, 2020
Previous Board Action	None.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This funding aligns with the Social Services Division's strategic priority to provide housing stabilization and supportive services to people who are homeless or at risk of becoming homeless so they can obtain and maintain permanent housing. 2. This funding aligns with the County's strategic priority to ensure safe, healthy and secure communities.
Counsel Review	The grant agreement was approved in March 2020.
Contact Person	Brenda Durbin, Director – Social Services Division – (503) 655-8641
Contract No.	#20-027, H3S#9625

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services Department requests approval of a Federal Subrecipient Grant Agreement with Clackamas Women's Services (CWS). A competitive Notice of Funding Opportunity (NOFO) was released in August 2019 for Emergency Shelter services, in partnership with Community Development. CWS was one of two applicants that met the requirements in the NOFO to receive an award.

Additional agreements under the NOFO award will be issued by both Social Services and Community Development using various funding sources. The Federal Department of Homeland Security, Emergency Food and Shelter Program (EFSP) is the funding source of this Social Services Grant Agreement. The NOFO allows for the award of funding from

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

www.clackamas.us

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT 20-027**

Project Name: *Emergency Food And Shelter Program Phase 36*

Project Number:

This Agreement is between Clackamas County, Oregon, acting by and through its Department of Health, Housing and Humans Services, Social Services Division ("COUNTY"), and Clackamas Women's Services ("SUBRECIPIENT"), an Oregon Nonprofit Corporation.

Clackamas County Data

Grant Accountant: *Sue Aronson*

Program Manager: *Teresa Christopherson*

Clackamas County – Finance

Clackamas County – H3S Social Services Division

2051 Kaen Road

PO Box 2950

Oregon City, OR 97045

Oregon City, OR 97045

(503)742-5421

503-650-5718

suea@clackamas.us

teresachr@co.clackamas.or.us

Subrecipient Data

Finance/Fiscal Representative: *Melissa Erlbaum*

Program Representative: *Amy Doud*

Clackamas Women's Services

Clackamas Women's Services

256 Warner Milne Rd.

256 Warner Milne Rd

Oregon City, OR 97045

Oregon City, OR 97045

503-655-8600

503-655-8600

melissae@cwsor.org

amyd@cwsor.org

DUNS: 959059759

RECITALS

1. Whereas homelessness remains a persistent problem in most of Clackamas County, including urban, rural and suburban areas;
2. Whereas homelessness affects some of the most vulnerable Clackamas County residents, with almost half of the identified homeless being children under the age of 18, and significant numbers of veterans, people with disabilities, women fleeing domestic violence and older adults suffering homelessness;
3. Whereas homeless individuals are frequent victims of crime and often experience health problems;
4. Whereas many homeless adults want to work but are not employable without a safe place to sleep at night;
5. Whereas COUNTY has received federal funding under the Emergency Food and Shelter Program ("EFSP"), authorized by the Stewart B. McKinney Homeless Assistance Act of 1987, as amended, Title 3, Section 301, Public Law 100-77, 42 U.S.C 11331-11346. The EFSP was created in 1983 to supplement and expand the work of local social service agencies, both nonprofit and governmental, in an effort to help people with economic (rather than disaster-related) emergencies.

upon written notice from one to the other upon thirty (30) business days notice. This notice may be transmitted in person, by certified mail, facsimile, or by email.

7. **Funds Available and Authorized.** COUNTY certifies that it has received an award sufficient to fund this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
8. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 7.
9. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
 - b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or "deferred" until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are "earned." All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to COUNTY within 15 days.
 - c) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
 - d) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of SUBRECIPIENT.
 - e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
 - f) **Match.** Matching funds are not required for this Agreement.
 - g) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
 - h) **Indirect Cost Recovery.** Indirect cost recovery is statutorily unavailable for this award.
 - i) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.

also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from the SUBRECIPIENT'S fiscal year end or 30 days after issuance of the reports, whichever is sooner.

- r) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY's discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- s) **Record Retention.** The SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years from the end of program date, or such longer period as may be required by the Federal agency or applicable state 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, according to 2 CFR 200.333-337.
- t) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for EFSP Phase 35, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to COUNTY, as grantee, under those grant documents.
- u) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met or to terminate this relationship including the original Agreement and all associated amendments.

10. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT.
- b) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution

- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

12. General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
 - 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, elected officials, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
 - 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000, or SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of the agreement, Personal auto coverage.

- 10) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
 - 11) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
 - 12) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
- d) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
 - e) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of the COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
 - f) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.
 - g) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
 - h) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
 - i) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
 - j) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
 - k) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
 - l) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers.

CLACKAMAS COUNTY

Clackamas Women's Services

Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humbertson
Commissioner: Paul Savas
Commissioner: Martha Schrader

Signing on Behalf of the Board,

By: _____
Rod Cook, Deputy Director
Health, Housing and Human Services

By:  _____
Melissa Erlbaum, Director

Dated: _____

Dated: 3/4/2020

Approved to Form

By:  _____
County Counsel

Dated: 3/3/2020

- Exhibit A: SUBRECIPIENT Statement of Program Objectives
- Exhibit B: SUBRECIPIENT Program Budget
- Exhibit C: Lobbying Certificate
- Exhibit D: Required Financial Reporting and Reimbursement Request
- Exhibit E: Award Special Terms and Conditions
- Exhibit F: EFSP Phase 35 Manual & Phase 36 Addendum

Clackamas Women's Services (9625)

Subrecipient Grant Agreement – 20-027 EFSP Phase 36

Page 13 of 25

16. SUBRECIPIENT must participate in and provide services to un-housed Individuals on the annual nights in January 2021 (to be determined by COUNTY) and (if contract is extended) January 2023 for the Point in Time homeless count.
17. If a guest has to leave due to disruption or of their own free will, SUBRECIPIENT may consult with County on whether bednight or day shelter rate is allowable. Regardless of the situation, no bednights or day shelter will be reimbursable if SUBRECIPIENT does not have complete and accurate HMIS data or equivalent for the guest.
18. SUBRECIPIENT must comply with all relevant health, fire and life safety codes from the local fire marshal and the jurisdiction with permitting authority.
19. SUBRECIPIENT must have a written harm reduction policy that addresses under what circumstances and for what conduct people may be excluded from the warming center and for what period of time. In the event a person is excluded under the harm reduction policy, shelters must document the reason for the exclusion and the duration. Shelters must make a diligent effort to ensure that the excluded person has an alternate safe place to sleep.
20. SUBRECIPIENT is required to Perform Criminal Background checks and propose for approval specific screening criteria for all staff and volunteers who will be performing direct services under this contract. Policies must be in place to disqualify any persons who have committed violent crimes, crimes against children, or other crimes that are incompatible with this project.

Policies must also be in place to ensure the safety of participants should criminal arrests and/or convictions occur during the contract term. If a volunteer or employee of SUBRECIPIENT has a break in service, and does not work for 60 days or more for SUBRECIPIENT, or SUBRECIPIENT has knowledge or information that a crime may have been committed by the staff or volunteer, then another criminal background check must be completed prior to working for SUBRECIPIENT.

21. Service Boundaries. Services must be prioritized for Clackamas County residents, as determined by the self-reported zip code or area of last residence, who meet the eligibility guidelines. Persons who are literally homeless and who may be sleeping in areas in which the County boundary is unclear will also be eligible if they are accessing services such as schools, meal sites and the like in Clackamas County. Persons currently residing in neighboring counties who were recently residing in, employed in or otherwise have strong ties to Clackamas County are also eligible. However, shelters must in no way exclude people who cannot provide "proof" of residency or tie to Clackamas County. Additionally, persons fleeing domestic violence or other forms of abuse are excluded from the Clackamas County residency prioritization.

Performance Standards

1. SUBRECIPIENT shall, and shall cause, Denial, Appeal and Fair Hearing procedures accessible to applicants upon request.
2. SUBRECIPIENT may terminate assistance to participants who violate program requirements. SUBRECIPIENT shall have in place a procedure which governs the termination and grievance process. These procedures should describe the program requirements and the termination process, as well as the grievance procedure which recognizes the rights of individuals who may be affected. Termination and grievance procedures shall be clearly communicated to and easily understood by program participants and readily available upon request, or posted in a public location.
3. SUBRECIPIENT shall assure that completed applications and household benefits are valid and correct.
4. SUBRECIPIENT shall maintain clear policies for cases where there may be a conflict of interest. This includes procedures for staff when employees, board members, friends or family members apply for program assistance services.

Reporting Requirements

Program Specific Reporting

1. SUBRECIPIENT shall comply with current Homeless Management Information System ("HMIS") Policies and procedures and adhere to all HMIS reporting requirements. HMIS is a community-wide software solution that is designed to collect client-level information on the characteristics and service needs of people experiencing homelessness. SUBRECIPIENT is required to:
 - b) Collect and enter related client demographics and service data into the electronic ServicePoint Homeless Management Information System (HMIS), except for data of victims of domestic violence clients, which must be entered into a comparable database system that meets HMIS standards. Data shall be entered into appropriate HMIS providers, which will be determined by COUNTY.
 - c) Projects serving survivors of domestic violence where the operator is not a victim services provider are required to enter data in their HMIS. SUBRECIPIENT is responsible for acquiring and documenting informed written consent from program participants, and protecting program participant's confidentiality.
 - d) Ensure that data entry into HMIS occurs in an accurate and timely manner within three (3) business days of program entry date. SUBRECIPIENT must correct data quality, missing information, and null data errors as specified by COUNTY and/or Oregon Housing & Community Services ("OHCS") prior to invoice submittals, and by the 10th of each month for services in the preceding month.
 - e) Collect, as required by COUNTY, universal data elements which include demographic information on all clients at entry.
 - f) Use COUNTY's approved, secure email system to submit invoices and backup documentation.
 - g) Collect and retain copies of invoices, sign-in sheets, and HMIS Entry and Re-Entry paper forms in a secure, locked location for required monitoring by COUNTY.
 - h) Enter into an agreement with COUNTY's Community Development Division for access to HMIS.
 - i) Ensure only authorized SUBRECIPIENT staff trained by COUNTY shall access the HMIS software.
 - j) Shall comply with current HMIS Policy and Procedures and adhere to all HMIS reporting requirements.
2. Comparable database. Victim service providers are prohibited from entering data in HMIS; however, they are required to maintain comparable databases which provide aggregate information and data consistent with HMIS data collection requirements. SUBRECIPIENT shall assure that data entry into ALICE/OSNIUM occurs in an accurate and timely manner.

Comparable Databases must have the following characteristics:

- The victim service provider controls who can access and see client information;
- Access to the database is carefully controlled by the victim service provider;
- Meets the standards for security, data quality, and privacy of the HMIS within the Continuum of Care. The Comparable Database may use more stringent standards than the Continuum of Care's HMIS;

	color are equal to or higher than those accomplished by shelter guests identifying as white	comparable
Data Entry Timeliness	At least 95% of households data is entered into HMIS within 3 business days of entry	HMIS

***Positive housing destinations include:**

- Owned by participant, no ongoing housing subsidy
- Owned by participant, with ongoing housing subsidy
- Rental by participant, no ongoing housing subsidy
- Rental by participant, with VASH housing subsidy
- Rental by participant, with other ongoing housing subsidy
- Permanent housing (other than Rapid Re-Housing) for formerly homeless persons
- Staying or living with friends, permanent tenure
- Staying or living with family, permanent tenure
- Rental by participant, with Rapid Re-Housing or equivalent subsidy

EXHIBIT C – LOBBYING CERTIFICATE

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on the behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, contribution, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Please do not alter this form; any questions regarding the form should be directed to EFSP staff.

Clackamas Women's Services
LRO Name

708000-005
LRO ID Number (9 digits)

Melissa Erlbaum
Representative Name

[Signature]
Representative Signature

3/4/2020
Date (month/day/year)

March 26, 2020

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Amendment #07 to the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority for Operation as the Local Public Health Authority for Clackamas County

Purpose/Outcomes	Amendment #07 provides funding for PE-01-04 COVID-19 Response.
Dollar Amount and Fiscal Impact	Contract is increased by \$250,307. bringing the contract maximum value to \$3,777,374.
Funding Source	Funding through the State - No County General Funds are involved.
Duration	Effective upon signature and terminates on June 30, 2021
Previous Board Action	The Board previously reviewed and approved this agreement on June 20, 2019, Agenda item 062019-A1, September 5, 2019, Agenda item 090519-A1, September 26, 2019, Agenda item 092619-A5, October 24, 2019, Agenda item 102419-A5, October 31, 2019, Agenda item 103119-A3, December 12, 2019, Agenda item 121219-A2, January 8, 2020, Agenda item 010920-A8
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	County counsel has reviewed and approved this document on March 17, 2020
Contact Person	Richard Swift, Interim Public Health Director – (503) 655-8479
Contract No.	9329-07

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #07 to the Intergovernmental Agreement with State of Oregon, Oregon Health Authority. Amendment #07 provides funding for PE-01-04 COVID-19 Response. Contract is increased by \$250,307. bringing the contract maximum value to \$3,777,374.

This contract is effective upon signature and continues through June 30, 2021.

RECOMMENDATION:

Staff recommends the Board approval of this Amendment and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,



Richard Swift, Director
Health, Housing, and Human Services

** This item was signed by Chair Bernard on March 18, 2020 per Emergency Declaration - 2020-14.

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 • Phone: (503) 742-5300 • Fax: (503) 742-5352
www.clackamas.us/community_health

Agreement #159803



**SEVENTH AMENDMENT TO OREGON HEALTH AUTHORITY
2019-2021 INTERGOVERNMENTAL AGREEMENT FOR THE
FINANCING OF PUBLIC HEALTH SERVICES**

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

This Seventh Amendment to Oregon Health Authority 2019-2021 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2019, (as amended the “Agreement”), is between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and Clackamas County, (“LPHA”), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Clackamas County.

RECITALS

WHEREAS, OHA and LPHA wish to modify the set of Program Element Descriptions set forth in Exhibit B of the Agreement

WHEREAS, OHA and LPHA wish to e.g. modify the Fiscal Year 2020 (FY20) Financial Assistance Award set forth in Exhibit C of the Agreement.

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

AGREEMENT

- Exhibit A “Definitions”, Section 18 “Program Element” is amended to add Program Element titles and funding source identifiers as follows:

PE NUMBER AND TITLE • SUB-ELEMENT(S)	FUND TYPE	FEDERAL AGENCY/ GRANT TITLE	CFDA#	HIPAA RELATED (Y/N)	SUB-RECIPIENT (Y/N)
PE 01-01 State Support for Public Health (SSPH)	GF	N/A	N/A	N	N
• PE 01-03 ACDP - Adult Viral Hepatitis	FF	CDC/Adult Viral Hepatitis	93.270	N	Y
• PE 01-04 LPHA COVID-19 Response	GF	N/A	N/A	N	N

- Exhibit B Program Element #01 “State Support for Public Health” is hereby superseded and replaced in its entirety by Attachment A attached hereto and incorporated herein by this reference.
- Section 1 of Exhibit C entitled “Financial Assistance Award” of the Agreement for FY20 is hereby superseded and replaced in its entirety by Attachment B attached hereto and incorporated herein by this reference. Attachment B must be read in conjunction with Section 3 of Exhibit C.
- LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 2 of Exhibit E of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.

- 5. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.
- 6. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
- 7. The parties expressly ratify the Agreement as herein amended.
- 8. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.
- 9. This Amendment becomes effective on the date of the last signature below.

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

10. Signatures.

STATE OF OREGON ACTING BY AND THROUGH ITS OREGON HEALTH AUTHORITY (OHA)

By: _____
 Name: /for/ Lillian Shirley, BSN, MPH, MPA
 Title: Public Health Director
 Date: _____

CLACKAMAS COUNTY LOCAL PUBLIC HEALTH AUTHORITY

By: _____
 Name: Richard Swift
 Title: Director, Health, Housing and Human Services
 Date: _____

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

Exempt per Executive Order 20-03, “Declaration of Emergency Due to Coronavirus (COVID-19) Outbreak in Oregon”.

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

By: _____
 Name: Derrick Clark (or designee)
 Title: Program Support Manager
 Date: _____

Attachment A
Program Element Description

Program Element #01: State Support for Public Health (SSPH)

1. **Description.** Funds provided under this Agreement for this Program Element may only be used in accordance with, and subject to, the requirements and limitations set forth below, to operate a Communicable Disease control program in LPHA's service area that includes the following components: (a) epidemiological investigations that report, monitor and control Communicable Disease, (b) diagnostic and consultative Communicable Disease services, (c) early detection, education, and prevention activities to reduce the morbidity and mortality of reportable Communicable Diseases, (d) appropriate immunizations for human and animal target populations to control and reduce the incidence of Communicable Diseases, and (e) collection and analysis of Communicable Disease and other health hazard data for program planning and management.

Communicable Diseases affect the health of individuals and communities throughout Oregon. Disparities exist for populations that are at greatest risk, while emerging Communicable Diseases pose new threats to everyone. The vision of the foundational Communicable Disease Control program is to ensure that everyone in Oregon is protected from Communicable Disease threats through Communicable Disease and Outbreak reporting, investigation, and application of public health control measures such as isolation, post-exposure prophylaxis, education, or other measures as warranted by investigative findings.

All changes to this Program Element are effective upon receipt of grant award unless otherwise noted in Exhibit C of the Financial Assistance Award.

2. **Definitions Specific to State Support for Public Health**

- a. **Case:** A person who has been diagnosed by a health care provider, as defined in OAR 333-017-0000, as having a particular disease, infection, or condition as described in OAR 333-018-0015, or whose illness meets defining criteria published in the OHA's Investigative Guidelines.
- b. **Communicable Disease:** A disease or condition, the infectious agent of which may be transmitted to and cause illness in a human being.
- c. **Outbreak:** A significant or notable increase in the number of Cases of a disease or other condition of public health importance (ORS 431A.005).
- d. **Reportable Disease:** Any of the diseases or conditions specified in Oregon Administrative Rule 333-018-0015.

3. **Program Components.** Activities and services delivered under this Program Element align with Foundational Programs and Foundational Capabilities, as defined in Oregon’s Public Health Modernization Manual, (http://www.oregon.gov/oha/PH/ABOUT/TASKFORCE/Documents/public_health_modernization_manual.pdf) as well as with public health accountability outcome and process metrics (if applicable) as follows:

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

Program Components	Foundational Program				Foundational Capabilities						
	CD Control	Prevention and health promotion	Environmental health	Access to clinical preventive services Population Health Direct services	Leadership and organizational competencies	Health equity and cultural responsiveness	Community Partnership Development	Assessment and Epidemiology	Policy & Planning	Communications	Emergency Preparedness and Response
<i>Asterisk (*) = Primary foundational program that aligns with each component</i>					<i>X = Foundational capabilities that align with each component</i>						
<i>X = Other applicable foundational programs</i>											
Epidemiological investigations that report, monitor and control Communicable Disease (CD).	*					X		X			X
Diagnostic and consultative CD services.	*							X			
Early detection, education, and prevention activities.	*					X		X		X	
Appropriate immunizations for human and animal target populations to reduce the incidence of CD.	*			X		X					
Collection and analysis of CD and other health hazard data for program planning and management.	*					X		X	X		X

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

Gonorrhea rates

- c. **The work in this Program Element helps Oregon’s governmental public health system achieve the following Public Health Modernization Process Measure:**

- (1) Percent of gonorrhea Cases that had at least one contact that received treatment; and
- (2) Percent of gonorrhea Case reports with complete “priority” fields.

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

- a. LPHA must operate its Communicable Disease program in accordance with the Requirements and Standards for the Control of Communicable Disease set forth in ORS Chapters 431, 432, 433 and 437 and OAR Chapter 333, Divisions 12, 17, 18, 19 and 24, as such statutes and rules may be amended from time to time.
- b. LPHA must use all reasonable means to investigate in a timely manner all reports of Reportable Diseases, infections, or conditions. To identify possible sources of infection and to carry out appropriate control measures, the LPHA Administrator shall investigate each report following procedures outlined in OHA’s Investigative Guidelines or other procedures approved by OHA. OHA may provide assistance in these investigations, in accordance with OAR 333-019-0000. Investigative guidelines are available at:
<http://www.oregon.gov/oha/PH/DiseasesConditions/CommunicableDisease/ReportingCommunicableDisease/ReportingGuidelines/Pages/index.aspx>
- c. As part of its Communicable Disease control program, LPHA must, within its service area, investigate the Outbreaks of Communicable Diseases, institute appropriate Communicable Disease control measures, and submit required information regarding the Outbreak to OHA in Orpheus as prescribed in OHA CD Investigative Guidelines available at:
<http://www.oregon.gov/oha/PH/DiseasesConditions/CommunicableDisease/ReportingCommunicableDisease/ReportingGuidelines/Pages/index.aspx>
- d. LPHA must establish and maintain a single telephone number whereby physicians, hospitals, other health care providers, OHA and the public can report Communicable Diseases and Outbreaks to LPHA 24 hours a day, 365 days a year. LPHA may employ an answering service or 911 system, but the ten-digit number must be available to callers from outside the local emergency dispatch area, and LPHA must respond to and investigate reported Communicable Diseases and Outbreaks.
- e. LPHA must attend Communicable Disease 101 and Communicable Disease 303 training.
- f. LPHA must attend monthly Orpheus user group meetings or monthly Orpheus training webinars.

g. The following must be delivered in accordance with the indicated procedural and operational requirements:

1. **COVID-19**

LPHA must:

- Submit a budget plan and narrative within 30 days of receiving award. Refer to LPHA COVID-19 Budget Guidance document for terms and conditions.
- OHA will send “Budget Narrative Template”, “Budget Guidance” and any other applicable documents that OHA may identify.

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

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

6. **Reporting Requirements.** Not applicable.

7. **Performance Measures.**

LPHA must operate its Communicable Disease control program in a manner designed to make progress toward achieving the following Public Health Modernization Process Measures:

- a. Percent of gonorrhea Cases that had at least one contact that received treatment; and
- b. Percent of gonorrhea Case reports with complete “priority” fields.

**Attachment B
Financial Assistance Award (FY19)**

State of Oregon Oregon Health Authority Public Health Division			Page 1 of 4	
1) Grantee Name: Clackamas County		2) Issue Date March 16, 2020		This Action AMENDMENT FY 2020
Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2019 Through June 30, 2020		
4) OHA Public Health Funds Approved				
Program		Award Balance	Increase/ (Decrease)	New Award Bal
PE01-01	State Support for Public Health	506,554	0	506,554
PE01-04	COVID19 Response	0	250,307	250,307
PE02	Cities Readiness Initiative	37,499	0	37,499
PE07	HIV Prevention Services	128,846	0	128,846
PE12	Public Health Emergency Preparedness and Response (PHEP)	171,924	0	171,924
PE13-01	Tobacco Prevention and Education Prgram (TPEP)	292,768	0	292,768
PE27-03	PDOP - Gap Funding (OSTR/PDO)	28,497	0	28,497
PE27-04	PDOP Naloxone Project (SOR)	48,753	0	48,753
PE27-05	PDOP Bridge (PDO/SOR)	41,665	0	41,665
PE27-06	PDOP Planning	41,667	0	41,667
PE40-01	WIC NSA: July - September	188,990	0	188,990
PE40-02	WIC NSA: October - June	566,969	0	566,969
PE40-03	BFPC: July - September	17,325	0	17,325
PE40-04	BFPC: October - June	51,975	0	51,975
PE40-05	Farmer's Market	2,699	0	2,699
PE42-03	MCAH Perinatal General Funds & Title XIX	11,060	0	11,060
PE42-04	MCAH Babies First! General Funds	35,342	0	35,342
PE42-06	MCAH General Funds & Title XIX	20,752	0	20,752

State of Oregon Oregon Health Authority Public Health Division			Page 2 of 4	
1) Grantee Name: Clackamas County		2) Issue Date March 16, 2020		This Action AMENDMENT FY 2020
Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2019 Through June 30, 2020		
4) OHA Public Health Funds Approved				
Program	Award Balance	Increase/ (Decrease)	New Award Bal	
PE42-07 MCAH Title V (July-Sept)	29,663	0	29,663	
PE42-08 MCAH Title V (Oct-June)	88,988	0	88,988	
PE42-09 MCAH Oregon Mothers Care Title V (July-Sept)	2,283	0	2,283	
PE42-10 MCAH Oregon Mothers Care Title V (Oct-June)	6,849	0	6,849	
PE43 Public Health Practice (PHP) - Immunization Services (Vendors)	92,462	0	92,462	
PE43-03 Hepatitis A Outbreak Prevention Project (HOPP)	29,533	0	29,533	
PE43-04 HOPP Incentives (Hepatitis A Outbreak Prevention Project)	1,000	0	1,000	
PE44-01 SBHC Base	300,000	0	300,000	
PE44-02 SBHC - Mental Health Expansion	376,500	0	376,500	
PE46-02 RH Community Participation & Assurance of Access (July - Mar)	0	0	0	
PE46-03 RH Community Participation & Access (State Funds)	41,893	0	41,893	
PE46-04 RH Community Participation & Access Federal Funds (July-Mar)	1,638	0	1,638	
PE50 Safe Drinking Water (SDW) Program (Vendors)	147,475	0	147,475	
PE51-01 LPHA Leadership, Governance and Program Implementation	215,498	0	215,498	
		3,527,066	250,307	3,777,373
5) Foot Notes:				
PE01-01	1	Initial SFY20: Award is estimated for July 1-September 30, 2019 and will be paid out at 1/3rd. Awards will be amended pending approval of the State budget.		
PE01-01	2	8/2019: SFY20 Award amended for increase for July 1, 2019-June 30, 2020. Previous footnotes are void and replaced by this one.		
PE01-04	1	3/2020: SFY20 COVID-19 Funding 1/21/2020-6/30/2020. Must submit a budget and narrative within 30 days of award using OHA-PHD provided format. Unspent funds may be eligible for carry forward from FY20 to FY21. R/E report due by August 20, 2020.		
PE13-01	1	Initial SFY20: Award is 3 months (July-September 2019) of bridge TPEP funding and will be paid out at 1/3rd		

State of Oregon Oregon Health Authority Public Health Division				Page 3 of 4
1) Grantee Name: Clackamas County		2) Issue Date March 16, 2020		This Action AMENDMENT FY 2020
Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		3) Award Period From July 1, 2019 Through June 30, 2020		
4) OHA Public Health Funds Approved				
Program	Award Balance	Increase/ (Decrease)	New Award Bal	
PE13-01 2	8/2019: Award is 5 months (July-November 2019) of bridge TPEP funding and will be paid out at 1/5th, all previous footnotes are void and replaced by this one.			
PE40-05 1	7/2019: Funding available SFY2020 July - December 2019			
PE42-07 1	Initial SFY20: LPHA shall not use more than 10% of the Title V funds awarded for a particular MCAH Service on indirect costs. See PE42 language under 4. a. (3) Funding Limitations for details.			
PE42-08 1	Initial SFY20: LPHA shall not use more than 10% of the Title V funds awarded for a particular MCAH Service on indirect costs. See PE42 language under 4. a. (3) Funding Limitations for details.			
PE42-09 1	Initial SFY20: LPHA shall not use more than 10% of the Title V funds awarded for a particular MCAH Service on indirect costs. See PE42 language under 4. a. (3) Funding Limitations for details.			
PE42-10 1	Initial SFY20: LPHA shall not use more than 10% of the Title V funds awarded for a particular MCAH Service on indirect costs. See PE42 language under 4. a. (3) Funding Limitations for details.			
PE43-03 1	10/2019: Funding is for Oct. 1, 2019 – June 30, 2020 – Funds to be used on Hepatitis A Outbreak Prevention.			
PE43-04 1	10/2019: Funding is for Oct. 1, 2019 – June 30, 2020 – Funds to be used on Hepatitis A Outbreak Prevention Incentives.			
PE46-03 1	7/2019: Funding is for July 15, 2019 - June 30, 2020			
PE46-04 1	7/2019: Funding for July 1-14, 2019			
PE51-01 1	9/2019: Funding is for period of October 1, 2019-June 30, 2020			
6) Comments:				
PE01-04	3/2020: SFY20 COVID-19 Funding 1/21/2020-6/30/2020			
PE02	7/2019: Adding program element as result of Washington County relinquishing CRI lead agency status			
PE07	Initial SFY20: \$39,628 is for the period of 7/1/19 to 12/31/19 and must be spent by 12/31/19.			
PE07	7/2019: Funding period 07/01/19 - 12/31/19 - \$64,422. A minium of \$39,627 must be spent by 12/31/19. Funding period 01/01/20 - 06/30/20 - \$64,422			
PE12	11/2019: \$1,651 award increase for scholarship funding for Oregon Prepared or OR-Epi			
PE13-01	8/2019: Amending to add 2 months of funding (total award is now for July-November 2019)			
PE13-01	11/2019: Amending award total of \$292,768 for SFY20 (July 2019-June2020) All previous footnotes and comments are void and replaced by this one.			
PE27-03	Initial SFY20: \$28,496.83 in FY20 is available 7/1/19-8/31/19 ONLY. This is the balance of Gap Funding from PDO Year 4 for OSTR funded LPHA's.			
PE27-04	9/2019: \$48,753 in SFY20. Funding Period 10/1/19-6/30/20.			
PE27-05	8/2019: \$41,665 in FY20 Available 9/1/19-1/31/20.			
PE27-06	12/2019: Award of \$41,666.65 in SFY20 Available 2/1/20-6/30/20			
PE40-01	Initial SFY20: spend \$37,798 Nutrition Education, \$7,618 Breastfeeding Promotion by 9/30/19			
PE40-02	Initial SFY20: spend \$113,394 Nutrition Education, \$22,855 Breastfeeding Promotion by 6/30/20			
PE44-02	7/2019: MH Expansion funding increase			

State of Oregon Oregon Health Authority Public Health Division		Page 4 of 4	
1) Grantee Name: Clackamas County Street: 2051 Kaen Rd., Suite 637 City: Oregon City State: OR Zip Code: 97045		2) Issue Date March 16, 2020	This Action AMENDMENT FY 2020
		3) Award Period From July 1, 2019 Through June 30, 2020	
4) OHA Public Health Funds Approved			
Program	Award Balance	Increase/ (Decrease)	New Award Bal
PE46-02			
7/2019: Reducing award to \$0 and re-allocating award to PE46-03 and PE46-04			
PE46-03			
7/2019: State Funding for July 15, 2019 – June 30, 2020			
PE46-04			
7/2019: Federal Funding for July 1 – July 14, 2019 only			
7) Capital outlay Requested in this Action: Prior approval is required for Capital Outlay. Capital Outlay is defined as an expenditure for equipment with a purchase price in excess of \$5,000 and a life expectancy greater than one year.			
PROGRAM	ITEM DESCRIPTION	COST	PROG APPROV

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of a Personal Services Contract with The Mental Health Association of Oregon
for Zero Suicide Peer Wellness Specialist**

Purpose/Outcome	Provides peer delivered support services in the areas of mental health and substance use.
Dollar Amount and fiscal Impact	Contract maximum payment is \$263,034.00
Funding Source	No County General Funds are involved. State of Oregon, Community Mental Health Program funds.
Duration	Contracting through June 30, 2023
Previous Board Action/Review	N/A
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Provide coordination, assessment, outreach, and recovery services to Clackamas County residents experiencing mental health and addiction distress so they can achieve their own recovery goals 2. Ensure safe, healthy and secure communities.
Counsel Approval	Contract reviewed and approved March 17, 2020
Contact Person	Deborah Cockrell, Director –Health Centers Division 503-742-5305
Contract No.	County Contract #2314 / HC Contract #9624

BACKGROUND:

The Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of a Personal Service Contract with The Mental Health Association of Oregon for peer delivered support services in the areas of mental health and substance use. The overall goal and purpose of the project is to eliminate suicide attempts and deaths among patients/clients served at Clackamas County Health System (CCHS) and raise awareness of suicide prevention in the larger community.

The Mental Health Association of Oregon (MHOA) is an inclusive peer-run nonprofit organization committed to promoting self-directed recovery and wellness for all individuals.

This Contract is effective upon execution and continues through June 30, 2023, the maximum value for the term of the Contract is \$263,034.00.

PROCUREMENT PROCESS:

The RFP was published in accordance with Local Contract Review Board Rule C-047-0260 and applicable ORS, on July 15, 2019, for Peer Delivered Services. The RFP included this project along with six other options for proposers. Firms were allowed to propose on one or more projects included in the RFP. The RFP closed on August 1, 2019 and this project received three proposals. An evaluation committee scored the proposals in accordance with the RFP scoring criteria and recommended that The Mental Health Association of Oregon be awarded this contract. Notice of Intent to Award was published on ORPIN September 25, 2019, and no protests were received.

RECOMMENDATION:

Staff recommends Board approval of this Contract and authorization for Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully Submitted,

Richard Swift, Director
Health, Housing & Human Services Department

Placed on the board agenda of _____ by the Procurement Division.



**CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
H3S Contract #9624 / Contract #2108**

This Personal Services Contract (this “Contract”) is entered into between **The Mental Health Association of Oregon** (“Contractor”), and Clackamas County, a political subdivision of the State of Oregon (“County”) on behalf of its Health, Housing and Human Services Department.

ARTICLE I.

- 1. Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **June 30, 2023**.
- 2. Scope of Work.** Contractor shall provide the following personal services: adult delivered suicide peer wellness services, as described in Project 7 – Zero Suicide Peer Wellness Specialist of the **RFP 2019-45 Behavioral Health Peer Delivered Services** (“Work”), as described in **Exhibit A** and **Exhibit B**, Modified Scope of Work, which are attached and hereby incorporated by reference herein.
- 3. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed Two Hundred Sixty-three thousand and thirty-four dollars (**\$263,034.00**), for accomplishing the Work required by this Contract. Consideration rates are on a cost reimbursement basis in accordance with the Contractor’s budget in **Exhibit D**, attached and hereby incorporated by reference. County shall reimburse Contractor for true and verifiable costs accrued in performance of the Work under this Contract and in accordance with the budget in Exhibit D. County will perform an annual audit, at a time and place determined by County in its sole administrative discretion, for the purpose of reviewing the Contractor’s budget in real-time.
- 4. Invoices and Payments.** Contractor will submit a budget-line itemized monthly invoice for true and verifiable expenses by the 10th day of the month following the month Work were provided. The invoice shall include:

Contract #**9624**,
Service details,
Date(s) of service,
Total amount due for all Work provided during the month, and
Total amount billed to date in a separate column by Contractor prior to the current invoice.

All invoices and supporting documentation shall be sent by email or mail to:
healthcenterap@clackamas.us

Clackamas Health Centers Division
Accounts Payable
2051 Kaen Road, Suite #367
Oregon City, Oregon 97045

When submitting electronically, designate Contractor name and Contract #9624 in the subject of the email.

Payments shall be made to Contractor, within thirty (30) days, following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above.

If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made in accordance with ORS 293.462 to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not be obligated to pay, any amount in excess of the maximum compensation amount set forth above, regardless of whether additional services have already been performed. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

5. Travel and Other Expense. Authorized: Yes No (*mileage only*)

If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <http://www.clackamas.us/bids/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.

6. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference:

- This Contract
- Exhibit A – RFP 2019-45 Behavioral Health Peer Delivered Services
- Exhibit B – Modified Scope of Work
- Exhibit C – Performance Standards
- Exhibit D – Contractor’s Proposal and Budget
- Exhibit E – QSOBAA Agreement
- Exhibit F – User Agreement for Electronic Health Records

7. Contractor and County Contacts.

Contractor	County
Administrator: Sunny Brisco Phone: 503-922-2377 Email: sbrisco@mhaoforegon.org	Administrator: Egan Danehy Phone: 503-722-6318 Email: edanehy@clackamas.us

Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

ARTICLE II.

1. ACCESS TO RECORDS. Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

2. AVAILABILITY OF FUTURE FUNDS. Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding

fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.

3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by applicable State and Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.
5. **COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
6. **GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
7. **RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.
8. **INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended

to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.

- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- 10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.

- 11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

- 12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County.

Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only.

- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 11, 13, 14, 16, 21, and 27 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.

19. TERMINATIONS. This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.

Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

20. REMEDIES. If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.

21. NO THIRD PARTY BENEFICIARIES. County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

22. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence in the performance this Contract.

23. FOREIGN CONTRACTOR. If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

24. FORCE MAJEURE. Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

25. WAIVER. The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

26. PUBLIC CONTRACTING REQUIREMENTS. Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:

- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
- c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.

- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

27. NO ATTORNEY FEES. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.

28. CONFIDENTIALITY. Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11)), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by a breach of its data security or the confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

29. CRIMINAL BACKGROUND CHECK REQUIREMENTS. Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

30. HIPAA COMPLIANCE. Subject to the U.S. Health Insurance Portability and Accountability Act (HIPAA) of 1996 and its implementing regulation, the Standard of Privacy of Individuals Identifiable Health Information at 45 C.F.R. Part 160 and 164, Subpart A and E, the County is required to enter into a Qualified Service Organization Business Associate Agreement, attached hereto as **Exhibit E**, with the Contractor prior to the commencement of any work under this Contract. Contractor acknowledges and agrees that protected health information ("PHI") disclosed by County to Contractor may only be used by or disclosed to Contractor pursuant the Business Associate Agreement or pursuant to a written consent in compliance with 42 C.F.R. Part 2, as may be amended from time to time. Contractor agrees to comply with any and all applicable privacy laws including without limitation, 42 C.F.R. Part 2.

31. FURTHER ASSURANCES. Contractor agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Contract including, but not limited to, executing all additional documentation necessary for County to comply with applicable State or Federal funding requirements.

32. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT,

CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SIGNATURE PAGE FOLLOWS

EXHIBIT A
RFP #2019-45 BEHAVIORAL HEALTH PEER DELIVERED SERVICES
Issued June 11, 2019

CLARIFYING QUESTIONS #1 Issued June 27, 2019

ADDENDUM #1 Issued July 15, 2019

ADDENDUM #2 Issued July 16, 2019

EXHIBIT B
MODIFIED SCOPE OF WORK FOR PROJECT 7
Adult Peer Delivered Services – Zero Suicide Peer Wellness Specialist

3.1. INTRODUCTION

Contractor will provide peer delivered support services in the areas of mental health and substance use. The overall goal and purpose of the project is to eliminate suicide attempts and deaths among patients/clients served at Clackamas County Health System (CCHS) and raise awareness of suicide prevention in the larger community. The CCHS Zero Suicide Program is a system wide initiative to eliminate suicide attempts and deaths within its patient/client population and raise awareness of suicide prevention in the larger community. Peer Wellness Specialist will help patients/clients to navigate community resources, provide follow up and outreach to individuals at risk of suicide, and model a lifestyle of recovery and resiliency.

3.2 BACKGROUND

Effective September 2018 CCHS received a Substance Abuse and Mental Health Services Administration (SAMHSA) Grant for Zero Suicide implementation at our Health Centers and crisis clinic, and one of the identified resources is offering peer delivered services to clients on a suicide care pathway. We support a system of care that promotes a family's and individual's resiliency and recovery from mental health and substance use. CCHS believes peer support is a critical element of recovery. Peer Services supports this system by ensuring individuals are empowered and drive the process of reaching and sustaining recovery, wellness, and resilience while building an inclusive community.

3.3. DEFINITIONS

“Peer” means any individual supporting an individual or the individual's family member who has similar life experience, either as a current or former recipient of mental health or substance use services, or as a family member of an individual who is a current or former recipient of substance use or mental health services.

“Peer-Delivered Services” are community-based services and supports provided by peers and peer support specialists to individuals or family members with similar lived experience. These services are intended to support individuals and families to engage individuals in ongoing treatment and to live successfully in the community.

“Peer Support Specialist” means an individual providing peer delivered services to an individual or family member with similar life experience under the supervision of a qualified clinical supervisor and a qualified peer delivered services supervisor as resources are made available. A peer support specialist shall be certified by the Authority's Office of Equity and Inclusion as required by OAR 410-180-0300 to 0380 and be:

- (a) A self-identified individual currently or formerly receiving mental health or substance use services;
- (b) A self-identified individual in recovery from a substance use disorder who meets the abstinence requirements for recovering staff in substance use disorders treatment and recovery programs;
- (c) A self-identified individual in recovery from problem gambling; or
- (d) A person who has experience parenting a child who:
 - (A) Is a current or former recipient of mental health or substance use treatment; or
 - (B) Is facing or has faced difficulties in accessing education and health and wellness services due to a mental health or behavioral health barrier.

“Peer Support and Peer Wellness Specialist Supervision” means supervision by a qualified clinical supervisor and a qualified peer delivered services supervisor as resources are available. The supports

provided include guidance in the unique discipline of peer delivered services and the roles of peer support specialists and peer wellness specialists.

“Peer Delivered Services Supervisor” means a qualified individual, with at least one year of experience as a PSS or PWS in behavioral health treatment services, to evaluate and guide PSS and PWS program staff in the delivery of peer delivered services and supports.

“Peer Wellness Specialist” means an individual who supports an individual in identifying behavioral health service and support needs through community outreach, assisting individuals with access to available services and resources, addressing barriers to services, and providing education and information about available resources and behavioral health issues in order to reduce stigma and discrimination toward consumers of behavioral health services and to provide direct services to assist individuals in creating and maintaining recovery, health, and wellness. A peer wellness specialist shall be:

- (a) A self-identified individual currently or formerly receiving mental health services;
- (b) A self-identified individual in recovery from a substance use or gambling disorder who meets the abstinence requirements for recovering staff in substance use disorders or gambling treatment programs;
- or
- (c) A family member of an individual who is a current or former recipient of mental health or substance use or problem gambling services

3.4. SCOPE AND EXPECTATIONS FOR ALL PROJECTS

3.4.1. STAFF STANDARDS

Contractor shall complete the following for all staff:

- A successful criminal history records check through the State of Oregon Background Check Unit (BCU) compliant with ORS Chapter 181 and OAR 407-007-0000 to OAR 407-007-0370
- Positive clearance through the General Services Administration System for Award Management (SAM) at time of hire and monthly thereafter; and
- Positive clearance through the Office of Inspector General’s (OIG) List of Excluded Individuals/Entities at time of hire and monthly thereafter
- Review appropriate education and academic degrees;
- Review licenses or certificates, as required;
- Review relevant work history or qualifications;
- Document and certify that the staff’s education, experience, competence, and supervision are adequate to permit the staff to perform the assigned duties.

In addition, Contractor shall ensure all staff with direct one-on-one contact with Clackamas County residents:

- Complete Oregon Health Authority approved training program for Peer Delivered Services and adherence to all requirements in the Traditional Health Worker administrative rules including, OAR 410-180-0300 to OAR 410-180-0380.

County will provide technical assistance to Contractor on exclusion process through SAM and OIG, upon which time, the County will delegate to the Contractor the responsibility of exclusion checks. County may review Contractor's adherence to exclusion checks during routine contract compliance monitoring.

Contractor shall not permit any person to provide services under this Contract if that person is listed on the non-procurement portion of the General Service Administration's SAM in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension" (2 CFR Part 180).

In addition, Contractor shall not permit any person to provide services under this Contract who has been terminated from the Division of Medical Assistance Program or excluded as Medicare/Medicaid providers by the Centers for Medicare and Medicaid Services or who are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101 "Program Integrity – Medicare and State Health Care Programs Subpart B".

3.4.2. REPORTING REQUIREMENTS

Clackamas County Health System Peer Delivered Services has developed the following general outcome measures that must be reported to the County on a quarterly basis.

Training, Workshops, Support Groups:

- Number of continuing education/training programs or classes attended by Peer Support Specialists during the quarter.
- Number of workshops, support groups, or presentations provided for individuals receiving peer support services.
- Number of outreach activities conducted to inform and engage community partners and potential referral sources about the role of Peer Support Specialists and the Support Services available.
- All trainings and workshops will be communicated with and pre-approved by CCHS prior to enrollment or registration.

3.5. PROJECT SPECIFIC SCOPE AND EXPECTATIONS

3.5.7. PROJECT 7: ADULT PEER DELIVERED SERVICES – ZERO SUICIDE PEER WELLNESS SPECIALIST

Target Populations:

Individuals aged twenty-five (25) years of age and older within CCHS with special priority given to veterans and individuals with severe and persistent mental illness (SPMI). Peer Support Services will be provided to support patients through individuals with lived experience in their suicide care management plans. They will help to navigate community resources, provide follow up and outreach to individuals at risk of suicide, and model a lifestyle of recovery and resiliency.

Service Components:

Contractor will provide a plan for providing the following services/supports:

- Responsible for work with patients/clients who are on a suicide care plan and need extra support on their pathway to care.

- Follow protocols of CCHS Zero Suicide Program and meet with individuals both in person and via telephone in order to offer support and promote a recovery-oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
- Engage in outcome measurement development with CCHS upon request
- Peer will collaborate with service teams including but not limited to County's three (3) primary care clinics (Beavercreek, Sunnyside and Sandy Health Clinics), three (3) behavioral health clinics (Hilltop, Stewart and Sandy Behavioral Health Clinics), and urgent walk-in clinic (Clackamas Mental Health Center).
- Support individuals with lived experience in order to coordinate treatment for their clients in their suicide care management.
- Assist individuals in building natural support systems to aid in their hope and recovery.
- Provide linkages to various community services and treatment options.
- Peer Wellness Specialists will be trained in the use and understanding of the Columbia-Suicide Severity Rating Scale (CSSR).
- Meet the state standards as required for a Peer Wellness Specialist certification.

Staffing:

- .8 FTE Peer Wellness Specialist.
- Supervision of Peer Wellness Specialist to be provided by a qualified peer supervisor provided by the contractor.

EXHIBIT C PERFORMANCE STANDARDS

A. General Performance Standards

1. Contractor represents and warrants that all staff employed or contracted by Contractor who provide services or are otherwise engaged in activities under this Contract are fully aware of and in compliance with the terms and conditions of this Contract.
2. Contractor represents and warrants that all of Contractor's employees and independent contractors providing services under this Contract will work within the scope of their credentials and any applicable licensure or registration. Contractor shall not allow services to be provided by an employee or independent contractor who does not have a valid license or certification required by state or federal law.

B. Staff Standards

Contractor will provide the following for all staff who are in direct contact with County clients:

- Completion of a successful criminal history records check through the Background Check Unit, a Shared Service of the Department of Human Services and the Oregon Health Authority and compliant with ORS 181A.200 and OAR 943-007-0001 to 943-007-0501;
 - Appropriate education and academic degrees;
 - Licenses or certificates, as required; and
 - Relevant work history or qualifications.

C. Monitoring

County shall monitor services provided by Contractor and has the right to require Contractor's compliance with established standards and performance requirements relative to the services provided, administrative and fiscal management, and with all obligations and conditions stated in this Contract.

County may conduct compliance monitoring related to this Contract. Contractor shall cooperate with County in such monitoring. County shall provide Contractor twenty (20) business days written notice of any Contract compliance monitoring activity that requires any action or cooperation by Contractor. Notice of monitoring shall include the date monitoring shall occur, names of individuals conducting the monitoring, and instructions and requests for information.

D. Abuse Reporting

Contractor shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 943-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if Contractor were a mandatory abuse reporter. If Contractor is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. Contractor shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, a mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

E. Confidentiality

Contractor agrees that Contractor, its agents and employees shall maintain the confidentiality of any client identifying information, written or otherwise, with which they may come in contact, in accordance with all applicable provisions of state and federal statutes, rules and regulations, and shall comply with the same in the event of requests for information by any person or federal, state or local agency.

**EXHIBIT D
CONTRACTOR'S PROPOSAL AND BUDGET**

EXHIBIT E
QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

This Qualified Service Organization Business Associate Agreement (“Agreement”) is entered into as of the date of the final executing signature to this Agreement (“Effective Date”) by and between **Clackamas County Health, Housing and Human Services, Health Centers Division** (“Covered Entity”) and **The Mental Health Association of Oregon** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations (“HIPAA”), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 (“Confidentiality Rule”).

RECITALS

Whereas, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;

Whereas, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Services Agreement”);

Whereas, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

Whereas, the Parties agree to establish safeguards for the protection of such information;

Whereas, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules **and** the Confidentiality Rule;

Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
 - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
 - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
 - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.
- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.

- 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.10 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.11 “Program” shall have the meaning given to such term under the Confidentiality Rule, 42 CFR §2.11.
- 1.12 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
- 1.13 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
- 1.14 “Qualified Service Organization” shall have the meaning defined under the Confidentiality Rule, 42 CFR §2.11.
- 1.15 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.16 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.17 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.18 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.19 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited

- from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
 - 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
 - 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
 - 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
 - 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
 - 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
 - 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
 - 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual who's Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
 - 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly, information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.
- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
 - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,
 - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

SECTION IV – NOTICE OF PRIVACY PRACTICES

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. The Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.

SECTION V – BREACH NOTIFICATION REQUIREMENTS

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
 - a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
 - b. By notice in plain language including and to the extent possible:

- 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
 - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
- d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity’s knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible.
- If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.
- Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.
- 6.3 **Effect of Termination.**
- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.

- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

SECTION VII – GENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Agreement to the Confidentiality Rule, HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Section II and III of this Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Survival.** The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.
- 7.6 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.

Signature Page for QSOBAA Follows

SIGNATURE PAGE FOR QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

The Parties hereto have duly executed this Agreement as of the Effective Date as defined here above.

Business Associate

Covered Entity

The Mental Health Association of Oregon

CLACKAMAS COUNTY

Authorized Signature

Date

Richard Swift

Health, Housing and Human Services

Date

Name / Title (Printed)

EXHIBIT F
USER AGREEMENT FOR ELECTRONIC HEALTH RECORDS

1. Purpose

This Agreement defines the roles and responsibilities of Clackamas Health System (“County”) and The Mental Health Associates of Oregon (“Contractor”) for accessing County’s Electronic Health Records.

2. Term

This Agreement will be in effect upon execution through **June 30, 2023**.

3. System Access.

County will provide The Mental Health Association of Oregon approved Users with full clinical access to the Electronic Health Record Systems (“the System”) EPIC/OCHIN and CERNER on the terms and conditions specified below.

4. Internal Guidelines.

Contractor will be responsible for maintaining its own internal scope-of-practice guidelines governing use of the System. These guidelines will specify, without limitation, the scope of authority, responsibility, and oversight of Contractor’s personnel using the System. County will not be responsible for monitoring compliance with those guidelines.

5. Definitions

- a. "Access" means the ability or the means necessary to read, communicate, or otherwise use any County Information Asset.
- b. "Client Record(s)" means any individual, applicant, or participant information, regardless of the media or source, provided by County to Contractor or exchanged between the Parties.
- c. "Incident" means the attempted or successful unauthorized Access, use, disclosure, modification, or destruction of any Network and Information System or County Information Asset including, but not limited to, unauthorized disclosure of information; failure to protect User's identification (ID); or, theft of computer equipment that uses or stores any County Information Asset.
- d. "Information Asset(s)" refers to all information provided through County, regardless of the source, which requires measures for security and privacy.
- e. "Network and Information System(s)" means County’s computer infrastructure which provides personal communications, Client Records, and other sensitive Information Assets; regional, wide area, and local networks; and the internetworking of various types of networks.
- f. “Provider” means a physician or other billable provider such as a nurse practitioner or physician's assistant.
- g. "User" means any individual authorized by County on Contractor’s behalf to Access Network and Information Systems and who has an assigned unique log-on identifier.

6. County's Responsibilities

County will:

- a. Coordinate and implement clinical access permissions into County's EHR's (Electronic Health Records) system administered by EPIC/OCHIN and CERNER for Contractor's employees working on behalf of Clackamas Health System.
- b. Provide training to the Contractor's employees working on behalf of the County. Training will take place at the County's campus facilitated by the EPIC Support Team on the use of EPIC/OCHIN and CERNER.

7. Reservation of Rights/Termination

1. Access may be terminated at any time by mutual consent of the parties.
2. Access may be terminated by either party upon delivery of 30-days written notice to the other party.
3. County may terminate Access immediately upon written notice to Contractor if Access by the Contractor is no longer needed.
4. County reserves the right to immediately suspend or revoke Access granted under this Agreement for Contractor's failure to comply with the requirements of this Agreement.
5. County reserves the right to terminate or modify Access to the Network and Information System(s) or Information Assets if there are changes or revised interpretations in federal or state laws, rules or regulations, or if either party has changes in policies that require such change.
6. Contractor agrees to provide County access to Contractor's providers, agents, contractors, subcontractors, employees, facilities, and records as necessary for County to determine:
 - 1) Contractor's compliance with the terms and conditions of this Agreement;
 - 2) Whether or not to continue to grant Access, in whole or in part, under this Agreement;
 - 3) Any additional information County may require to meet any state or federal laws, rules, or regulations regarding use and disclosure; and
 - 4) Contractor's documentation of a written security risk management plan.
7. In the event Contractor fails to abide with the above requirements, County reserves the right to immediately revoke, in whole or in part, Access granted through this Agreement.

8. Indemnity/Insurance

- a. Contractor shall defend, save, hold harmless, and indemnify County and its officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney fees, resulting from, arising out of, or relating to the activities of Contractor or its providers, officers, employees, subcontractors, or agents under this Agreement.
- b. The parties shall be responsible exclusively with respect to their own employees, for providing employment-related benefits and deductions that are required by law, including but

not limited to federal and state income tax deductions, workers' compensation coverage, and any pension or retirement benefits contributions.

9. Access Control

- a. If required for Access, County agrees to promptly review requests and will:
 - 1) Notify Contractor of the approval or denial of its request for each User for whom Access has been requested;
 - 2) Provide any unique log-on identifier(s) required for approved Access; and
 - 3) Provide to Contractor any updates to approved inquiry processes and instructions.
- b. Contractor agrees to complete any forms as County may require for each person for whom Access is requested. The original shall be kept in a secure location, and a copy of the form shall be provided to County.
- c. No User shall access data for any purposes other than those specifically authorized under this Agreement.
- d. Except as otherwise specified or approved by County, neither the Contractor nor its User(s) shall modify, alter, delete, or destroy any Information Asset(s) or Network and Information System(s).
- e. Contractor shall immediately notify County when Contractor or its Users no longer require Access, whether due to changes in their individual's duties or changes in the Contractor's programs covered under the Agreement.

10. Confidentiality of Client Records and Information

- a. All information as to personal facts and circumstances obtained by Contractor on Individuals or in Client Records shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the Individual, their guardian or the responsible parent, when the Individual is a minor child, or as required by other terms of the Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular Individuals.
- b. The use or disclosure of information concerning clients or Client Records shall be limited to persons directly connected with the administration of the Agreement. Confidentiality policies shall be applied to all requests from outside sources.

11. Security

- a. Contractor shall have established privacy and security measures in place that meet or exceed the standards set in laws, rules, and regulations, and that are applicable to Users regarding the safeguarding, security, and privacy of Individuals and Client Records, all Information Assets regardless of the media, and all Network and Information Systems.
- b. Contractor shall prevent any unauthorized Access to the County's Network and Information Systems by its Users and shall implement safeguards to prevent unauthorized Access.

- c. Contractor shall provide the level of security and privacy protection required in accordance with the Agreement and this Agreement is documented in a written security risk management plan. Contractor shall make its written security risk management plan available to County for review , upon request
- d. Contractor shall maintain security of equipment and establish best-practices for the proper handling, storage, and disposal of all Information Assets and Client Records Accessed, obtained, or reproduced to prevent inadvertent destruction or loss, and to provide proper disposal when the authorized use of that information ends, consistent with the record retention requirements otherwise applicable to the Agreement.

12. Compliance with Laws

- a. In performing its obligations under this agreement, Contractor, its providers, agents and employees shall maintain the confidentiality of any client identifying information, written or otherwise, with which they may come in contact, in accordance with all applicable provisions of state and federal statutes, rules and regulations, and shall comply with the same in the event of requests for information by any person or federal, state or local agency.
- b. In addition, the Contractor acknowledges the existence of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-191, 45 CFR Parts 160-164, and 42 CFR Part 2, and agrees that Contractor and Contractor's agents and employees will comply with all applicable requirements of HIPAA and 42 CFR Part 2 related to the confidentiality of client records or other client identifying information. Contractor agrees that use and disclosure of Protected Health Information (PHI) and Electronic Protected Health Information (EPHI) in the performance of its obligations shall be governed by this Agreement.
- c. Contractor further agrees that it shall be committed to compliance with the standards set forth in the Privacy Rule and Security Rule as amended by the HITECH Act, and 42 CFR Part 2, as they may be amended further from time to time, in the performance of Contractor's obligations related to the Agreement, and that it shall make all subcontractors and Providers comply with the same requirements.
- d. Contractor's failure to comply with these requirements shall constitute a default under this Agreement.

13. User Responsibility/Disclosure of Information

- a. Wrongful use or disclosure of Information Assets or Client Records by Contractor or its Users may cause the immediate revocation of Access, at the sole discretion of County. County may specify a reasonable opportunity for the Contractor to cure the unauthorized use or disclosure and end the violation or County may terminate Access if Contractor does not cure the violation within the time specified by County. County may also take legal action(s) for violations of applicable regulations, rules and laws.
- b. Contractor shall immediately report any Incidents involving Access addressed in this Agreement to County. Contractor shall comply, and shall cause its Providers and subcontractors to comply, with any requirements for identifying and addressing a privacy or security Incident. This requirement applies regardless of whether the Incident was accidental or otherwise.

- c. Contractor and its Users shall comply with all federal and state laws, rules, and regulations applicable to the privacy, confidentiality, or security of the Access, including HIPAA, HITECH and 42 CFR Part 2, as well as the applicable laws governing access to the Network and Information Systems. Contractor shall have established privacy and security measures in place that meet or exceed the standards set in OAR 943-014-0300 through OAR 943-014-0320 and these applicable laws.
- d. The use and disclosure of any Access or Client Record is strictly limited to the minimum information necessary to perform the required Work.
- e. Contractor shall not make any root level changes to the Network and Information System(s).

14. Subcontracting

Contractor shall require that all Providers and subcontractors are held to the same requirements as Contractor regarding Access, including the terms and conditions of this Agreement.

15. Costs

Costs related to the acquisition of any equipment, software, data lines, or connections necessary to provide Contractor or its Users with Access are the sole responsibility of Contractor, unless otherwise agreed to by written contract or agreement entered into between the parties hereto. Each party to the Agreement will bear their own cost, if any, related to obtaining or providing Access.

16. Compliance with Epic Agreement.

Contractor's use of the System must in all respects comply with the terms and conditions of the Epic Agreement, including, without limitation, covenants relating to limiting access to authorized users, exercising independent professional judgment in providing patient care, and protecting the trade secrets and other proprietary rights of Epic. Contractor will not be permitted to copy, reverse engineer, or modify code supplied by Epic, except as permitted by OCHIN and the terms of the Epic Agreement. Contractor will be required to take certain affirmative steps identified by OCHIN to assure that Contractor's users comply with the covenants set forth in the Epic Agreement. Additionally, Contractor's use of the System must comply with the terms of any agreements between Epic and OCHIN that arise out of, amend, or relate to the Epic Agreement. County will provide a copy of the Epic Agreement to Contractor upon request.

17. Contractor's Additional Implementation Responsibilities.

Contractor has the following responsibilities in connection with implementing the System: Contractor will be responsible for any other costs or responsibilities relating to implementation of the System, including, but not limited to: (a) backfill resources for staff training or practice time during implementation or upgrades, (b) training of Contractor's personnel, and (c) staff expenses owing to new roles or responsibilities, such as implementation coordination, coordination liaison, end user training, and direct user support (application and technical).

18. Contractor's Ongoing Responsibilities.

Following onset of access, Contractor will have the following responsibilities:

- a. **Security.** Because Contractor is subject to HIPAA and 42 CFR Part 2, Contractor is also independently responsible for protecting the privacy and security of PHI or substance use disorder information contained within the System. To satisfy this responsibility, Contractor must establish, within the appropriate time frame, any privacy and security policies or procedures that are necessary to ensure that its operations satisfy the requirements of HIPAA and 42 CFR Part 2. Contractor will ensure that its policies and procedures regarding access to patient information stored in the System respect the privacy and confidentiality rights of patients and maintain the integrity of the overall System. These policies and procedures should include, but are not limited to, maintaining current user lists, limiting user access, and managing typical network security processes (such as passwords). Further, Contractor agrees to implement policies and procedures consistent with any security standards or guidelines approved by the OHCA Participants.
- b. **Additional Security Responsibilities.** In addition to any other security responsibilities of Contractor under this agreement, County will enable Contractor to set security authorities for Contractor and its personnel with respect to the System, subject to limitation by County. Contractor is not permitted to give more than two individuals the right to set those security authorities. Contractor is responsible for ensuring that all actions taken by such individuals comply with the Epic Agreement and applicable laws and regulations, and Contractor will indemnify County against any misuse of security authority.
- c. **MyChart.** MyChart (Epic's patient portal) provides patients access to health information and education in addition to scheduling and a convenient communication path to their care team. MyChart is a critical component of patient engagement and the successful use of Epic by the contractor, County, providers and patients.

19. Ownership

- a. **System.**

Epic and other third-party vendors will retain ownership of any application source code or associated written materials used in the System. OCHIN will maintain complete ownership of the Technical Infrastructure hardware, with the exception of telecommunications facilities owned by County.

- b. **Ownership of Patient Information.**

County will retain ownership of its patient information. Notwithstanding the foregoing, in order to facilitate continuity of health care and quality assessment activities, the System will utilize a master patient index ("MPI") permitting aggregation of each patient's data in a central patient record accessible by authorized users of the System. As part of this agreement, Contractor agrees to certain terms relating to the establishment of an organized health care arrangement in accordance with state and federal law (the "OHCA Terms"). Contractor agrees that continued compliance with the OHCA Terms is a condition to continued access to the System and a material obligation of Contractor under this agreement.

20. Responsibility for Use.

Customer Responsible. Certain components of the System allow County to maintain patient medical records in a computerized, digital format. The System is intended to assist with the accuracy of, and improve accessibility to, medical records. The System, however, does not determine the content of medical records. As with manually kept records, records kept using the System may contain errors, whether resulting from incorrect recording of information, software errors, or other causes. Contractor and authorized users are solely responsible for ensuring that errors that may occur in medical records kept using the System are detected and corrected, and that patient care is not compromised on account of such errors.

21. Professional Judgment.

Providers and other Permitted Users should use the system as a resource in the exercise of professional medical judgment, not as a substitute for that judgment.

22. Medical Care.

Contractor and Permitted Users are solely responsible for any medical diagnosis, treatment, and advice rendered with the assistance of the System.

23. Dispute Resolution.

Disputes initiated by either Contractor or County that arise out of Contractor's use of the System or the terms of this Contract will be resolved through the following procedures: The complaining party will send a written notice to the other party describing the basis of the dispute and stating that the complaining party is initiating the dispute resolution procedures.

The party receiving the notice will be required to respond in writing or by telephone within 15 working days of receipt.

Both parties will be required to meet and negotiate within twenty (20) working days of the date on which the initial notice of the dispute was received items that remain unresolved after negotiation become elements of a bona fide dispute.

The parties may agree to binding arbitration of a bona fide dispute, which will be held in Clackamas County with an agreed-upon arbitrator.

The parties may also exercise all available legal remedies to enforce this Agreement upon breach.

24. Limitation of County's Liability

County will only be liable to Contractor for any claim arising out of this Contract for its own gross negligence in performing under this Agreement, subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution. COUNTY WILL NOT BE LIABLE FOR INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR LOST PROFITS OR REVENUES RESULTING FROM OR IN ANY WAY RELATED TO CONTRACTOR'S USE OF THE SYSTEM, INCLUDING CLAIMS BASED ON THE NEGLIGENCE OF COUNTY, EPIC, OCHIN, OR OTHER THIRD-PARTY VENDORS. COUNTY WILL NOT BE RESPONSIBLE FOR ERRORS OR DAMAGES CAUSED BY OR RESULTING FROM INPUT ERRORS, CHANGES BY CONTRACTOR TO ANY SOFTWARE PROVIDED BY COUNTY THROUGH OCHIN, OR COMBINATIONS OF SOFTWARE PROVIDED BY OCHIN WITH OTHER SOFTWARE.

25. Assignment

Neither Contractor nor County may assign any rights or obligations under this agreement without the other party's written consent. This agreement shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns.

26. Notices

Notices and other written communications under this agreement shall be deemed effectively given when delivered in person, by fax or email with confirmation of receipt, four days after being deposited for delivery by certified mail, return receipt requested, or one business day after being deposited for delivery by overnight courier. The original of any notice sent by fax or email shall be sent promptly by certified mail or overnight courier to the recipient. Either party may change the address at which it receives notices by giving notice of the change to the other party.

27. Force Majeure

Neither party shall be held responsible because of any delay in performance or noncompliance with any provisions of this agreement that results from an unforeseeable act, event, or omission beyond its reasonable control and without its fault or negligence, including but not limited to, negotiation deadlock, strikes, walkouts, civil commotion, riots, wars, fires, explosions, floods, earthquakes, embargoes, or acts of civil or military authorities.

28. Severability.

If any provision of this agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

29. Amendment.

County and Contractor may amend this Agreement at any time only by written amendment executed by both parties. Any amendment to this Agreement must be in writing and signed by both parties.