

July 21, 2022

Board of County Commissioners
Clackamas County

Approval of sub-recipient Professional Services Agreement with
Outside In for HIV Testing and Counseling Services. Total contract value is \$28,432 funded
by the State of Oregon Oregon Health Authority.
No County General Funds are involved.

Purpose/Outcome	Provide HIV testing, counseling, and outreach to Clackamas County population.
Dollar Amount and Fiscal Impact	Total contract value \$28,432
Funding Source	Funding provided by the State of Oregon – Oregon Health Authority. No County General Funds are involved.
Duration	Effective July 1, 2022 through June 30, 2023
Previous Board Action/Review	Issues session 7.19.22
Strategic Plan Alignment	1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities
Counsel Review	Date of Counsel review: 06/23/2022 Name of County Counsel performing review. Andrew Naylor
Procurement Review	(Please check yes or no for procurement review. If the answer is “no,” please provide an explanation.) 1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Item is a Sub-recipient agreement
Contact Person	Philip Mason-Joyner, Director of Public Health 503-742-5956
Contract No.	10622

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of a Sub-recipient Professional Services Agreement with Outside In for HIV Testing and Counseling Services. The County receives pass through funding through the Local Public Health Authority Agreement (LPHA) with the State of Oregon. This funding is a mix of federal and state funding. The County contracts with Outside In to manage the HIV program.

This Agreement has a maximum value of \$28,432. This Agreement is effective upon signature and continues through June 30, 2023. Award period is July 1, 2022 through June 30, 2023.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve this Agreement.

Respectfully submitted,

Rodney A. Cook

Rodney A. Cook, Director
Health, Housing, and Human Services

Healthy Families. Strong Communities.

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT #23-002**

Project Name: **HIV Testing – Contract #10622**

Project Number:

This Agreement is between **Clackamas County** (“COUNTY”), a political subdivision of the State of Oregon, acting by and through its Department of Health, Housing and Human Services, Clackamas County Public Health Division and **Outside In** (“SUBRECIPIENT”), an Oregon Nonprofit Organization.

Clackamas County Data

Grant Accountant: **Sherry Olson**

Program Manager: **Anna Summer**

Clackamas County – Public Health Division

Clackamas County – Public Health Division

2051 Kaen Road, Suite 367

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Oregon City, OR 97045

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Phone: (503) 742-5342

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Subrecipient Data

Finance/Fiscal Representative: Don Reuther

Program Representative: Haven Wheelock

Outside In

Outside In

1132 SW 13th Ave

1132 SW 13th Ave

Portland, OR 97205

Portland, OR 97205

Phone: 253-273-6462

Phone: 503-535-3826

Email: donr@outsidein.org

Email: havenw@outsidein.org

UEI: GR9VPMVJS578

RECITALS

1. COUNTY has an Intergovernmental Agreement (“IGA,” #169503) for the Financing of Public Health Services through its Public Health Division, the entity designated, pursuant to ORS 431.110, 431.115 and 431.413 as the Local Public Health Authority for Clackamas County (“LPHA”) and the State of Oregon acting by and through its Oregon Health Authority (“OHA”) for the biennium period 2022-2024. SUBRECIPIENT desires to partner with COUNTY to fulfill the objectives of such IGA, which includes Program Element 07 for HIV Prevention Services. Funds provided under this Agreement for such Program Element may only be used in accordance with and subject to the requirements and limitations for the following services and appropriate costs associated with the delivery of such services (Services):
 - a. Confidential HIV counseling, rapid testing, and referral services;
 - b. Other HIV prevention services with evidence of effectiveness to identified high-risk populations in COUNTY’s service area; and
 - c. Structural activities that facilitate the delivery of HIV prevention services to high-risk populations in COUNTY’s service area.
2. Priority populations for service focus in Oregon are identified in the current Integrated HIV

Prevention and Care Plan Guidance found at: <https://hab.hrsa.gov/sites/default/files/hab/Global/hivpreventionplan062015.pdf>. Funds awarded under this Agreement may only be expended on services included in COUNTY's HIV Prevention Program Model Plan that has been approved by the Department of Human Services ("DHS") HIV Prevention Program, with an emphasis focused predominantly on services for the high-risk populations identified above.

3. SUBRECIPIENT will use funds provided under this Subrecipient Grant Agreement ("Agreement") to expand HIV client-centered counseling, testing and referral services ("CTRS") and continue to provide outreach to CTRS to sexual and social networks of men who have sex with men ("MSM") and other priority populations who reside in Clackamas County.

NOW THEREFORE, according to the terms of this Agreement, COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

- 1) **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and will terminate on June 30, 2023, unless sooner terminated or extended pursuant to the terms hereof. Eligible expenses permitted under this Agreement may be incurred no earlier than **July 1, 2022** and not later than **June 30, 2023**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
- 2) **Program.** The program funded by this Agreement (the "Program") is described in Attached **Exhibit A: Subrecipient Statement of Program Objectives**. SUBRECIPIENT agrees to carry out the Program in accordance with the terms and conditions of this Agreement.
- 3) **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the IGA and the U.S. Department of Health and Human Services that is the source of the grant funding, in addition to compliance with requirements of Title 45 of the *Code of Federal Regulations*, Part 75. A copy of the applicable sections of the grant award has been provided to SUBRECIPIENT by COUNTY. A complete copy of the IGA will be provided upon request by SUBRECIPIENT. SUBRECIPIENT shall further comply with any requirements required by the State of Oregon or the U.S. Department of Human Services, together with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
- 4) **Grant Funds.** The maximum, not to exceed, amount COUNTY will pay is **\$28,732**. Funding between sources is distributed as follows:
 - Federal Pass-through funds (**\$17,239.20**) [U.S. Department of Health and Human Services; **ALN 93.940; Federal Award Identification Number: NU62PS924543**]. The State of Oregon receives funds through the HIV Prevention Activities – Health Department Based program of the U.S. Department of Health and Human Services.
 - Oregon Health Authority State funds (**\$11,492.80**) are provided through the IGA for funding of other items in the program budget.

5) **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.
SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty-five (45) calendar days before this Agreement expires. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.

6) **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:

- a) Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
- b) Mutual agreement by COUNTY and SUBRECIPIENT.
- c) Written notice provided by COUNTY that OHA has determined funds are no longer available under this Agreement.
- d) Written notice provided by COUNTY that it lacks sufficient funds, as determined by COUNTY in its sole discretion, to continue to perform under this Agreement.

Upon completion of improvements or upon termination of this Agreement, any unexpended balances of funds shall remain with COUNTY.

7) **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:

- a) Has already accrued here under.
- b) Comes into effect due to the expiration or termination of the Agreement; or
- c) Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, SUBRECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received by SUBRECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that will become due and payable as a result of the termination of this Agreement.

8) **Funds Available and Authorized.** COUNTY certifies that it has received an award sufficient to pay for 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.

9) **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 8.

10) **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 the County within 15 days.

- c) **Change in Key Personnel.** SUBRECIPIENT is required to notify COUNTY, in writing, whenever there is a change in SUBRECIPIENT key administrative or programmatic personnel and the reason for the change. Key personnel include but are not limited to: Executive Director, Finance Director, Program Manager, Bookkeeper, or any equivalent to these positions within the organization.
- 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.** SUBRECIPIENT will receive a non-federally funded 10% indirect cost rate as shown in Exhibit B: SUBRECIPIENT BUDGET.
- i) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- j) **Payment.** SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit D: Required Financial Reporting and Reimbursement Request.
- k) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit E for each period (monthly, quarterly, and final) during the term of this Agreement.
- l) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Exhibit D: Required Financial Reporting and Reimbursement Request on a monthly basis.
- m) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibits F & G), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement. At closeout, SUBRECIPIENT must account for all residual supplies valued over \$5,000 in the aggregate that were purchased with Federal funds authorized by this Agreement. Compensation to the

Federal Agency may be required for residual supplies valued over \$5,000 per 2 CFR 200.314.

- n) **Unique Entity Identifier and Contractor Status.** SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database using its Unique Entity Identifier (“UEI”), located at <http://www.sam.gov>.
- o) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR Part 180. These rules restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- p) **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (3) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- q) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse (“FAC”) within 9 months from SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will 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 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.** 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 seven (7) years, 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 200.334-338.

- t) **Specific Conditions.** None
- u) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications in the IGA, 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.
- v) **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, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.

11) 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 and supplemented in U.S. Department of Labor regulations (41 CFR Part 60); (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; (ix) all federal laws requiring reporting of Client abuse, and (x) 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. No federal funds may be used to provide services in violation of 42 U.S.C. 14402.
- 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 Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency. SUBRECIPIENT shall include in all contracts with subcontractors receiving more than \$150,000, language requiring the subcontractor to comply with the federal laws identified in this section.
- c) **Rights to Inventions Made Under a Contract or Agreement.** SUBRECIPIENT agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and COUNTY in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements".

- d) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- e) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under this Agreement, SUBRECIPIENT may in writing request COUNTY to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- f) **Disclosure of Information.** Any confidential or personally identifiable information (as defined in 2 CFR 200.1) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information, including internal control requirements set forth in 2 CFR 200.303, and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- g) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT's written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.
- h) **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:
 - Engage in severe forms of trafficking in persons during the period of the time the award is in effect.
 - Procure a commercial sex act during the period of time the award is in effect; or
 - Used forced labor in the performance of the Agreement or sub award under this Agreement.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. SUBRECIPIENT must include these requirements in any sub award made to public or private entities under this Agreement.

12) Federal and State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- 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.

13) 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 (1) SUBRECIPIENT’s negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT’s control; or (2) SUBRECIPIENT’s performance under this Agreement including, but not limited to, any claim by a State or Federal funding source that SUBRECIPIENT used funds for an ineligible purpose. 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.

SUBRECIPIENT shall defend (in the case of the State of Oregon and the Oregon Health Authority, subject to ORS Chapter 180), save and hold harmless the State of Oregon, the Oregon Health Authority, COUNTY, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the operations of SUBRECIPIENT, including but not limited to the activities of SUBRECIPIENT or its officers, employees, subcontractors or agents under this Agreement. It is the specific intention of the parties that the State of Oregon, Oregon Health Authority, and COUNTY shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State of Oregon, Oregon Health Authority, or COUNTY, be indemnified by SUBRECIPIENT from and against any and all Claims.

- 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, and the State of Oregon, 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. The limits shall be no less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000 property damage.
- 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, elected officials and employees and the State of Oregon its officers, elected officials, and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement.
- 4) **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If SUBRECIPIENT is a subject employer, as defined in ORS 656.023, SUBRECIPIENT shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
- 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, elected officials, officers, and employees" and "the State of Oregon, its agents, elected officials, officers and employees," as additional insureds.
- 6) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days-notice of cancellation provision shall be physically endorsed on to the policy.
- 7) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 8) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate(s) of Insurance to COUNTY.

COUNTY and its elected officials, employees and officers must be named as an additional insured on the Certificate of Insurance. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY ten (10) days prior to coverage expiration.

- 9) **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.
 - 10) **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.
- d) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
 - e) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
 - f) **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 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.
 - g) **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.
 - h) **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.
 - i) **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.
 - j) **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.
 - k) **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.

- l) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- m) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.
- n) **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

This Agreement consists of the following documents, which by this reference are incorporated herein.

- This Agreement
- **Exhibit A:** SUBRECIPIENT Statement of Program Objectives
- **Exhibit B:** SUBRECIPIENT Program Budget
- **Exhibit C:** Congressional Lobbying Certificate
- **Exhibit D:** Required Financial Reporting
- **Exhibit D.1** SUBRECIPIENT Reimbursement Request
- **Exhibit E:** Performance Reports and State of Oregon HIV Prevention Program Workbook for FY2022
- **Exhibit F:** Final Financial Report
- **Exhibit G:** Business Associate Agreement

Signature page follows

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

CLACKAMAS COUNTY

OUTSIDE IN

Commissioner: Tootie Smith, Chair
Commissioner: Sonya Fischer
Commissioner: Paul Savas
Commissioner: Martha Schrader
Commissioner: Mark Shull

Signing on Behalf of the Board,

By: _____
Tootie Smith, Chair

By:  _____
Don Reuther, Interim Finance Director

Dated: _____

Dated: 6/1/2022

Approved to Form

By: Andrew Naylor
County Counsel

Dated: 05/23/2022

EXHIBIT A

OUTSIDE IN SCOPE OF WORK FOR HIV TESTING

Activity A: HIV Testing			
Objective 1: Increase HIV/HCV testing for people who use substances			
Baseline: Currently testing services are available at all our HR sites in Clackamas County but they are poorly utilized by the community	Current Year Target: Increase the number of people who are accessing testing at our harm reduction spaces		Final Target: Maintain testing services amid transition at Clackamas Service Center and the move from Volunteers in Medicine to The Father's
Key Activities: Describe key actions/activities that will lead to achieving this objective (the how)	Lead(s) & Key Partners	Timeline	Comments:
1a: work with community partners to explore barriers to testing for people who use drugs	Blake Joachim	Aug-22	Explore partnership with LoveOne, work with Clackamas County BHRN network to provide harm reduction services county-wide.
1b: ensure all staff at our Harm Reduction Services are able to screen for HIV/HCV	Haven Wheelock & Andy Cho	Dec-22	
1c: Create IDU specific messaging around the importance of annual testing for HIV	Blake Joachim	Oct-22	Word of mouth education and flyers geared toward PWID and content to be shared with partners in corrections and other partners interfacing with PWID.
1d: Evaluate potential new partnerships that could increase testing in the community	Haven Wheelock	On going	

Activity C: PrEP/nPEP			
Objective 1: Promote PrEP/nPEP education for people using substances			
Baseline: Currently PrEP education is routinely offered during all HIV testing event. Knowledge of PrEP is low in the IDU community.	Current Year Target: Create IDU specific information about PrEP/nPEP while continuing to counsel on its availability during testing events		Final Target:
Key Activities: Describe key actions/activities that will lead to achieving this objective (the how)	Lead(s) & Key Partners	Timeline	Comments:
1a: Collect information that is IDU specific about the effectiveness of PrEP for people who are injecting substances	Ria Tsinas	Sep-22	
1b: Create client facing education for people who are accessing the SSP	Blake Joachim	Dec-22	
1c: Get approval of the information from our Medical Director and feedback from the Portland Drug Users Union	Andy Cho	Mar-22	

Activity D: Community-level HIV Prevention			
D1: Condom and lubricant distribution			
Objective 1: Distribute Condoms to people who are using substances			
Baseline: Condoms are currently being offered at all SSP sites	Current Year Target: Continue to distribute condoms to people who are accessing our services		Final Target:
Key Activities: Describe key actions/activities that will lead to achieving this objective (the how)	Lead(s) & Key Partners	Timeline	Comments:
1a: Ensure an adequate supply of condoms are available at all of our sites	Blake Joachim & Haven Wheelock	Ongoing	
1b: Continue messaging about safer sex practice to people who use substances	All Outside In staff	Ongoing	
D2: Social media & marketing			
Objective 1:			
Baseline:	Current Year Target:		Final Target:
Key Activities: Describe key actions/activities that will lead to achieving this objective (the how)	Lead(s) & Key Partners	Timeline	Comments:
1a:			
D3: Community Mobilization			
Objective 1:			
Baseline:	Current Year Target:		Final Target:
Key Activities: Describe key actions/activities that will lead to achieving this objective (the how)	Lead(s) & Key Partners	Timeline	Comments:
1a. OI staff will attend community networking and coalition meetings to connect with staff from other community partner organizations, share resources, and collaborate.	Haven Wheelock and relevant OI staff	ongoing	
1b. OI staff will provide SSP education and trainings to staff from community partner organizations.	Haven Wheelock and relevant OI staff	ongoing	
D4: Engagement with Communities of Color			
Objective 1:			
Baseline:	Current Year Target:		Final Target:
Key Activities: Describe key actions/activities that will lead to achieving this objective (the how)	Lead(s) & Key Partners	Timeline	Comments:
1a:			

Activity E: Syringe Services			
Objective 1: Provide Harm Reduction Services in Clackamas County			
Baseline: Currently we provide harm reduction services 3 days a week for 12 hours per week at two locations	Current Year Target: Increase this by one additional day and 5 additional hours per week		Final Target
Key Activities: Describe key actions/activities that will lead to achieving this objective (the how)	Lead(s) & Key Partners	Timeline	Comments:
1a: Establish new partnerships to increase engagement	Haven Wheelock	Aug-22	Continue to work with BHRN partners, & coalitions for PWID services.
1b: Evaluate locations with the greatest need for service	Haven Wheelock & Clackamas County staff	May-22	
1c: Coordinate with current locations about promoting harm reduction services at each location	Blake Joachim	On going	
Objective 2: Increase HIV/HCV testing for IDU in Clack County			
Baseline: Currently testing is offered at all our of our Clack County Harm Reduct	Current Year Target: Increase the number of people who get tested at thes		Final Target:
Key Activities: Describe key actions/activities that will lead to achieving this objective (the how)	Lead(s) & Key Partners	Timeline	Comments:
1a: Work with Clackamas County to understand the current trends in HIV in the county and evaluate where services most need to be targeted	Haven Wheelock & Clackamas County staff	Dec-22	
1b: Create IDU-specific HIV/HCV messaging around the importance of annual testing for people using substance	Haven Wheelock, Andy Cho & Clackamas County Staff	Oct-22	
1c: Train new staff members on HIV testing to increase the number of people who are able to test at our sites	Haven Wheelock & Andy Cho	Dec-22	

EXHIBIT B SUBRECIPIENT BUDGET

HIV Prevention - FY23 Subcontractor Line Item Budget							Contract Amount:	\$28,732
Complete all yellow shaded areas and cell values colored blue.								
For assistance, contact: Barbara Keepes, 971-673-0573, barbara.j.keepes@state.or.us								
County: Clackamas								
Subcontractor: OUTSIDE IN								
Completed by: (Include contact information): ANNI ZIELER, CONTROLLER, anniz@outsidein.org								
Date Completed: 03/30/2022								
IMPORTANT:								
1. This form must be completed by staff responsible for program budgets and fiscal monitoring.								
2. If your agency is subcontracting for services, a separate line item budget is required for each subcontractor.								
Budget Categories	Description							(A) Services / Costs Sub-Total
A) Personnel	Name & Title	Annual Salary & Fringe (Direct Services)	FTE based on 2080 hr work year	Rate / hr	Hrs / mo	# of mo. budgeted	Total	
	<i>Example</i>	<i>Jane Doe, R.N.</i>	<i>\$38,750.00</i>	<i>0.50</i>	<i>#DIV/0!</i>	<i>0.00</i>	<i>12</i>	<i>#DIV/0!</i>
	1	Syringe Exchange Specialist	\$43,091.00	0.25	\$19.55	43.33	12	\$8,449
	3	IDUHS Program Coordinator	\$71,801.00	0.01		1.73	12	\$6,462
	Total		\$114,892.00	0.26	\$19.55	45.07		\$14,911
B) Fringe Benefits	Personnel Costs	Fringe Benefit Rate %						Total:
	\$14,911.00	31%						\$4,622
C) Travel	Item	Detail						
	Include calculations for lodging, per diem, mileage, location of travel, number of people traveling and purpose of travel. Mileage rate may not exceed \$0.56 / mile. Do not budget mileage on county owned cars.							
	1	Round Trip from OI to Clackamas Service Center and Oregon City is 90 miles per week Total 90 miles/wk X 52weeks X \$0.585						\$2,738
	2							\$0
	3							\$0
Total								\$2,738
D) Equipment	Equipment is defined as costing \$5000 or greater and having a useful life of at least one year. Equipment purchases must be preapproved.							
	Item	Detail						
	1							\$0
	3							\$0
Total								\$0

E) Supplies		List supply detail including office & medical supplies. If using an allocation method, detail how costs are allocated, (i.e. FTE, sq footage, etc). For supplies, list item, quantity and cost. Preprinted, purchased materials are considered a supply item, direct printing costs of materials, is to be listed in section G, Other. The purchase of furniture is not allowed in this award.	
	Item	List item and cost	
	1	Alere HIV test kits \$16.81 @ 50 per year	\$841
	2	Safer Sex Supplies -Condoms and lube for distribution in Clackamas County	\$1,000
	3	Misc testing supplies (lances bandades gauze ect)	\$198
	4	Office Supplies	\$200
	5	52.33 @ 4 per year	\$210
	Total		\$2,449
F) Consultants		List all consultant costs and area in which consultative services are to be provided.	
		Summarize cost for each consultant	
	1		\$0
	2		\$0
		Total	
G) Other		List costs for staff training or trainings that the LPHA will be providing, marketing / advertising costs for all replication and distribution of materials, telephone, and other direct costs not already indicated. Printing costs, postage and office equipment rental. Note: food and beverages are only allowable when used as an incentive or as an integral part of an intervention. Incentives must be detailed, including individual costs, purpose of the incentive, and how incentive is to be used and tracked. For negotiable incentives, e.g., gift cards, a copy of cash handling procedures must be submitted with any request for incentive use. Any costs that are allocated costs must include allocation method.	
	Item	Detail	
	1	Printing for IDU specific HIV related client facing materials	\$1,400
	2		\$0
	3		\$0
	Total		\$1,400
H) Contractual		List all subcontracts, submit a separate line item budget for each contractor	
	Item	Subcontracted Agency	
	1		\$0
	2		\$0
	3		\$0
	Total		\$0
I) Total Direct Costs		Sum of A - H	
	Total		\$26,120
J) Indirect Costs		Outside In does not have a federal negotiated indirect cost rate. Per 45 CFR § 75.414(f) Outside In elects to charge a de minimis rate of 10% of modified total direct costs.	
	Item		\$2,612
	Total		
Total Direct Program Expenses - must match contract amount - sum of I & J			\$28,732

**EXHIBIT C
CONGRESSIONAL LOBBYING CERTIFICATE**

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

No Federal appropriated funds have been paid or will be paid, by or on 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 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.

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[as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

The undersigned shall require that the language of this certification 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 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 section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The Authorized Representative certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Organization understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Outside In

Organization Name

Award Number or Project Name

Don Reuther, Interim Finance Director

Name, Title


Signature

6/1/2022
Date

EXHIBIT D
REQUIRED FINANCIAL REPORTING AND REIMBURSEMENT REQUEST

PROJECT NAME: HIV Testing and Counseling	AGREEMENT # 23-002 Contract #10622
SUB-RECIPIENT: OUTSIDE IN, INC.	

COMPENSATION AND RECORDS

- A. COUNTY shall compensate SUBRECIPIENT for satisfactorily completing activities described in EXHIBIT A, above.
- B. Total payments to SUBRECIPIENT shall not exceed **\$28,732**.
- C. COUNTY agrees to pay SUBRECIPIENT true and verifiable expenses on a monthly basis contingent on COUNTY receiving award funds from the State of Oregon.
- B. Method of Payment: To receive payment, SUBRECIPIENT shall submit Request for Reimbursement Form monthly for true and verifiable expenses as outlined below:

SUBRECIPIENT shall submit Request for Reimbursement Form monthly for true and verifiable expenses by the tenth day of the month following that in which service was performed. Requests shall be submitted to Clackamas County Public Health (“CCPHD”), Attn: Sherry Olson 2051 Kaen Road, Suite 367, Oregon City, Oregon 97045, or electronically to: SOlson4@co.clackamas.or.us. When submitting electronically, designate SUBRECIPIENT name and contract **Agreement # 23-002 Contract #10622** in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided that the Program Supervisor has approved the service specified on the invoice, COUNTY shall pay the amount requested to SUBRECIPIENT.

Withholding of Agreement Payments: Notwithstanding any other payment provision of this Agreement, should SUBRECIPIENT fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until SUBRECIPIENT submits required reports, performs required services, or establishes to COUNTY’s satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of SUBRECIPIENT.

SUBRECIPIENT shall complete the State of Oregon HIV Prevention Program Workbook for FY2021 (Exhibit E) **quarterly**. CCPHD will complete their section of the workbook and send the workbook electronically via E-mail to SUBRECIPIENT by the tenth day of the month. SUBRECIPIENT will complete its sections and return to CCPHD by the 20th of the month. **Completed workbook due to Oregon Health Authority (“OHA”) 30 DAYS AFTER QUARTER END.**

Reporting Periods:

07/01/2022- 12/31/2022, 01/01/2023– 06/30/2023

(Sample of Request for reimbursement form on next page)

**EXHIBIT D1: SUBRECIPIENT REQUEST FOR REIMBURSEMENT
 CLACKAMAS COUNTY PUBLIC HEALTH DIVISION**

Organization: <u>Outside In</u>				CLAIM PERIOD:	Note: This form derives from the approved budget in your grant agreement. All expenditures must have adequate supporting documentation.	
Service: <u>HIV Testing</u>						
Program Contact:						
Agreement Term: <u>July 1, 2022 – June 30, 2023</u>						
Agreement Number: <u>23-002</u>						
	Approved Grant Amount	Monthly Grant Expenditure	Total Monthly Expenditure	YTD Grant Expenditure	Balance	
Category						
Personnel (List salary, FTE & Fringe costs for each position)						
Syringe Exchange Specialist		\$ -	\$ -	\$ -	\$ -	
IDUHS Program Coordinator		\$ -	\$ -	\$ -	\$ -	
Total Fringe: 32%						
Total Personnel Services	\$ -	\$ -	\$ -	\$ -	\$ -	
Supplies						
Testing, safe sex supplies		\$ -	\$ -	\$ -	\$ -	
Travel						
Mileage (.56/milex3,380 miles)		\$ -	\$ -	\$ -	\$ -	
Additional (please specify)						
	\$ -	\$ -	\$ -	\$ -	\$ -	
Total Programmatic Costs		\$ -	\$ -	\$ -	\$ -	
Indirect Rate (10% non-federal)		\$ -	\$ -	\$ -	\$ -	
Total Grant Costs		\$ -	\$ -	\$ -	\$ -	

Clackamas County and the Federal government retain the right to inspect all financial records and other books, documents, papers, plans, records of shipments and payments and writings of subrecipient that are pertinent to this Agreement.

CERTIFICATION

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Prepared by:				
Authorized SUBRECIPIENT Official:				
Date:				
Department Review:				
Project Officer Name:				
Department:				
Signature:				
Department: forward to Grant Accountant for review and processing				Grant Accountant Initial/Date:

EXHIBIT E
MONTHLY AND FINAL PERFORMANCE REPORT

PROJECT NAME: HIV Testing and Counseling	AGREEMENT #23-002 Contract #10622
SUBRECIPIENT: OUTSIDE IN, INC.	

OHA will send the HIV Prevention Program Workbook to SUBRECIPIENT and CCPHD. SUBRECIPIENT will complete the workbook and send to CCPHD 10 days prior to the OHA due date (30 DAYS AFTER EACH SIX-MONTH PERIOD)

Reporting Periods:

07/01/2022- 12/31/2022, 01/01/2023– 06/30/2023

**CLACKAMAS COUNTY AND OUTSIDE IN, INC SUBRECIPIENT AGREEMENT
 EXHIBIT F: FINAL FINANCIAL REPORT**

<i>Project Name: HIV Testing and Counseling</i>	<i>Agreement #: 23-002</i>
<i>Federal Award #:</i>	<i>Date of Submission: XX/XX/XX</i>
<i>Subrecipient: OUTSIDE IN, INC.</i>	
<i>Has Subrecipient submitted all requests for reimbursement? Y/N</i>	
<i>Has Subrecipient met all programmatic closeout requirements? Y/N</i>	

Final Financial Report

Report of Funds received, expended, and reported as match (if applicable) under this agreement

Total Federal Funds authorized on this agreement:	
Year-to-Date Federal Funds requested for reimbursement on this agreement:	
Total Federal Funds received on this agreement:	
Balance of unexpended non-Federal Funds (Line 1 minus Line 3):	

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

**EXHIBIT G
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement is entered into as of **July 1, 2022** (“Effective Date”) by and between **Clackamas County, on behalf of its Health, Housing and Human Services, Public Health Division** (“Covered Entity”) and **Outside In** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996, and its regulations (“HIPAA”).

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 (“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 Business Associate Agreement to address certain requirements under the HIPAA Rules;
Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

- 1.1 “Breach” is defined as 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 an Workforce member’s course and scope of employment or placement;
 - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Work force 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 “Effective Date” shall be the Effective Date of this Business Associate Agreement.
- 1.5 “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 Business Associate Agreement.
- 1.6 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.7 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.8 “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).
- 1.9 “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.

- 1.10 “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.
- 1.11 “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.
- 1.12 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.13 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.14 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.15 “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.
- 1.16 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 Business Associate 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 Business Associate 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 Business Associate Agreement.
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Business Associate 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.
- 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 2.6 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 2.7 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 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 Business Associate 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;
- 2.11 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 information. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware.
- 2.12 To retain records related to the PHI hereunder for a period of six (6) years unless the Business Associate Agreement is terminated prior thereto. In the event of termination of this Business Associate Agreement, the provisions of Section V of this Business Associate Agreement shall govern record retention, return or destruction.
- 2.13 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 in accordance with 45 CFR §164.410. 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 whose 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
- 2.14 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 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.2 Except as otherwise limited in this Business Associate 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 HIPAA Rules if done by the Covered Entity; and,
- 3.3 Except as otherwise limited in this Business Associate 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; 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.

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. 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 Privacy Standards if done by the Covered Entity, except as set forth in Section 3.2 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. 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 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 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 Business Associate Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI 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 Business Associate 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 Business Associate 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 Business Associate 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 Business Associate 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 Business Associate Agreement and the 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 Business Associate Agreement if the Covered Entity has breached a material term of this Business Associate 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 Business Associate 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 Business Associate 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 Business Associate Agreement to the 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 Business Associate 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 Business Associate 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 Sections II and III of this Business Associate 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 Business Associate Agreement shall survive the termination of the Services Agreement and this Business Associate Agreement.
- 7.6 **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.

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

Business Associate

Covered Entity

Outside In

Clackamas County

By: 
Don Reuther, Interim Finance Director

By: _____
Tootie Smith

Title: Interim Finance Director

Title: Chairperson, Board of County Commissioners

Date: 6/1/2022

Date: _____

COVER SHEET

- New Agreement/Contract
- Amendment/Change/Extension to _____
- Other _____

Originating County Department: _____

Other party to contract/agreement: _____

Description:

After recording please return to: _____

- County Admin
- Procurement

If applicable, complete the following: _____

Board Agenda Date/Item Number: _____