

October 6, 2022

Board of County Commissioners  
Clackamas County

Approval of a Federal Subrecipient Agreement with Outside In for help in outreach and engagement in the School-Based Health Center at Milwaukie High School. Total value is \$100,185. Funding through State of Oregon Cooperative Agreement with Center for Disease Control.

No County General Funds are involved

<b>Purpose/Outcome</b>	Assistance to help with the disproportionate impact of COVID-19 on Hispanic/LatinX communities, increase culturally and linguistically specific services, outreach and engagement, health education and school leadership and youth workforce engagement through the Milwaukie High School and Wellness Center run by Outside In.
<b>Dollar Amount and Fiscal Impact</b>	\$100,185, funded through the Local Public Health Authority (LPHA), State of Oregon Agreement #169503, Amendment #8, ARPA funds.
<b>Funding Source</b>	State of Oregon Health Authority pass through COVID ARPA funds from CDC.
<b>Duration</b>	Award period is April 1, 2022 through June 30, 2023.
<b>Previous Board Action/Review</b>	No previous board action taken.
<b>Strategic Plan Alignment</b>	1. Advancing racial health equity to eliminate health disparities. 2. Building relationships and working in partnership with our communities.
<b>Counsel Review</b>	Date of Counsel review: August 29, 2022 Name of County Counsel performing review. Andrew Naylor
<b>Procurement Review</b>	(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 Federal Subrecipient Agreement. Sole Source was posted
<b>Contact Person</b>	Philip Mason-Joyner, Director of Public Health Division 503-742-5956
<b>Contract No.</b>	10693

**BACKGROUND:** The Clackamas County public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of a Federal Subrecipient

*Healthy Families. Strong Communities.*

Staff Report  
OUTSIDE IN #10693  
Page 2 of 2

Agreement with Outside In, School-Based Health Center at Milwaukie High School, for COVID-19 relief in addressing the disproportionate impact on Hispanic/LatinX communities.

This Agreement has a maximum value of \$100,185. This Agreement is effective upon signature and continues through June 30, 2023. Award period is April 1, 2022 through June 30, 2023.

**RECOMMENDATION:** Staff recommends the Board of County Commissioners approval of this agreement and authorizes the Chair to sign on behalf of the County.

Respectfully submitted,

A handwritten signature in cursive script that reads "Rodney A. Cook".

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

**CLACKAMAS COUNTY, OREGON  
SUBRECIPIENT GRANT AGREEMENT 23-006**

Project Name: ***Outside In COVID COAG***

Agreement Number: **10693**

This Agreement is between **Clackamas County**, Oregon, acting by and through its Department of Health, Housing and Human Services (“COUNTY”), and **Outside In** (“SUBRECIPIENT”), an Oregon Organization for Public Benefit.

**Clackamas County Data**

Grant Accountant: Sherry Olson	Program Manager: Erika Zoller
Clackamas County Public Health Business Services Manager 2051 Kaen Road Oregon City, OR 97045 (503) 742-5342 <a href="mailto:SOlson4@clackamas.us">SOlson4@clackamas.us</a>	Clackamas County Public Health Program Manager 2051 Kaen Road Oregon City, OR 97045 (503) 502-1243 <a href="mailto:LindseyC@clackamas.us">LindseyC@clackamas.us</a>

**Subrecipient Data**

Finance/Fiscal Representative: Anni Zieler	Program Representative: Carlos Renteria
Outside In Controller and Interim Finance Manager 1132 SW 13 <sup>th</sup> Ave Portland, OR 97205 (503) 535-3894 <a href="mailto:anniz@outsidein.org">anniz@outsidein.org</a>	Outside In Program Manager 1132 SW 13 <sup>th</sup> Ave Portland, OR 97205
UEI: GR9VPMVJS578	

**RECITALS**

WHEREAS, COUNTY is a political subdivision of the State of Oregon;

WHEREAS, COUNTY holds an Intergovernmental Agreement (“IGA”) for the Local Public Health Authority (LPHA), Agreement No. 169503, Program Element #44-03, with the State of Oregon acting by and through its Oregon Health Authority (“OHA”) for the biennium term of 2021-2023;

WHEREAS, COUNTY has requested financial assistance from OHA to help with the disproportionate impact of COVID-19 on Hispanic/Latinx communities, increase culturally and linguistically specific services, outreach and engagement, health education and school leadership, and youth workforce engagement through the Milwaukie High School and Wellness Center run by Outside In. This grant award is through COVID-19 School-Based Health and Recovery Funding Opportunity.

According to the terms of this Subrecipient Grant Agreement (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. Eligible expenses for this Agreement may be charged during the award period beginning **April 1, 2022** and expiring **June 30, 2023**, subject to additional restrictions set forth below and to the exhibits attached hereto, and 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 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 Local Public Health Authority (“LPHA”) Department of Health & Human Services, IGA 169503 awarded on July 22, 2022 which is/are the source of the grant funding. A copy of the relevant sections of that grant award have been provided to SUBRECIPIENT by COUNTY, which are attached to and made a part of this Agreement by reference. SUBRECIPIENT shall further comply with any requirements, 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.** This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in **Exhibit D**: Required Financial Reporting and Reimbursement Request and **Exhibit E**: Monthly/Quarterly/Final Performance Report. Failure to comply with the terms of this Agreement may result in withholding of payment. Funding for this Agreement is from the following sources:

**4.1. Federal Funds:** \$100,185 in federal funds are provided through the Intergovernmental Agreement for the Financing of CDC/Public Health Emergency Response through the State of Oregon Health Authority (Agreement No. 169503); Assistance Listing **#93.354**) issued to COUNTY by the State of Oregon acting by and through its OHA. Federal Award Identification Number NU90TP922194.

- 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 except for the final payment. The final request for payment must be submitted to COUNTY no later than fifteen (15) days after the end 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:
- 6.1. Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
  - 6.2. Mutual agreement by COUNTY and SUBRECIPIENT.
  - 6.3. Written notice provided by COUNTY that OHA has determined funds are no longer available under this Agreement.
  - 6.4. 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:
- 7.1. Has already accrued here under.
  - 7.2. Comes into effect due to the expiration or termination of the Agreement; or
  - 7.3. 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 funds sufficient to pay for this Agreement have been obligated to COUNTY. 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) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
- c) **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.
- d) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- e) **Match.** Matching funds are not required for this Agreement.
- f) **Budget.** SUBRECIPIENT's 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.
- g) **Indirect Cost Recovery.** SUBRECIPIENT chooses to use the federal de minimis rate of 10% of Modified Total Direct Costs, as indicated in Exhibit B: Budget.
- h) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- i) **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.
- j) **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.
- k) **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.

- l) **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 200.344—*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.
- m) **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>.
- n) **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.
- o) **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.
- p) **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.

- q) **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 200.332. 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.
- r) **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.
- s) **Specific Conditions.** None
- t) **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.
- u) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY'S right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, 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 breach of any term of this Agreement including, but not limited to, any claim by a State or Federal funding source that SUBRECIPIENT used funds for an ineligible purpose; or (2) SUBRECIPIENT’s negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT’s control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT’s actions, employees, agents or otherwise with respect to those under its control.

To the extent permitted by applicable law, 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.

Subrecipient(s) that are not units of local government as defined in ORS 190.003, shall indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys’ fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of SUBRECIPIENT or any of the officers, agents, employees or subcontractors of SUBRECIPIENT (“Claims”). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by SUBRECIPIENT from and against any and all Claims.

- c) **Insurance.** SUBRECIPIENT shall, at its own expense, maintain in force the insurance policies set forth in, and otherwise comply with the terms and conditions of, **Exhibit I: Insurance**, and shall take all reasonable steps to enforce such compliance.
- a) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
- b) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
- c) **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.
- d) **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.
- e) **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.
- f) **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.
- g) **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.
- h) **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.

- i) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- j) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.
- k) **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.
- l) **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.

This Agreement consists of twelve (12) sections plus the following exhibits which by this reference is incorporated herein.

- Exhibit A – Subrecipient Statement of Program Objectives
- Exhibit B – Budget
- Exhibit C – Lobbying Certificate
- Exhibit D – Required Financial Reporting and Reimbursement Request
- Exhibit E – Monthly/Quarterly/Final Performance Report
- Exhibit F – Final Financial Report
- Exhibit G – Required State and Federal Terms & Conditions
- Exhibit I – Insurance
- Exhibit J – Business Associate Agreement

*(Signature Page Follows)*

**SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT**

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

**OUTSIDE IN**

By: Anni Zieler  
Anni Zieler, Controller & Interim Finance Dir.

Digitally signed by Anni Zieler  
DN: cn=Anni Zieler, o=Outside In, ou,  
email=anniz@outsidein.org, c=US  
Date: 2022.09.13 17:14:20 -07'00'

Anni Zieler  
Printed Name Date

1132 SW 13<sup>th</sup> Avenue  
Street Address

Portland, OR 97205  
City / State / Zip

\_\_\_\_\_  
Phone / Fax

**CLACKAMAS COUNTY**

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

By: \_\_\_\_\_  
Tootie Smith, Chair  
Board of County Commissioners

\_\_\_\_\_  
Date

**Approved to Form:**

Andrew Naylor  
County Counsel

August 29, 2022  
Date

**EXHIBIT A  
SUBRECIPIENT STATEMENT OF PROGRAM OBJECTIVE**

<b>PROJECT NAME: COVID-19-COAG</b> (Funding Source: COVID-COAG Funds, Assistance Listing: 93.354)	<b>AGREEMENT No. 23-006</b>
<b>SUBRECIPIENT: Outside In</b>	

**SCOPE OF WORK**

**ACTIVITIES**

The funds provided under this Agreement for COVID-19 School Based Services must only be used to support the activities below.

In response to the disproportionate impact of COVID-19 on Hispanic/Latinx communities, SUBRECIPIENT will provide culturally and linguistically specific services, outreach and engagement, health education and school leadership, and youth workforce engagement through the Milwaukie High School Health and Wellness Center. To provide the services, SUBRECIPIENT shall:

- Support for .5 FTE bilingual Outreach and Engagement Specialist to develop and deliver outreach and engagement activities for Spanish-speaking students and families. Support professional development training, such as Community Health Worker Training.
- Support for .25 FTE youth intern to support clinic operations, student engagement, and peer support. Support professional development training, such as Peer Support Specialist and Community Health Worker trainings.
- Increase of a Medical Assistant’s hours by .2 FTE to help develop health education materials and provide student connection with the health center.

**DELIVERABLES AND RECIPIENT RESPONSIBILITIES**

As a condition of receipt of these funds, SUBRECIPIENT must complete the following:

- Hire or increase FTE/personnel requested by **April 30, 2022 (by execution of this Agreement, the parties acknowledge this task has been completed)**.
- Submit to COUNTY semi-annual narrative reports on grant activities through methods acceptable to OHA-PHD and in accordance with the Reporting Schedule below. OHA-PHD will provide a reporting template and guidance prior to report deadlines. Reporting schedule:
  - Initial grant implementation report. Due Date: **September 30th, 2022**
  - School Year 2022-2023 mid-year report. Due Date: **January 31st, 2023**
  - School Year 2022-2023 end-of-year report. Due Date: **May 31st, 2023**
- Participate in monthly check-in meetings (via phone or email) with OHA Adolescent and School Health Program staff.

## **PAYMENT**

Grant funds awarded may be carried over from FY22 to FY23 within the biennium. However, all grant funds must be spent by June 30, 2023. This is a one-time federal grant. COUNTY will only reimburse actual costs as invoiced by SUBRECIPIENT, subject to the conditions set forth above. SUBRECIPIENT may request reimbursement for action costs incurred April through August 2022 in one invoice following execution of this Agreement.





**EXHIBIT C  
LOBBYING CERTIFICATE**

<b>PROJECT NAME: COVID-19-COAG</b> (Funding Source: COVID-COAG Funds, Assistance Listing 93.354)	<b>AGREEMENT No. 23-006</b>
<b>SUBRECIPIENT: Outside In</b>	

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

Anni Zieler, Controller and Interim Finance Director

---

Name and Title of Authorized Representative

**Anni Zieler**

Digitally signed by Anni Zieler  
DN: cn=Anni Zieler, o=Outside In, ou,  
email=anniz@outsidein.org, c=US  
Date: 2022.09.14 10:37:36 -07'00'

9/14/22

---

Signature

Date

**EXHIBIT D  
REQUIRED FINANCIAL REPORTING AND REIMBURSEMENT REQUEST**

<b>PROJECT NAME: COVID-19-COAG</b> (Funding Source: COVID-COAG Funds, CFDA 93.354)	<b>AGREEMENT No. 23-006</b>
<b>SUBRECIPIENT: Outside In</b>	

1. SUBRECIPIENT will submit a monthly Request for Reimbursement referencing grant agreement number 23-006 and contract **#10693**.
2. Requests for reimbursement shall be submitted by the **15th of the month** for the previous month. The final request for reimbursement shall be submitted by July 15, 2023 for June 30, 2023 expenses.
3. Reimbursements shall be based on actual costs authorized in **Exhibit B**: Subrecipient Program Budget of this Agreement. Supporting documentation must be retained for expenses for which reimbursement is claimed and for all expenses reported. Documentation required includes personal service cost detail, services and supplies cost detail, copies of paid contract and equipment invoices and receipts for lodging, airfare, car rental and conference registration, where applicable. This documentation should be readily available for review upon request or site visit by COUNTY, State of Oregon officials, and/or auditors.
4. Request for Reimbursement shall be submitted electronically to:

[publichealthfiscalAP@clackamas.us](mailto:publichealthfiscalAP@clackamas.us)

Invoices are subject to the review and approval of the Program Manager and Grant Accountant. Payment is contingent on compliance with all terms and conditions of this Agreement, including reporting requirements.

**EXHIBIT D, CONTINUED  
 REQUIRED FINANCIAL REPORTING AND REIMBURSEMENT REQUESTS**

EXHIBIT D: SUBRECIPIENT REQUEST FOR REIMBURSEMENT					
CLACKAMAS COUNTY XXXXX DIVISION					
<b>Organization:</b>			<b>CLAIM PERIOD:</b>	Note: This form derives from the approved budget in your grant agreement. All expenditures must have adequate supporting documentation.	
<b>Service:</b>			<b>Jul-19</b>		
<b>Program Contact:</b>					
<b>Agreement Term:</b>					
<b>Agreement Number:</b>	20-XXX				
	Approved Grant Amount	Monthly Grant Expenditure	Total Monthly Expenditure	YTD Grant Expenditure	Balance
<b>Personnel</b> (List salary, FTE & Fringe costs for each position)					
[Funded Position Name - Salary]	\$ -	\$ -	\$ -	\$ -	\$ -
[Funded Position Name - Fringe]	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Personnel Services</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Supplies</b>					
Phone, computer	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Travel</b>					
Mileage (.54/milex200 miles)	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Additional (please specify)</b>					
Client assistance (bus tickets, etc.)	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Programmatic Costs</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Indirect Rate (X%)</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Grant Costs</b>	\$ -	\$ -	\$ -	\$ -	\$ -
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 Recipient that are pertinent to this Agreement.					
<b>CERTIFICATION</b>					
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:					

**EXHIBIT E**  
**MONTHLY/QUARTERLY/FINAL PERFORMANCE REPORT**

<b>PROJECT NAME: COVID-19-COAG</b> (Funding Source: COVID-COAG Funds, Assistance Listing 93.354)	<b>AGREEMENT No. 23-006</b>
<b>SUBRECIPIENT: Outside In</b>	

1. SUBRECIPIENT must submit a progress report at three months and a final evaluation report no later than July 31, 2023. This report must include:
  - a. Number of individuals served at the Oregon City drop-in site (Member Attendance)
  - b. Activities offered to members
  - c. Outreach and Public Relations activities with community and system partners
  - d. Consumer satisfaction
2. SUBRECIPIENT must notify COUNTY Project Manager of developments having a significant impact on the Grant support activities. SUBRECIPIENT must inform the Project Manager as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified above. This notification shall include a statement of the action taken or contemplated and any assistance needed to resolve the situation.
3. A Community Based Peer Activity Report will be submitted monthly. This report shall include:
  - a. Number of individuals served
  - b. Number of activities offered
  - c. Location of individual served (city only)
  - d. Number of outreach activities to potential referral sources
  - e. Any consumer satisfaction results
4. In addition to the above listed report, SUBRECIPIENT must notify COUNTY Project Manager of developments that have a significant impact on the Grant support activities. SUBRECIPIENT must inform the Project Manager as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified above. This notification shall include a statement of the action taken or contemplated and any assistance needed to resolve the situation.
5. SUBRECIPIENT will submit reports electronically to:

[SOlson4@clackamas.us](mailto:SOlson4@clackamas.us)

Or by mail to:

Clackamas County Public Health  
Attention: Accounts Payable  
2051 Kaen Road, Suite 367  
Oregon City, OR 97045

6. **CRITICAL INCIDENT REPORTING.** SUBRECIPIENT shall notify COUNTY Program Manager by telephone within the same working day of any critical incident occurring during the performance of this Agreement. If the incident occurs after normal business hours or if on a holiday or weekend, the report is to be made on the next working day. In addition, a written report shall be submitted electronically within three (3) business days following the incident to:

[SOlson4@co.clackamas.or.us](mailto:SOlson4@co.clackamas.or.us)

Or by mail to:

Clackamas County Public Health Division  
Attention: Sherry Olson  
2051 Kaen Road, Suite 367  
Oregon City, Oregon 97045

A critical incident is defined as:

- An incident that punishes, endangers, or otherwise harms a client as a result of staff action or inaction;
- An incident that significantly causes physical harm to a client;
- The death of a client;
- Suicide attempt or self-injury with significant intention to cause self-harm or death on the part of a client;
- Criminal charges brought against a staff member or subcontractor staff member involving a client;
- Professional misconduct by a staff member or subcontractor staff member, including but not limited to sexual harassment or exploitation of a client including any sexual contact by staff, willful infliction of pain or injury of a client, and physical injury to a client by other than accidental means or is a variance with the explanation;
- A medication error which results in the death or serious injury of another person;
- Any event likely to elicit heightened public interest or litigation.

COUNTY Program Manager shall discuss all reports with the HHS Quality Management Coordinator and HHS Manager for appropriate follow-up. A fact-finding inquiry may be conducted.

**EXHIBIT F  
 FINAL FINANCIAL REPORT**

<b>PROJECT NAME: COVID-COAG</b> (Funding Source: COVID-COAG Funds, Assistance Listing 93.354)	<b>Agreement #: 23-006</b> <b>Date of Submission: XX/XX/XX</b>
<b>Has Subrecipient submitted all requests for reimbursement? Yes / No</b>	
<b>Has Subrecipient met all programmatic closeout requirements? Yes / No</b>	

**Final Financial Report**

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

Total Federal Funds authorized on this Agreement:	\$100,115
Year-to-Date Federal Funds requested for reimbursement on this Agreement:	
Total Federal Funds received on this Agreement:	
Balance of unexpended 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 REQUIRED FEDERAL AND STATE TERMS AND CONDITIONS

SUBRECIPIENT shall comply with the following federal and state requirements. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then SUBRECIPIENT shall comply with Executive Order 11246, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- 2. Energy Efficiency.** SUBRECIPIENT shall 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).
- 3. Truth in Lobbying.** By signing this Agreement, SUBRECIPIENT certifies, to the best of SUBRECIPIENTS knowledge and belief that:
  - a) No part of any federal funds paid to SUBRECIPIENT under this Agreement 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.
  - b) No part of any federal funds paid to SUBRECIPIENT under this Agreement 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.
  - c) The prohibitions in subsections (a) and (b) 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.
  - d) No part of any federal funds paid to SUBRECIPIENT under this Agreement 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 or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

- 4. Resource Conservation and Recovery.** SUBRECIPIENT shall 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.
- 5. Drug-Free Workplace.** SUBRECIPIENT shall comply and require all Providers to comply with the following provisions to maintain a drug-free workplace: (i) County certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in County's workplace or while providing Services to OHA clients. County's notice shall specify the actions that will be taken by County against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, County's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of Services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction; (v) Notify OHA within ten (10) calendar days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any Provider to comply with subparagraphs (i) through (vii) above; (ix) Neither County, or any of County's employees, officers, agents or Providers may provide any Service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the County or County's employee, officer, agent or Provider has used a controlled substance, prescription or non-prescription medication that impairs the County or County's employee, officer, agent or Provider's performance of essential job function or creates a direct threat to OHA clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing

job activities; and (x) Violation of any provision of this subsection may result in termination of this Agreement.

6. **Pro-Children Act.** SUBRECIPIENT shall comply with the Pro- Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
7. **Medicaid Services.** To the extent SUBRECIPIENT provides any Service in which costs are paid in whole or in part by Medicaid, SUBRECIPIENT shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
  - a) Keep such records as are necessary to fully disclose the extent of the services provided to Individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time-to-time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
  - b) Comply with all disclosure requirements of 42 CFR Part 1002.4(a) and 42 CFR 455 Subpart (B).
  - c) Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396 (a) (57) and (w), 42 CFR Part 431.107 (b) (4), and 42 CFR Part 489 subpart I.
  - d) Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. SUBRECIPIENT shall acknowledge SUBRECIPIENT'S understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
  - e) Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid agreement) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, providers and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a (a) (68).
8. **ADA.** SUBRECIPIENT shall comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 U.S.C. 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of Services.
9. **Agency-Based Voter Registration.** If applicable, SUBRECIPIENT shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an Individual may apply for or receive an application for public assistance.

## EXHIBIT I INSURANCE

During the term of this Agreement, SUBRECIPIENT shall maintain in full force at its own expense, each insurance noted below:

**1. Workers Compensation.** SUBRECIPIENT, its subcontractors, if any, and all employers providing work, labor, or materials under this Agreement are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126. SUBRECIPIENT shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

**2. Professional Liability.**  **Required by County**  **Not required by County**

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages because of personal injury, bodily injury, death, or damage to property caused by error, omission or negligent acts related to the professional services to be provided under this Agreement. The policy must provide extending reporting period coverage for claims made within two years after the Agreement is completed.

If this box is checked Professional Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.

**3. General Liability.**  **Required by County**  **Not required by County**

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage for the protection of the **County and the State of Oregon, and its officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Agreement.

If this box is checked General Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

**4. Automobile Liability.**  **Required by County**  **Not required by County**

**Commercial Automobile Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury, Death, and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**Commercial Automobile Liability** insurance limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

**Personal Automobile Liability** insurance limits shall be not less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000/property damage.

**5. Physical Abuse and Molestation Liability.**  **Required by County**  **Not required by County**

Physical Abuse and Molestation Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. Coverage shall be provided through either general liability or professional liability coverage. Proof of Sex Abuse/Molestation insurance coverage must be provided.

**6. Privacy and Network Security.**  **Required by County**  **Not required by County**

Privacy and Network Security coverages shall be obtained and maintained to provide protection against liability for (a) system attack; (b) denial or loss of service attacks; (c) spread of malicious software code; (d) unauthorized access and use of computer systems; and (e) liability from the loss or disclosure of confidential data with limit of \$1,000,000 per claim/annual aggregate.

If this box is checked Privacy and Network Security limit shall be at least \$4,000,000.

**7. Additional Insured Provision.** The insurance, other than Professional Liability (except to the extent it only applies to Commercial General Liability exposures), Workers' Compensation, Personal Automobile Liability and Pollution Liability Insurance, shall include **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as an additional insured.

**8. Primary Coverage Clause.** SUBRECIPIENT'S insurance shall apply as primary and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above. This must be noted on the insurance certificate.

**9. Cross-Liability Clause.** A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, pollution and errors and omissions policies required by this Agreement.

**10. "Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the SUBRECIPIENT shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Agreement, for a minimum of twenty-four (24) months following the later of: (i) SUBRECIPIENT'S completion and COUNTY'S acceptance of all Services required under the Provider Agreement; or (ii) the expiration of all warranty periods provided under the Agreement. Notwithstanding the foregoing 24-month requirement, if SUBRECIPIENT elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then SUBRECIPIENT may request and COUNTY may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If COUNTY approval is granted, SUBRECIPIENT shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

- 11. Self-insurance.** SUBRECIPIENT may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that SUBRECIPIENTS self-insurance program complies with all applicable laws, provides coverage equivalent in both type and level to that required in this Exhibit, and is reasonably acceptable to COUNTY. SUBRECIPIENT shall furnish an acceptable insurance certificate to COUNTY for any insurance coverage required by this Agreement that is fulfilled through self-insurance. Stop-loss insurance and reinsurance coverage against catastrophic and unexpected expenses may not be self-insured.
- 12. Certificates of Insurance.** SUBRECIPIENT shall furnish evidence of the insurance required in this Agreement. SUBRECIPIENT will maintain the insurance in full force throughout the duration of this Agreement. 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 which references “Clackamas County Agreement 23-006” in the certificate description. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to COUNTY. SUBRECIPIENT shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County Public Health Division, 2051 Kaen Road, Suite 367, Oregon  
City, Oregon 97045

Certificates of Insurance should be submitted electronically or by mail to:

[publichealthfiscalAP@clackamas.us](mailto:publichealthfiscalAP@clackamas.us)

Clackamas County Public Health Division  
Accounts Payable  
2051 Kaen Road, Suite 367  
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages 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.
- 14. Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the Work performed under this Agreement.
- 15. Notice of cancellation or change.** There shall be no cancellation, material change, exhaustion of aggregate limits, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from SUBRECIPIENT or its insurer(s) to COUNTY at the following address: Clackamas County Public Health Division, 2051 Kaen Road, Suite 367, Oregon City, OR 97045 or [publichealthcontracts@clackamas.us](mailto:publichealthcontracts@clackamas.us).
- 16. Insurance Compliance.** COUNTY will be entitled to enforce SUBRECIPIENT compliance with the insurance requirements, and will take all reasonable steps to enforce such

compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Agreement as permitted by the Agreement, or pursuing legal action to enforce the insurance requirements. In no event shall COUNTY permit SUBRECIPIENT to seek reimbursement under this agreement without proof of compliance with this Exhibit I.

**EXHIBIT J  
BUSINESS ASSOCIATE AGREEMENT (“BAA”)**

This BAA is entered into upon signature (“Effective Date”) by and between **Clackamas County** (“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.

*[Signature Page for BAA Follows]*

**SIGNATURE PAGE FOR BUSINESS ASSOCIATE AGREEMENT**

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

**Business Associate**

**Covered Entity**

**OUTSIDE IN**

**CLACKAMAS COUNTY**

**Anni Zieler** Digitally signed by Anni Zieler  
DN: cn=Anni Zieler, o=Outside In, ou,  
email=anniz@outsidein.org, c=US  
Date: 2022.09.14 10:39:39 -07'00' 9/14/22

\_\_\_\_\_  
Authorized Signature Date

\_\_\_\_\_  
Tootie Smith Date  
BCC Chair, Clackamas County

Anni Zieler, Controller & Interim Finance  
Director

\_\_\_\_\_  
Name / Title (Printed)

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: \_\_\_\_\_