

June 20, 2024

BCC Agenda Date/Item: _____

Board of County Commissioners
 Clackamas County

Approval of an Intergovernmental Agreement with Multnomah County for Crisis and Support Line Services. Agreement value of \$2,114,280 for 3 years. Funding through the Oregon Health Authority and the Oregon Health Plan. No County General Funds are involved.

Previous Board Action/Review	Briefed at Issues June 18, 2024		
Performance Clackamas	Ensuring safe, healthy and secure communities through the provision of mental health and substance use services.		
Counsel Review	Yes	Procurement Review	No
Contact Person	Mary Rumbaugh	Contact Phone	503-742-5305

EXECUTIVE SUMMARY: The Behavioral Health Division of the Health, Housing and Human Services Department requests approval of an intergovernmental agreement (IGA) with Multnomah County for Crisis and Support Line Services.

As a community mental health program (CMHP), Clackamas County is mandated to provide crisis line services under ORS 430.630(2). Through this IGA Clackamas County formally delegates afterhours and weekend Clackamas County Crisis and Support Line functions from Clackamas County Behavioral Health Division to Multnomah County’s Behavioral Health Call Center (BHCC). Multnomah County BHCC will, within a specified timeframe, respond to callers from Clackamas County experiencing a mental health crisis or representing someone currently in crisis.

Agreement value is \$2,114,280.00 for services beginning July 1, 2024 through June 30, 2027. Funding provided through Oregon Health Authority and Oregon Health Plan.

RECOMMENDATION: Staff respectfully requests that the Board of Commissioners approve this Agreement and authorize Chair Smith to sign on behalf of Clackamas County.

Respectfully submitted,

Rodney A. Cook

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

For Filing Use Only

INTERGOVERNMENTAL AGREEMENT

BETWEEN

CLACKAMAS COUNTY,
HEALTH, HOUSING AND HUMAN SERVICES DEPARTMENT,
BEHAVIORAL HEALTH DIVISION

AND

MULTNOMAH COUNTY,
HEALTH DEPARTMENT, BEHAVIORAL HEALTH DIVISION

Agreement #11608

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County ("Clackamas") and Multnomah County ("Multnomah"), both political subdivisions of the State of Oregon, collectively referred to as the "Parties" and each a "Party."

RECITALS

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

TERMS

1. **Term.** This Agreement shall be effective upon execution, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or **June 30, 2027**, whichever is sooner.
2. **Scope of Work.** Multnomah agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** Clackamas agrees to pay Multnomah, from available and authorized funds, a sum not to exceed **two million one hundred fourteen thousand two hundred eighty dollars (\$2,114,280.00)** for accomplishing the Work required by this Agreement.
4. **Payment.** Unless otherwise specified, Multnomah shall submit monthly invoices for Work performed and shall include the total amount billed to date by Multnomah prior to the current invoice. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. Payments shall be made to Multnomah following Clackamas' review and approval of invoices submitted by Multnomah. Multnomah shall not submit invoices for, and Clackamas will not pay, any amount in excess of the maximum compensation amount set forth above.
5. **Representations and Warranties.**
 - A. *Multnomah Representations and Warranties:* Multnomah represents and warrants to Clackamas that Multnomah has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Multnomah enforceable in accordance with its terms.
 - B. *Clackamas Representations and Warranties:* Clackamas represents and warrants to Multnomah that Clackamas has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of Clackamas enforceable in accordance with its terms.

- C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

- A. Either Clackamas or Multnomah may terminate this Agreement at any time upon one hundred twenty (120) days written notice to the other party.
- B. Either Clackamas or Multnomah may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. Clackamas or Multnomah shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Either party may terminate this Agreement in the event that party fails to receive expenditure authority sufficient to allow the party, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way to either the Work under this Agreement is prohibited or the party is prohibited from paying for such work from the planned funding source.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

- 7. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.

- 8. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received two (2) hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

- A. Jeffrey Anderson, Crisis Program Supervisor, or their designee will act as liaison for Clackamas County.

Contact Information:

Phone: 503-722-6689

Email: JeffreyAnd@clackamas.us

Cheryl Lemley, or their designee, will act as liaison for Multnomah County.

Contact Information:

Email: cheryl.lemley@multco.us

9. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon. Any claim between Clackamas and Multnomah that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by Clackamas or Multnomah 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. Clackamas and Multnomah, by execution of this Agreement, hereby consent to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** The parties shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of ten (10) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. The parties shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, the parties shall permit authorized representatives access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- F. **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.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance

and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **No Third-Party Beneficiary.** Multnomah and Clackamas are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement 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 Agreement.
- K. **Subcontract and Assignment.** Multnomah shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from Clackamas, which shall be granted or denied in Clackamas' sole and absolute discretion. Clackamas' consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- L. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- M. **Survival.** All provisions in sections 6, 8, and 9 shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- N. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- O. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- P. **Force Majeure.** Neither Multnomah nor Clackamas shall be held responsible for delay or default caused by events outside of Multnomah or Clackamas' reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war.
- Q. **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 nine (9) sections plus the following exhibits that by this reference are incorporated herein:

- Exhibit A – Scope of Work
- Exhibit B – Compensation
- Exhibit C – OHP Federal Terms and Conditions



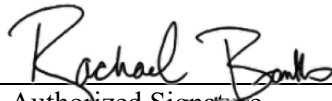
Exhibit D – Business Associate Agreement

[Signatures on Following Page]

SIGNATURE PAGE

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

Multnomah County



June 7, 2024

Authorized Signature

Date

Rachael Banks Health Department Director
Name / Title (Printed)

Clackamas County

Signature

Date

Name:

Title:

Approved as to Form:



6/10/2024

County Counsel

Date

EXHIBIT A SCOPE OF WORK

Clackamas County is mandated to provide crisis line services as the community mental health program for Clackamas County under ORS 430.630(2). This Inter-Governmental Agreement (IGA) formally delegates afterhours and weekend Clackamas County Crisis and Support Line functions from Clackamas County Behavioral Health Division (BHD) to Multnomah County's Behavioral Health Call Center (BHCC). The primary objective of this IGA is for Multnomah County BHCC, within the specified timeframe outlined below, to respond to callers from Clackamas County experiencing a mental health crisis or representing someone currently in crisis.

Crisis Line Services

Services will encompass crisis triage, intervention, consultation, and referral, aligning with the standards outlined in OAR 309-019-0150(1) and OAR 309-019-0300, as well as the protocols detailed below. Multnomah County BHCC workforce members will assess the situation for each call and may provide any of the following:

- Crisis assessment, triage, intervention, de-escalation, and referral as needed. This may include consultation with family members, schools, agencies, first responders, and community members as appropriate and permitted under applicable law.
- Screening to assess the immediate service needs of adults or children seeking assistance, or for whom assistance is requested. This screening includes the evaluation for the daytime use of the Clackamas Mental Health Center (CMHC) or the immediate use of the Clackamas County Mobile Crisis Response Team (MCRT), with a referral made to either team when indicated.
- Suicide intervention and prevention, including lethal means counseling and safety planning for individuals at risk for suicide.
- Referral to local law enforcement or other first responders for an immediate on-site response when indicated (e.g., in the event of life-threatening emergencies or situations involving violence).
- Referral to a local emergency department for further assessment and evaluation when indicated.
- Assistance to callers reporting a grievance against Clackamas County providers by documenting the complaint and forwarding it to the Clackamas County Behavioral Health Division Quality Team for investigation and resolution (by emailing complaints to BH-QualityManagement@clackamas.us).
- Hospital diversion, including exploring less restrictive alternatives, and engaging the Clackamas County Mobile Crisis Response Team (MCRT) when indicated.
- Information and referral, including linking with mental health providers and providing contact information for local resources to meet an individual's basic needs. This will also include performing information and referral services for individuals seeking help for alcohol, drug, or gambling problems. Clackamas County does not categorize its Crisis and Support Line as a program directly governed by 42 CFR Part 2.
- Aid in disposition planning for Clackamas County residents when local Emergency Departments call for guidance, information, or referral.

The Multnomah County BHCC will support Clackamas County callers in the least restrictive setting whenever possible. This involves actively facilitating the exploration of alternatives to higher levels

of care. Hospitalization will be considered a last resort, only pursued when necessary to maintain safety, and after all other clinically appropriate options have been thoroughly explored and exhausted.

Staff and Training

The Multnomah County BHCC will be staffed by Qualified Mental Health Associates (QMHA) and/or Qualified Mental Health Professionals (QMHP) under the supervision of a QMHP with a minimum of 2 years of post-graduate experience in clinical crisis response services. A QMHP will be accessible to callers at all times. All services will be delivered in a safe, professional, culturally competent, gender-sensitive, and language-appropriate manner as determined by Multnomah County.

Formal interpretation services must be available to individuals and families who request services in languages not spoken by Multnomah County BHCC staff. Language assistive devices must be provided for individuals who are deaf or hard of hearing. Multnomah County will make a good faith effort to have bilingual staff persons fluent in Spanish available to respond to callers.

Training for Multnomah County BHCC staff will align with the requirements outlined in OAR 309-019-0315 for personnel working in a capacity similar to Clackamas County staff. The training curriculum will cover triage protocol, referral resources specific to Clackamas County, crisis plan development, and screening for a Declaration for Mental Health Treatment. Additionally, training will encompass best practices in the following areas: risk assessment, including suicide risk assessment; suicide intervention and prevention; safety planning; lethal means counseling; de-escalation methods; crisis intervention; recovery support, including peer-delivered services; trauma-informed care; and cultural awareness.

Furthermore, Multnomah County BHCC will provide training to their staff regarding the contractual expectations outlined in this IGA, and will ensure staff follow the protocol outlined below.

Protocol

1. Multnomah County BHCC staff will answer all calls forwarded from the Clackamas County Crisis and Support Line – 503-655-8585 – with the following greeting: “Clackamas County Crisis and Support Line, this is (staff first name), how can I help you?”
2. Staff will make efforts to gather the complete name, date of birth (DOB), location/address, County of residence, and phone number for every individual seeking assistance, or for whom assistance is requested.
3. Staff will attempt to resolve calls over the phone when possible, including providing assessment, triage, intervention, de-escalation, information, and referral as needed.
4. Staff will explore the possible use of Clackamas Mental Health Center (CMHC) when an individual is a resident of Clackamas County, is in need of urgent or emergent outpatient mental health services, and is otherwise not enrolled in such services. Clackamas MHC is open 9am – 7pm, Monday through Friday. Callers should be told to walk in during open Center hours, or to call the Crisis and Support line (503-655-8585) after 8:45am on a weekday for more information and/or to schedule an appointment.

5. For calls that are emergent or urgent in nature and necessitate on-site mobile crisis intervention, staff will promptly contact Clackamas County MCRT staff at 503-722-6262 or 503-722-6267 to request mobile outreach.
6. If MCRT staff do not respond within five (5) minutes, staff will make a second attempt at contact. If MCRT staff do not respond after an additional five (5) minutes, BHCC staff will contact the Clackamas County Administrator On Call at 503-722-6263 to request assistance.
7. In the event of programmatic or procedural changes, Clackamas County will communicate new information via email. Multnomah County BHCC will promptly enter this information into the relevant database and notify line staff of these changes.

Documentation

Multnomah County BHCC staff will record each episode of contact involving clinical intervention or referral to service for a Clackamas County caller in the Multnomah County electronic health record (EHR). Access to the Multnomah County EHR will not be granted to Clackamas County staff. Instead, a daily report summarizing calls taken on behalf of Clackamas County will be provided, with call details organized by name of individual seeking assistance (or for whom assistance was requested). Additional information may be disclosed upon request, subject to applicable law, and specifically in situations involving a serious and imminent threat of harm.

Other Responsibilities

- Directing non-crisis callers to relevant information (e.g., CMHC front desk at 503-722-6200, our website at <https://www.clackamas.us/behavioralhealth/urgentmentalhealth>) and resolving non-crisis questions or issues without contacting Clackamas County staff.
- Ensuring privacy and confidentiality of information in accordance with federal and state requirements.
- Communicating with the Clackamas County Mobile Crisis Response Team (MCRT) in response to mobile assessment requests from the Clackamas County Juvenile Intake and Assessment Center (JIAC).
- Adhering to child abuse laws (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse laws (ORS 430.731 – 430.768, and OAR 943-045-0250 through 493-045-0370), and elder abuse reporting laws (ORS 124.050 – 124.092), and reporting as if a mandatory abuse reporter. If not mandatory reporters by statute, staff will comply with reporting requirements during work hours only, reporting immediately to the relevant state or law enforcement agency. Their report will include documentation of the circumstances and information supporting reasonable cause to believe that any person has abused a child, mentally ill or developmentally disabled adult, or elderly person, or that any such person has been abused.
- Generating and logging Crisis Alerts, while ensuring that copies of all alerts are forwarded to Clackamas County for inclusion in their Electronic Health Record (EHR).
- Referring/supporting callers from outside Clackamas County to appropriate services near them, including local or national crisis lines.
- Contacting the BHD on-call supervisor at 503-722-6263 and the Psychiatric Security Review Board (PSRB) at 503-229-5596 to report crises involving individuals under the jurisdiction of the PSRB.

- Taking information/questions from acute care hospital staff concerning individuals placed on an involuntary mental health hold initiated by a Notification of Mental Illness (NMI), and passing information/questions to Clackamas County staff at 503-722-6200 for follow-up by the Involuntary Commitment Program (ICP).
- Taking information from acute care hospital staff notifying Clackamas County Behavioral Health that an individual has been placed on a 12-hour transport custody, and relaying that information to Clackamas County staff at 503-722-6200.
- Handling alarms and facility emergencies (e.g., report that a County building was broken into) by calling our Facility Management emergency line at 503-557-6416.
- Prompting County staff calling in sick to contact their supervisor for immediate coverage concerns and leave a message at Clackamas Mental Health Center's front desk, 503-722-6200.
- Contacting the BHD on-call supervisor at 503-722-6263 when clinical or logistical issues arise that cannot be resolved by Multnomah County BHCC's supervisory or QMHP staff.

Reporting, Performance Standards, and Oversight

Multnomah County BHCC will provide a quarterly report within thirty (30) days following the end of each quarter. The report will include the following metrics:

- Call volume
- Average speed of answer
- Average length of call
- Call abandonment rate
- Percentage of calls resolved by phone
- Number of MCRT dispatches

Multnomah County BHCC will maintain and report on the following minimum performance standards:

- Wait time before the system initially picks up each call must be less than thirty (30) seconds, commencing from the first ringtone.
- Wait time before a live clinical staff picks up each call must be less than thirty (30) seconds, commencing from the initial system pickup.
- When the response time deviates from these expectations in more than 5% of calls, the Contractor will investigate the reasons and proactively report efforts to improve to Clackamas County.

Multnomah County BHCC and Clackamas County staff will convene at least quarterly to discuss call volumes and program outcomes, address issues, problem-solve, and enhance protocols.

Clackamas County will develop mechanisms and processes to oversee and monitor the work of Multnomah County BHCC staff to ensure compliance and contractual obligations. Monitoring activities can include inspection of documents, files, logs, etc.

Multnomah County BHCC will actively engage in oversight reviews initiated by Clackamas County, encompassing evaluations of policies and procedures, staff training curriculum, and the grievance/complaint process, among other relevant aspects.

Complaints Process

Multnomah County BHCC is required to establish and implement distinct policies and procedures to comprehensively document any potential complaints or grievances raised by callers. These procedures should be separate from those related to assisting callers reporting a grievance against Clackamas County providers. The policies and procedures must cover all stages of the process, starting from the receipt of a complaint or grievance, through the investigative process, and concluding with the notification of resolution to the grievant, if the grievant requests such notification.

Multnomah County BHCC is obligated to resolve all complaints or grievances within thirty (30) calendar days and must furnish a copy of the processes and procedures to Clackamas County within the first sixty (60) days after the contract's effective date.

The documentation for all complaints/grievances and their respective resolutions must be comprehensive. Upon Clackamas County's request, Multnomah County BHCC will promptly provide a copy of the documentation related to a complaint/grievance.

Clackamas County Contacts

Contact Person	Contact Info	Purpose / Reason to Contact
Clackamas County Mobile Crisis Response Team (MCRT)	503-722-6262 503-722-6267	Requests for onsite mobile response
Clackamas County Administrator On Call	503-722-6263	To forward reported PSRB client issues If MCRT does not respond x2 Unresolved logistical issues
Psychiatric Security Review Board (PSRB)	503-229-5596	To forward reported PSRB client issues
Clackamas County Non-Emergency Dispatch (CCOM)	503-655-8211	Requests for law enforcement/AMR
Clackamas County Facility Management	503-557-6416	For Clackamas County building issues
Clackamas County Behavioral Health Division Quality Team	BH- QualityManagement@clackamas.us	Complaints about Clackamas County providers or staff

Clackamas Mental Health Center (CMHC)	503-722-6200	To leave a message for Center staff To relay information/questions from hospitals or emergency departments
---------------------------------------	--------------	---

Crisis and Support Line Hours of Operation

The Clackamas Crisis and Support Line (503-655-8585) will be forwarded to Multnomah County BHCC per the following schedule:

Monday, Tuesday, Wednesday, Thursday: 6:30 p.m. through 8:45 a.m.		
Friday: 6:30 p.m. through 8:45 a.m. Monday (Saturday and Sunday: Clackamas Mental Health Center CLOSED)		
HOLIDAYS	BHCC HOURS	CENTER HOURS
Independence Day, July 4	Midnight July 4 through 8:45 a.m. July 5	CLOSED
Labor Day, First Monday in September	Midnight – 10:30 a.m.; 6:30 p.m. through 8:45 a.m. Tuesday	10 a.m. – 7 p.m.
Veteran’s Day, November 11	Midnight – 10:30 a.m.; 6:30 p.m. through 8:45 a.m. November 12	10 a.m. – 7 p.m.
Thanksgiving Day, Fourth Thursday in November	Midnight Thursday through 8:45 a.m. Friday	CLOSED
Christmas Day, December 25	Midnight December 25 through 8:45 a.m. December 26	CLOSED
New Year’s Day, January 1	Midnight January 1 through 8:45 a.m. January 2	CLOSED
MLK Day, Third Monday in January	Midnight – 10:30 a.m.; 6:30 p.m. through 8:45 a.m. Tuesday	10 a.m. – 7 p.m.
President’s Day, Third Monday in February	Midnight – 10:30 a.m.; 6:30 p.m. through 8:45 a.m. Tuesday	10 a.m. – 7 p.m.
Memorial Day, Last Monday in May	Midnight – 10:30 a.m.; 6:30 p.m. through 8:45 a.m. Tuesday	10 a.m. – 7 p.m.
Juneteenth, June 19	Midnight – 10:30 a.m.; 6:30 p.m. through 8:45 a.m. June 20	10a.m. – 7p.m.

Upon notification from Clackamas County, Multnomah County BHCC will allow County to forward the Crisis and Support Line outside of the above scheduled times.

**EXHIBIT B
COMPENSATION**

- a. Payment for all Work performed under this Agreement shall not exceed the total maximum sum of **\$2,114,280.00 (\$704,760 annually)**.

Compensation funds the following FTE:

- 3.0 FTE Call Center Staff
 - Includes additional 15% for overtime for these positions
 - 0.25 FTE Behavioral Health Program Supervisor
- b. Multnomah shall submit **itemized monthly invoices by the 10th day of the month** following the month Services were provided. The invoice shall include:

Contract #11608,
Service details,
Date(s) of service,
Total amount due for all Services provided during the month, and
Total amount billed to date by Multnomah prior to the current invoice.

If Multnomah fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Multnomah waives any rights to present such invoice thereafter and to receive payment therefor.

All invoices and supporting documentation shall be sent by email or mail to:

BHAP@clackamas.us and JeffreyAnd@clackamas.us

Clackamas County Behavioral Health Division
Accounts Payable
2051 Kaen Road, Suite #154
Oregon City, Oregon 97045

When submitting electronically, designate Multnomah County and Agreement #11608 in the subject of the email.

- c. Payments shall be made to Multnomah, within thirty (30) days, following Clackamas' review and approval of invoices submitted by Multnomah. Multnomah shall not submit invoices for, and Clackamas will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Agreement, the amendment must be fully effective before Multnomah performs Work subject to the amendment.

EXHIBIT C
OHP FEDERAL TERMS AND CONDITIONS

Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Contractor shall comply and, as indicated, cause all Subcontractors to comply with the following federal requirements to the extent that they are applicable. For purposes of this Contract, all references to federal and State laws are references to federal and State laws as they may be amended from time to time.

1. Miscellaneous Federal Provisions

Contractor shall comply and require all Subcontractors to comply with all federal laws, regulations and executive orders applicable to this Contract or to the delivery of Work. Without limiting the generality of the foregoing, Contractor expressly agrees to comply and require all Subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to this Contract: (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 U.S.C. 14402.

2. Equal Employment Opportunity

If this Contract, including amendments, is for more than \$10,000, then Contractor shall comply and require all Subcontractors to 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).

3. Clean Air, Clean Water, EPA Regulations

If this Contract, including amendments, exceeds \$100,000 then Contractor shall comply and require all Subcontractors to 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 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency 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. Violations shall be reported to OHA, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include and require all Subcontractors to include in all contracts with Subcontractors receiving more than \$100,000, language requiring the Subcontractor to comply with the federal laws identified in this section.

4. Energy Efficiency

Contractor shall comply and require all Subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that 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).

5. Truth in Lobbying

By signing this Contract, the Contractor certifies, to the best of the Contractor's knowledge and belief that:

- a.** No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an 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, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c.** The Contractor 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 and Subcontractors shall certify and disclose accordingly.
- d.** This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by Section 1352, Title 31, of the 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 Contractor 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 Contractor 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 Contractor 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.

6. HIPAA Compliance

The parties acknowledge and agree that each of County and the Contractor is a “covered entity” for purposes of privacy and security provisions of the Health Insurance Portability and Accountability Act and its implementing federal regulations (collectively referred to as HIPAA). County and Contractor shall comply with HIPAA to the extent that any Work or obligations of County arising under this Contract are covered by HIPAA. Contractor shall develop and implement such policies and procedures for maintaining the privacy and security of records and authorizing the use and disclosure of records required to comply with this Contract and with HIPAA. Contractor shall comply and cause all Subcontractors to comply with HIPAA and the following:

- a.** Privacy and Security of Individually Identifiable Health Information. Individually Identifiable Health Information about specific individuals is protected from unauthorized use or disclosure consistent with the requirements of HIPAA. Individually Identifiable Health Information relating to specific individuals may be exchanged between Contractor and County for purposes directly related to the provision of services to clients which are funded in whole or in part under this Contract. However, Contractor shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate HIPAA Privacy Rules in 45 CFR Parts 160 and 164, OHA Privacy Rules, OAR Chapter 407 Division 014, or OHA Notice of Privacy Practices, if done by OHA. A copy of the most recent OHA Notice of Privacy Practices is posted on the OHA web site at: <https://apps.state.or.us/cf1/FORMS/>, Form number ME2090 Notice of Privacy Practices, or may be obtained from OHA.
- b.** HIPAA Information Security. Contractor shall adopt and employ reasonable administrative and physical safeguards consistent with the Security Rules in 45 CFR Part 164 to ensure that client information shall be used by or disclosed only to the extent necessary for the permitted use or disclosure and consistent with applicable State and federal laws and the terms and conditions of this Contract. Security incidents involving client information must be immediately reported to DHS’ Privacy Officer.
- c.** Data Transactions Systems. Contractor shall comply with the HIPAA standards for electronic transactions published in 45 CFR Part 162 and the DHS EDT Rules, OAR 410-001-0000 through 410-001-0200. In order for Contractor to exchange electronic data transactions with OHA in connection with claims or encounter data, eligibility or Enrollment information, authorizations or other electronic transaction, Contractor shall

execute an EDT Trading Partner Agreement with OHA and shall comply with the OHA EDT Rules.

- d. Consultation and Testing. If Contractor reasonably believes that the Contractor's, County's or OHA's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Contractor shall promptly consult the County or OHA HIPAA officer. Contractor, County, or OHA may initiate a request for testing of HIPAA transaction requirements, subject to available resources and OHA testing schedule.

7. Resource Conservation and Recovery

Contractor shall comply and require all Subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

8. Audits

- a. Contractor shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.
- b. If Contractor expends \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, Contractor shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Contractor shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to OHA within 30 days of completion. If Contractor expends less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, Contractor is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, Part 8, Section 2.

9. Debarment and Suspension

Contractor shall, in accordance with 42 CFR 438.808(b), not permit any person or entity to be a Subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No.12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

Contractor shall ensure that no amounts are paid to a Provider that could be excluded from participation in Medicare or Medicaid for any of the following reasons:

- a. The Provider is controlled by a sanctioned individual

- b.** The Provider has a contractual relationship that provides for the administration, management or provision of medical services, or the establishment of policies, or the provision of operational support for the administration, management or provision of medical services, either directly or indirectly, with an individual convicted of certain crimes as described in section 1128(b)(8)(B) of the Social Security Act
- c.** The Provider employs or contracts, directly or indirectly, for the furnishing of health care, utilization review, medical social work, or administrative services, with one of the following:

 - (i)** Any individual or entity excluded from participation in Federal health care programs.
 - (ii)** Any entity that would provide those services through an excluded individual or entity.

The Contract prohibits the Contractor from knowingly having a person with ownership of 5% or more of the Contractor's equity if such person is (or is affiliated with a person or entity that is) debarred, suspended, or excluded from participation in federal healthcare programs.

If OHA learns that Contractor has a prohibited relationship with a person or entity that is debarred, suspended, or excluded from participation in federal healthcare programs, OHA:

- a.** Must notify DHHS of Contractor's noncompliance;
- b.** May continue an existing agreement with the Contractor unless DHHS directs otherwise; and
- c.** May not renew or extend the existing contract with the Contractor unless DHHS provides to the State a written statement describing compelling reasons that exist for renewing or extending the Contract, consistent with 42 CFR 438.610.

10. Pro-Children Act

Contractor 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.).

11. Non-Discrimination

Contractor shall comply, and require its Subcontractors to 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. Contractor shall also comply with all applicable requirements of State civil rights and rehabilitation statutes and rules.

12. OASIS

To the extent applicable, Contractor shall comply with, and shall require Subcontractors to comply with, the Outcome and Assessment Information Set (OASIS) reporting requirements and patient notice requirements for skilled services provided by Home Health Agencies, pursuant to CMS requirements published in 42 CFR 484.45, and such subsequent regulations as CMS may issue in relation to the OASIS program.

13. Patient Rights Condition of Participation

To the extent applicable, Contractor shall comply with, and shall require Subcontractors to comply with, the Patient Rights Condition of Participation (COP) that Hospitals must meet to continue participation in the Medicaid program, pursuant to 42 CFR Part 482. For purposes of this Contract, Hospitals include short-term, psychiatric, rehabilitation, long-term, and children’s hospitals.

14. Federal Grant Requirements

The federal Medicaid rules establish that OHA and the County are recipients of federal financial assistance, and therefore are subject to federal grant requirements pursuant to 42 CFR 430.2(b). To the extent applicable to Contractor or to the extent OHA and/or the County requires Contractor to supply information or comply with procedures to permit OHA and/or the County to satisfy its obligations federal grant obligations or both, Contractor must comply with the following parts of 45 CFR:

- a. Part 74, including Appendix A (uniform federal grant administration requirements);
- b. Part 92 (uniform administrative requirements for grants to state, local and tribal governments);
- c. Part 80 (nondiscrimination under Title VI of the Civil Rights Act);
- d. Part 84 (nondiscrimination on the basis of handicap);
- e. Part 91 (nondiscrimination on the basis of age);
- f. Part 95 (Medicaid and CHIP federal grant administration requirements); and
- g. Contractor shall not expend, and Contractor shall include a provision in any Subcontract that its Subcontractor shall not expend, any of the funds paid under this Contract for roads, bridges, stadiums, or any other item or service not covered under the OHP.

15. Mental Health Parity

Contractor shall adhere to CMS guidelines regarding Mental Health Parity detailed below:

- a. If Contractor does not include an aggregate lifetime or annual dollar limit on any medical/surgical benefits or includes an aggregate lifetime or annual dollar limit that applies to less than one-third of all medical/surgical benefits provided to enrollees, it may not impose an aggregate lifetime or annual dollar limit, respectively, on mental health or substance use disorder benefits;
- b. If Contractor includes an aggregate lifetime or annual dollar limit on at least two-thirds of all medical/surgical benefits provided to enrollees, it must either apply the aggregate lifetime or annual dollar limit both to the medical/surgical benefits to which the limit would otherwise apply and to mental health or substance use disorder benefits in a manner that does not distinguish between the medical/surgical benefits and mental health or substance use disorder benefits; or not include an aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits that is more restrictive than the aggregate lifetime or annual dollar limit, respectively, on medical/surgical benefits;

- c. If Contractor includes an aggregate lifetime limit or annual dollar amount that applies to one-third or more but less than two-thirds of all medical/surgical benefits provided to enrollees, it must either impose no aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits; or impose an aggregate lifetime or annual dollar limit on mental health or substance use disorder benefits that is no more restrictive than an average limit calculated for medical/surgical benefits in accordance with 42 CFR 438.905(e)(ii);
- d. Contractor must not apply any financial requirement or treatment limitation to mental health or substance use disorder benefits in any classification that is more restrictive than the predominant financial requirement or treatment limitation of that type applied to substantially all medical/surgical benefits in the same classification furnished to enrollees (whether or not the benefits are furnished by Contractor).
- e. If a member is provided mental health or substance use disorder benefits in any classification of benefits (inpatient, outpatient, emergency care, or prescription drugs), mental health or substance use disorder benefits must be provided to the member in every classification in which medical/surgical benefits are provided;
- f. Contractor may not apply any cumulative financial requirements for mental health or substance use disorder benefits in a classification (inpatient, outpatient, emergency care, prescription drugs) that accumulates separately from any established for medical/surgical benefits in the same classification;
- g. Contractor may not apply more stringent utilization or Prior Authorization standards to mental health or substance use disorder, than standards that are applied to medical/surgical benefits.
- h. Contractor may not impose Non-Quantitative Treatment Limitations (NQTL) for mental health or substance use disorder benefits in any classification unless, under the policies and procedures of Contractor as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to mental health or substance use disorder benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation for medical/surgical benefits in the classification;
- i. Contractor shall provide all necessary documentation and reporting required by OHA to establish and demonstrate compliance with 42 CFR part 438, subpart K regarding parity in mental health and substance use disorder benefits.
- j. Contractor shall use processes, strategies, evidentiary standards or other factors in determining access to out of network providers for mental health or substance use disorder benefits that are comparable to and applied no more stringently than, the processes, strategies, evidentiary standards or other factors in determining access to out of network providers for medical/surgical benefits in the same classification.

EXHIBIT D
BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is entered into upon signature (“Effective Date”) by and between **Clackamas County, on behalf of its Department of Health, Housing and Human Services, Behavioral Health Division** (“Covered Entity”) and **Multnomah County** (“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.
- 5.3 Covered Entity may, in its sole discretion, require Business Associate to provide the notice of Breach to any individual or entity required by applicable law to receive such notice.

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.

[Signature Page for BAA Follows]

SIGNATURE PAGE FOR BUSINESS ASSOCIATE AGREEMENT

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

Business Associate

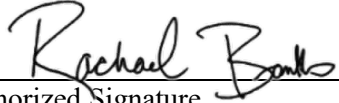
Multnomah County

Covered Entity

Clackamas County

By:

Authorized Signature



By:

Title: Health Department Director

Title:

Date: June 10, 2024

Date: