

May 14, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for Agreement #9739 to a Personal Services Agreement
with CareOregon for COVID 19 funding.

Purpose/Outcomes	Provides Clackamas Health Centers (CHC) stabilization funding to ensure continuity of services to patients and clients during and after COVID-19.
Dollar Amount and Fiscal Impact	This agreement has a \$680,000 maximum. No County General Funds are involved. No matching funds required.
Funding Source	CareOregon – Coordinated Care Organization (CCO) through the Oregon Health Plan (OHP)
Duration	Effective March 1, 2020 and December 31, 2020 termination.
Previous Board Action	None
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
Counsel Review	County Counsel and EOC Command have reviewed and approved this document. It was approved on May 4, 2020.
Contact Person	Deborah Cockrell 503-742-5495
Contract No.	9739

BACKGROUND:

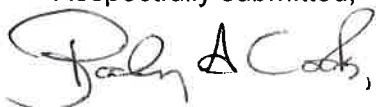
Clackamas Health Centers (CHC) of the Health, Housing and Human Services Department requests the approval of Agreement #9739 to a Personal Services Agreement with CareOregon for the purpose of providing stabilization funding to ensure continuity of services to patients and clients during and after COVID-19.

This is a retroactive agreement to address the impact on CHC clinics and patient care. The contract was received on April 23, 2020. The Agreement is effective March 1, 2020 and December 31, 2020 termination.

RECOMMENDATION:

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

Respectfully submitted,

 Gary A. Cook, H3S Deputy Director / For

Richard Swift, Director
Health, Housing, and Human Services

CareOregon, Inc.
Letter of Agreement
COVID-19 Stabilization Funding

#9739

This Letter of Agreement (Agreement) is between CareOregon, Inc. (CareOregon) and Clackamas County , by and through its Health, Housing, and Human Services, Health Centers Division (Provider) for the period March 1, 2020 through December 31, 2020.

Project: COVID-19 Stabilization Funding
Provider Contact: James Wilson
E-mail: jwilson2@clackamas.us

CareOregon Agreement Number:
CareOregon Contact: Marcus Ruhnke
E-mail: contractmanager@careoregon.org

I. Recitals:

- A. CareOregon and Provider are independent companies.
- B. CareOregon is an entity sub-contracted with Health Share of Oregon (HSO). HSO is contracted with the Oregon Health Authority (OHA) to operate as a Coordinated Care Organizations under the Oregon Health Plan (OHP) via a Health Plan Services agreement ("CCO Contract").
- C. CareOregon is an entity sub-contracted with CareOregon Advantage (COA), a Medicare Advantage plan contracted with the Centers for Medicare and Medicaid Services (CMS).
- D. Provider is contracted with CareOregon under a Provider Services Agreement, and subject to all the regulations of the Oregon Health Plan.
- E. Both parties acknowledge this funding is separate from any of CareOregon's other funding.
- F. This Agreement shall be applicable from the time period between March 1, 2020 through December 31, 2020.

II. Funding Objectives:

The COVID-19 Stabilization Funding is for eligible provider organizations who provide billable primary care and behavioral health services to active Primary CareOregon Medicare Advantage Plus and CareOregon HSO Oregon Health Plan members as of March 2020. The parties are entering into this Agreement to:

- Ensure continuity of services to Primary CareOregon members
- Provide financial stability during the COVID-19 epidemic due to temporary delay and decrease in normal volumes

The funding will be provided based on a calculated funding gap estimation for primary care and behavioral health services defined as the difference between the average monthly claims paid

in 2019 less the estimated 2020 claims (Stabilization Funding Gap). The Stabilization Funding Gap will be adjusted for the following:

- Significant membership changes between 2019 and 2020
- COVID-19 Volume impact estimates (considering telehealth volumes)

This is intended as an interim stabilization funding plan and will be evaluated at least quarterly and any program and/process changes shall be communicated to Provider.

Participating clinics and/or services included in the Provider's system that meet minimum claims and/or membership thresholds for Primary Care Oregon Medicare Advantage Plus and Care Oregon HSO Oregon Health Plan members as of March 2020 have qualified to participate in the COVID-19 Stabilization Funding. Attachment A, provides a list of Participating Clinics, funding CCO's and service types as appropriate.

III. Terms:

- A. Provider agrees to file medical claims to Care Oregon within ninety (90) days for services rendered March 1, 2020 to December 31, 2020 to Primary Care Oregon Medicare Advantage Plus and Care Oregon HSO Oregon Health Plan members as long as Provider is receiving payments through this Agreement. This will allow both parties to appropriately determine the Stabilization Funding Gap. Provider agrees to notify Care Oregon immediately if there are any delays with submitting timely claims.
- B. Care Oregon may request quarterly meetings with provider to review progress and agree upon any process changes.
- C. Both parties agree that this funding is for the period specified above only and does not imply or guarantee ongoing funding.
- D. Funding may be reduced if Provider receives additional funding from other Federal or State Health Care Programs, such as Oregon Health Authority (OHA), Centers for Medicare and Medicaid Services (CMS) or other State or Federal resources. Either party may determine that the Stabilization Funding Gap is no longer necessary at any point throughout the specified period.
- E. Either party can terminate this Agreement immediately but must reconcile any month for which funds have already been released to Provider. If Provider files for bankruptcy, this Agreement terminates immediately.
- F. Providers currently in Peer review Tier status or under Payment integrity review are not eligible for this Stabilization Gap Funding.

IV. Payment:

- A. Care Oregon will pay Provider \$680,000.00 upon receipt of the signed Agreement by both parties.
- B. The initial payment amount represents the estimated Stabilization Funding Gap based on the projected impact of COVID volume loss March 2020 to June 2020 in comparison

to the average monthly claim volume for 2019 adjusted for any significant changes in membership.

- C. CareOregon will complete an initial reconciliation of claims payments within sixty (60) days after each quarter. For claims with dates of service March 2020 to June 2020, the initial reconciliation will be completed by August 31, 2020.
- D. If continuation of this program is determined to be necessary CareOregon may pay Provider an additional payment after completing the initial reconciliation of the Stabilization Funding Gap based on claims submitted for each quarter to determine the appropriate funding less any initial payment made for that quarter. CareOregon reserves the right to modify future quarterly payments based on the most current claims data available.
- E. If the initial payment is greater than the Stabilization Funding Gap, Provider shall pay the difference to CareOregon within sixty (60) days of completing either the initial reconciliation or the final reconciliation as agreed by Provider and CareOregon.
- F. The final reconciliation will be completed within one hundred and twenty (120) days after the final quarter to allow for a three-month claims run out period. Payment for the final reconciliation of the Stabilization Funding Gap will be paid to the appropriate party within sixty (60) days of completing the final reconciliation.
- G. If payment, defined as Stabilization Funding Gap plus 2020 claims paid, are within ten percent (10%) of the average claims paid in 2019, no additional payments or recoupments will be necessary.
- H. If Provider is experiencing sustained hardship and is not reasonably able to pay CareOregon for the overpayment within sixty (60) days of the final reconciliation, CareOregon may deduct overpayments from future claims payments or both parties agree to work in good faith to agree upon a payment arrangement that is sustainable for both parties.

V. General Provisions:

- A. Should Provider's Services Agreement with CareOregon terminate, this funding will cease immediately upon written notification of termination and Provider agrees to refund any paid amounts prorated from the date of termination to the end of the period outlined above.
- B. Provider agrees that the Provider Contact named above is responsible for all aspects of the Agreement, including monitoring progress and performance, obtaining all necessary data and information, and notifying CareOregon of any significant obstacles or delays. Provider will notify CareOregon if the Provider Contact changes.
- C. Both parties agree to seek written approval for, and provide a copy of, any news releases or any other external communication related to the Agreement. Email approval by CareOregon or the Provider Contact will suffice as written approval.

D. CareOregon can terminate the agreement immediately if the safety or health of a member or staff person is threatened.

Agreed to on behalf of Clackamas County, signing on behalf of the Board of Commissioners by:

Agreed to on behalf of CareOregon, Inc.:

Signature

Signature

Name: Richard Swift

Name: Eric C. Hunter

Title: Director - H3S

Title: Chief Executive Officer

Date: _____

Date: _____

Tax ID: 93-6002286

Clackamas County Health Centers Division
Payment and Notice Address:

healthcenterap@clackamas.us

Attention: Administrator

Clackamas County Health Centers Division
Address: 2051 Kaen Road, Ste. 367

City, ST, Zip: Oregon City, OR 97045

CareOregon Payment and Notice Address:

Attention: Chief Executive Officer

CareOregon, Inc.
315 S.W. Fifth Avenue
Portland, OR 97204

**ATTACHMENT A
LIST OF PARTICIPATING CLINICS**

Participating Clinic	Line of Business		Service Type	Funding Amount
	CO/HSO	CO Medicare Advantage		
Clackamas County Health Centers Division	X		Primary Care Services	\$ 302,000.00
Clackamas County Health Centers Division		X	Primary Care Services	\$ 13,000.00
Clackamas County Health Centers Division	X		Outpatient SUD	\$ 36,000.00
Clackamas County Health Centers Division	X		Outpatient Mental Health	\$ 329,000.00
Total Funding Amount				\$ 680,000.00

May 14, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval for Agreement #9649 to a Participating Provider Agreement
with PacificSource Community Solutions for Healthcare Services
to members enrolled with the Oregon Health Plan (OHP)**

Purpose/Outcomes	Provides Clackamas Health Centers (CHC) implementation of healthcare services to members enrolled with a Coordinated Care Organization (CCO) through PacificSource.
Dollar Amount and Fiscal Impact	CHC is eligible to receive payment for services furnished to assigned members from the PacificSource Health Plan. This is a no maximum agreement. No County General Funds are involved. No matching funds required.
Funding Source	PacificSource Community Solutions through Oregon Health Plan (OHP)
Duration	Effective June 1, 2020 and June 1, 2023 termination.
Previous Board Action	No previous Board action.
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
Counsel Review	County Counsel has reviewed and approved this document. It was approved on February 19, 2020.
Contact Person	Deborah Cockrell 503-742-5495
Contract No.	9649

BACKGROUND:

The Clackamas Health Centers (CHC) of the Health, Housing and Human Services Department requests the approval of Agreement #9649 to a Provider Participation Agreement with PacificSource for the purpose of providing healthcare services to PacificSource - Oregon Health Plan (OHP) members.

This agreement will establish a schedule of payments for professional services rendered by CHC Providers to recipients under this Agreement. Implementing and administering healthcare services to patients under the PacificSource Oregon Health Plan will result in fee for service revenue. PacificSource will use formulas and other methodologies set forth in this Agreement as an established CCO.

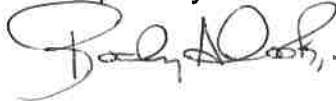
This is a revenue contract for CHC. The patients are being seen at CHC's Health Clinics serving the community. The agreement was approved by counsel on February 19, 2020 with edits as recommended and negotiations in language continued until April 30, 2020. The total amount of the agreement is unknown because the number of authorized patients cannot be projected with certainty. No County General Funds are involved. The Agreement #9649 is effective June 1, 2020, and June 1, 2023 termination.

Page 2 – Staff Report: H3S #9649
May 14, 2020

RECOMMENDATION:

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

Respectfully submitted,

 *Richard Swift, H3S Deputy Director / FOL*

Richard Swift, Director
Health, Housing, and Human Services



PARTICIPATING PROVIDER AGREEMENT

#9649



This Participating Provider Agreement is made and entered into by and between **PacificSource Community Solutions**, an Oregon non-profit corporation ("PacificSource") and **County of Clackamas, Oregon** ("Provider"). The effective date of this Agreement is **June 1, 2020** (the "Effective Date").

WHEREAS, PacificSource is, or is intending to be a company contracted with the State of Oregon, acting by and through the Oregon Health Authority ("OHA"), Health Systems Division ("HSD"), to implement and administer services under the Oregon Health Plan in certain counties in Oregon;

WHEREAS, Provider is either a) a provider who is HSD approved and duly licensed to practice his or her specialty in the State of Oregon or b) a provider entity, which provides services under this Agreement through its partners, independent contractor(s), and/or employee(s), and/or Provider is a facility duly licensed by the state of Oregon for the care of patients and meets the requirements of the state of Oregon laws for staffing and services to provide inpatient, outpatient, and/or emergency services;

WHEREAS, the parties mutually desire to enter into this Agreement to provide Covered Services to PacificSource Members under a Coordinated Care Organization Contract ("CCO Contract") with the OHA; and

WHEREAS, the parties intend that should any reasonable ambiguity arise in the interpretation of a provision of this Agreement, the provision shall be construed to be consistent with the legal requirements of the State of Oregon, the CCO Contract, or other legal requirements, as applicable.

NOW, THEREFORE, in consideration of the mutual covenants and agreements, the parties hereby agree as follows:

1.0 DEFINITIONS

- 1.1 Agreement.** "Agreement" means this Participating Provider Agreement, including any and all recitals, amendments, exhibits, attachments, schedules, and addenda, now or hereafter entered into, between Provider and PacificSource.
- 1.2 Behavioral Health.** "Behavioral Health" means mental health, mental illness, addiction disorders, and substance use disorders.
- 1.3 Clean Claim.** "Clean Claim," means a claim received by PacificSource for payment of Covered Services rendered to a Member which can be processed without obtaining additional information from Provider or from a third party and has been received within the time limitations set forth herein. A Clean Claim does not include a claim from a Provider

who is under investigation for fraud or abuse or a claim under review for Medical Necessity. A Clean Claim is a "clean claim" as defined in 42 CFR 447.45(b).

- 1.4 Coordinated Care Organization.** "Coordinated Care Organization" ("CCO") means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization's members.
- 1.5 Copayments.** "Copayments" are defined as a fixed amount a Member is responsible to pay for a Covered Service, as may be provided in the Member's Health Benefit Plan.
- 1.6 Covered Services.** "Covered Services" are defined as Medically Appropriate health services that are funded by the legislature of the State of Oregon and described in ORS 414.706 to 414.770; OAR 410-120-1210, Medical Assistance Benefit Packages and Delivery System; OAR 410-141-0120, Managed Care Prepaid Health Plan Provision of Health Care Services; OAR 410-141-0520, Prioritized List of Health Services; and OAR 410-141-0480, Oregon Health Plan Benefit Package of Covered Services; except as excluded or limited under OAR 410-141-0500, Excluded Services and Limitations for Oregon Health Plan clients and/or Division members; all as such statutes and rules exist today or as amended in the future.
- 1.7 Covering Practitioner.** "Covering Practitioner" means a PacificSource Provider or, with prior PacificSource approval, a practitioner who is not a PacificSource Provider, who provides Covered Services to Members for or on behalf of Provider during an emergency or temporary unavailability such as a vacation or illness.
- 1.8 Emergency Services.** "Emergency Services" are defined as Covered Services from a qualified provider necessary to evaluate or stabilize an emergency medical condition, including inpatient and outpatient treatment that may be necessary to assure within reasonable medical probability that the Member's condition is likely to materially deteriorate from or during a Member's discharge from a facility or transfer to another facility. OAR 410-120-0000(91).
- 1.9 Emergency Medical Condition.** "Emergency Medical Condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. An Emergency Medical Condition is determined based on the presenting symptoms (not the final diagnosis) as perceived by a prudent layperson (rather than a health care professional) and includes cases in which the absence of immediate medical attention would not in fact have had the adverse results described in the previous sentence. OAR 410-120-0000(89). The decision of whether a condition requires Emergency Services rests with PacificSource and is subject to its procedures for post-treatment utilization review consistent with the standards under federal or Oregon law, as applicable.

- 1.10 Health Benefit Plan.** “Health Benefit Plan” means the Benefit Package, as that term is defined in OAR 410-120-0000(34), of Covered Services under the Oregon Health Plan for which the Member is eligible.
- 1.11 Medically Appropriate.** “Medically Appropriate” means health services, items, or medical supplies that are:
- (a) Recommended by a licensed health provider practicing within the scope of their license;
 - (b) Safe, effective, and appropriate for the patient based on standards of good health practice and generally recognized by the relevant scientific or professional community based on the best available evidence;
 - (c) Not solely for the convenience or preference of a Member or a provider for the service item or medical supply; and
 - (d) The most cost effective of the alternative levels or types of health services, items, or medical supplies that are Covered Services that can be safely and effectively provided to a Member in PacificSource’s judgment. OAR 410-120-0000(145).
- 1.12 Member.** “Member” means an individual who is found eligible by the Oregon Health Authority, including such divisions, programs, and offices as may be established therein, to receive services under the Oregon Health Plan, is enrolled with PacificSource and eligible to receive Covered Services, and to whom Provider is required to provide Covered Services pursuant to this Agreement.
- 1.13 Non-Covered Services.** “Non-Covered Services” are defined as all health care services that are not Covered Services under the Member’s Health Benefit Plan.
- 1.14 Oregon Health Authority.** “Oregon Health Authority” is an Oregon state government agency.
- 1.15 Oregon Health Plan.** “Oregon Health Plan” (“OHP”) means the Oregon Medicaid Demonstration Project, as established by chapter 815, Oregon Laws 1993, and later amended.
- 1.16 Other Payor.** “Other Payor” shall mean other payors for healthcare services, including but not limited to PacificSource subsidiaries, trusts, and governmental entities or authorized contracting entities or divisions, with whom PacificSource has entered into a contract.
- 1.17 PacificSource Provider Manual.** “PacificSource Provider Manual” means a document developed and maintained by PacificSource, which provides instruction regarding standard policy and procedural requirements of PacificSource and is provided online on PacificSource’s website in the provider section.
- 1.18 PacificSource Providers.** “PacificSource Providers” means institutional or non-institutional health care entities or individuals that are under contract, directly or indirectly, with PacificSource to provide Covered Services to Members.
- 1.19 Substance Use Disorders.** “Substance Use Disorders” means disorders related to the taking of a drug of abuse including alcohol, to the side effects of a medication, or to a toxin exposure. The disorders include substance use disorders, such as substance dependence

and substance abuse, and substance-induced disorders, such as substance intoxication, withdrawal, delirium, dementia, and substance-induced psychotic or mood disorder, as defined in DSM-V criteria.

1.20 Urgent Care Services. "Urgent Care Services" are defined as Covered Services that are Medically Appropriate and immediately required to prevent a serious deterioration of a Member's health that results from an unforeseen illness or an injury. OAR 410-120-0000(250). Services that can be foreseen by the individual are not considered Urgent Care Services.

2.0 PROVIDER RESPONSIBILITIES.

2.1 Provider Services; Requirements. Provider shall:

- (a) Provide or arrange for the provision of Covered Services to Members and beneficiaries of any Other Payor (i.e. PacificSource Health Plans), on an as-needed basis within the scope of Provider's licensing, training, experience, and qualifications and consistent with accepted standards of medical practice and the terms and conditions of this Agreement and any other applicable contract or similar arrangement.
- (b) Provide Covered Services to the members or beneficiaries of any Other Payor, pursuant to each applicable agreement between PacificSource and any Other Payor, and pursuant to and in accordance with the provisions of this Agreement.
- (c) To the extent Provider is a licensed facility, provide those inpatient, outpatient, and Emergency Medical Services for which it is licensed and which are Covered Services on an as-needed basis within the scope of Facility's licensing, training, experience, and qualifications, and consistent with accepted standards of medical practice and the terms and conditions of this Agreement. Facility shall not be required to provide any Covered Services to Members that Facility does not customarily and routinely offer to other patients. Facility has the right to refuse to treat disruptive, disorderly, or dangerous Members according to the same standards and policies applied to its other patients.
- (d) Devote sufficient time, attention, and energy necessary for the competent and effective performance of Provider's duties under this Agreement to Members who select Provider or are otherwise designated, assigned, or referred to Provider by PacificSource.
- (e) Meet standards for timely access to care and services as specified in the CCO Contract and, when not specified in the CCO Contract, Oregon Administrative Rules, including 410-141-3220 and 410-141-3160.
- (f) Meet the National Culturally and Linguistically Appropriate Services Standards (including mandatory training) established by the U.S. Department of Health and Human Services by providing effective, equitable, understandable, and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs.
- (g) Ensure that its facilities under contract, if any, can meet cultural responsiveness

and linguistic appropriateness standards in addressing the needs of adolescents, parents with dependent children, pregnant women, IV drug users, and Members with medication assisted therapy needs.

- (h) Communicate and coordinate care with the Patient-Centered Primary Care Home utilized by Members, if any, in a timely manner using electronic health information technology to the maximum extent feasible.
- (i) Work with PacificSource to further access to and coordination with social and support services, including culturally specific community-based organizations, community based mental health services, DHS Medicaid-funded long term care services, and mental health crisis management services.
- (j) Not seek payment from either PacificSource or Member for costs resulting from a Provider-Preventable Condition, as that term is defined in 42 CFR 447.26(b). Provider shall identify Provider-Preventable Conditions related to a Member to PacificSource and comply with all reporting requirements that OHA or PacificSource may require.
- (k) Collaborate with PacificSource, the CCO's Community Advisory Council, and other stakeholders in completing a Community Health Assessment and Community Health Improvement Plan and in carrying out activities to implement the Community Health Improvement Plan.
- (l) Participate in data submission activities pertinent to CCO quality improvement or incentive programs, complete patient experience surveys and share results with entities participating in the CCO, and participate in sharing of quality and performance data with entities participating in the CCO.

2.2 Personnel. If Provider is a licensed facility, then Provider shall devote sufficient time, attention, and energy necessary for the competent and effective performance of Provider's duties under this Agreement to Members who select Provider or are otherwise designated, assigned, or referred to Provider by PacificSource. Provider will provide sufficient licensed and experienced personnel, will supervise their professional medical services, and will provide health care services at all agreed upon times and days to meet the needs of Members. All non-physician personnel reasonably required for the proper operation of Provider, including but not limited to licensed and non-licensed health care personnel and administrative personnel, shall be employed by or under contract with Provider. Provider shall be responsible for all compensation, benefits, and costs in connection with such personnel and be responsible in all respects resulting from the employment of or contracting with such personnel. Decisions with respect to hiring control, direction, and termination of such personnel shall be the sole responsibility of Provider.

2.3 Non-Discrimination. Providers shall not discriminate between Members and non-Members as it relates to benefits and services to which they are both entitled and shall ensure that Provider offers hours of operation to Members that are no less than those offered to non-Members as provided in OAR 410-141-3220.

Provider shall not discriminate in the treatment of Members based upon physical or medical disability, medical condition, race, color, national origin, ancestry, religion, sex, marital status, veteran status, sexual orientation, or age, to the extent prohibited by

applicable federal, state, and local laws, regulations, and ordinances, and Provider shall provide services to Members in the same manner, in accordance with the same standards, and within the same availability as to non-Members.

2.4 Pre-authorization Program. Except for Emergency Medical Services, Provider will cooperate fully with PacificSource's pre-authorization program. PacificSource will notify Provider reasonably in advance when Covered Services are added to or removed from the pre-authorization program. Prior approval of all procedures or services listed on the pre-authorization grid is required, and any claims submitted for such procedures without prior approval will be denied. The pre-authorization grid is provided on-line on PacificSource's website in the provider section.

2.5 Referrals. Except (a) in the event of an emergency, (b) where otherwise approved or directed in advance by PacificSource, or (c) where a Member's medical needs otherwise require, Providers shall refer Members only to PacificSource Providers and shall refer Members for hospital services only to PacificSource Provider hospitals. Provider shall comply with PacificSource's referral authorization procedures as set forth in the PacificSource Provider Manual.

2.6 Emergency Coverage. Provider shall be responsible for responding to or making arrangements for emergent needs of Members with respect to Covered Services twenty-four (24) hours per day, seven (7) days per week, including holidays. In the event that Provider is unable to provide required Covered Services, Provider shall arrange for a Covering Practitioner.

2.7 Billing Procedure

2.7.1 Covered Services; Hold Harmless. For all Covered Services provided by Provider under this Agreement, Providers shall bill and submit encounter data to PacificSource in accordance with OAR 410-141-0420 and the PacificSource Provider Manual of this Agreement. Provider shall agree that never, under any circumstances, including, but not limited to, non-payment by PacificSource, insolvency of PacificSource, or the breach, expiration or termination of this Agreement, will Provider bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against OHA, Members, or persons acting on Members' behalf, for Covered Services and shall regard payment by PacificSource as payment in full for all benefits covered by this Agreement, with the exception of Copayments specifically authorized in a Member's Health Benefit Plan. The obligations of this Section shall survive the termination of this Agreement regardless of the cause giving rise to termination. In addition, Provider shall not bill in any amount greater than would be owed if Provider provided the services directly, consistent with 42 CFR 438.106 and 42 CFR 438.230.

2.7.2 Non-Covered Services. For all Non-Covered Services provided to any Member, Provider may bill Member directly for Non-Covered Services if, prior to providing Non-Covered Services, Provider shall have advised Member of non-coverage and shall obtain Member's acknowledgment and acceptance of individual financial responsibility ("Agreement to Pay"). Such Agreement to Pay shall be obtained in writing in a form published by OHA in accordance with OAR 410-141-3420.

2.7.3 Actions to Collect Amounts Owed. Provider shall not maintain any action at law or equity against OHA or any Member to collect any sum owed to Provider by PacificSource for Covered Services rendered pursuant to this Agreement. Provider shall not pursue legal or other remedy against PacificSource for nonpayment or underpayment to Provider for Covered Services provided to a Member unless and to the extent that PacificSource has failed to pay Provider for such Covered Services as required by this Agreement and Provider has exhausted any appeal rights or PacificSource becomes insolvent.

2.7.4 Claims Policies and Procedures. Provider agrees to comply with claims policies and procedures as identified in the PacificSource Provider Manual, which shall be consistent with industry standards for billing and coding practices. Provider agrees that claims must be submitted within four (4) months of the provision of services, except under the following circumstances: (a) billing is delayed due to eligibility issues; (b) pregnancy of the Member; (c) Medicare is the primary payer; (d) cases involving third party resources; (e) Covered Services provided by non-participating providers that are enrolled with OHA; or (f) other circumstances in which there are reasonable grounds for delay, as determined by PacificSource. Claims submitted after the applicable time period as specified in this Section will be denied, and Provider shall not seek reimbursement for such denied claims from Members. Provider agrees to abide by OHA's Provider-Preventable Conditions rules and requirements regarding non-payment of claims by PacificSource should preventable conditions occur.

2.7.5 Bill Review. Provider agrees to cooperate with any requests by PacificSource, or its agent, to review any bills submitted by Provider to determine whether a bill submitted for services rendered to a Member is a Covered Service under the Member's Health Benefit Plan, subject to this Agreement, properly billed to the services provided (as reflected in the medical record), and that payments made to the Provider were accurate, in accordance with the terms and conditions set forth herein.

2.8 Compliance with PacificSource Policies and Procedures. Provider shall participate in, cooperate with, and comply with all applicable PacificSource requirements, policies, and procedures, those set forth in the PacificSource Provider Manual (information can be found at <https://pacificsource.com/providers/>) and those relating to Member grievances; credentialing; utilization review; quality assurance; information and document requests; requesting hospital admission or specialty services; medical records sharing for specialty treatments, at the time of hospital admission or discharge, and for after-hospital follow-up appointments; and medical management program(s).. Provider acknowledges that such PacificSource requirements and procedures may be amended from time to time. Provider acknowledges receiving, or having access to PacificSource's policies regarding Grievance, Notice of Adverse Benefit Determination, Appeals, and Contested Case Hearings, and access to the PacificSource Provider Manual.

2.9 Cooperation with UM and Quality Improvement Activities; PacificSource Committee and Corrective Action Plans. Provider agrees to cooperate with utilization management and quality management procedures specified by the OHA, including OHPB Policy #31, or enacted by PacificSource and communicated to Provider by PacificSource. If PacificSource's

quality review activities involve post-payment record reviews or audits, such activities shall be limited to Member records and shall be conducted at PacificSource's expense, not including the cost of accessing and/or copying records. Provider shall provide at no cost, up to 10 records per Provider per audit, after which the parties shall split the reasonable costs. Provider agrees to PacificSource's audit schedule, and PacificSource shall not unreasonably interfere with Provider's business operations for the purpose of such audit. Provider shall cooperate with PacificSource, or its designee, in the performance of quality improvement and related activities. Failure to comply with PacificSource utilization review requirements or respond to post-payment record reviews or audits may result in a PacificSource request for a return of monies paid to Provider. If such amounts are not refunded or a reasonable accommodation for repayment cannot be reached between PacificSource and Provider, PacificSource may setoff such monies against amounts owed to Provider. The setoff right provided above may only be exercised upon prior written notice to Provider. For any return requests or setoff notices, Provider shall be given an opportunity to be heard by PacificSource.

2.9.1 Quality Improvement Programs. Provider will participate and/or promote applicable quality improvement programs, which are designed to improve the quality of care, quality of service, and the Member's experience. Such programs may include initiatives designed or required by regulatory or accreditation entities and may include without limitation data sharing via access to Provider's electronic health records, collection and evaluation of health data, providing access to supplemental data for collection of health data, providing applicable contact information to facilitate medical record chart chases, responding to Member complaints and quality of care concerns, responding to program evaluations and satisfaction surveys, and allowing PacificSource to use Provider performance data for quality improvement activities. Provider will also participate in CCO incentive measures which include data sharing via access to Provider electronic health records, participation in PacificSource incentive and improvement programs, and other measures or metrics as applicable.

2.9.2 Corrective Action Plans. PacificSource may determine that Provider's performance of obligations, duties, and responsibilities under the terms of this Agreement is deficient. In reaching that conclusion, PacificSource may, consider third-party audit or other formal review results, peer review results, quality measures, written or oral feedback from Members or patients, and any other issues which may be identified by PacificSource. If PacificSource determines Provider's performance is deficient for any reason, but that such deficiency does not constitute a Material Breach of the terms of this Agreement, PacificSource may declare the need for corrective action and issue to Provider or request from Provider a corrective action plan ("CAP") subject to internal review and approval. Provider shall have thirty (30) days to resolve the CAP to PacificSource's satisfaction, or within a reasonable timeframe set by OHA. Failure to resolve the CAP shall constitute a Material Breach by Provider, and PacificSource may terminate this Agreement immediately or take other action including financial penalties, imposition of liquidated damages, or sanctions, which Provider has the right to contest.

2.10 Provider Practice. Subject to the terms and conditions of this Agreement, Provider shall be entitled to perform all usual and customary procedures relative to their practice. This Agreement does not, and shall not be interpreted as, prohibiting or otherwise restricting Provider who is acting within the lawful scope of practice from advising or advocating on behalf of Members who are patients of such Provider, for the following:

- (a) Members' health status, medical care, or treatment options including any alternative treatment that may be self-administered, that is Medically Appropriate even if such care or treatment is not covered under this Agreement or is subject to copayment;
- (b) Any information Members need in order to decide among relevant treatment options;
- (c) The risks, benefits, and consequences of treatment or non-treatment; and
- (d) Members' right to participate in decisions regarding their health care, including the right to refuse treatment, and to express preferences about future treatment decisions.

2.11 Professional Representations. Throughout the term of this Agreement, Provider represents and warrants that it shall comply with all of the following regards any licensed practitioners or Provider Entity covered under this Agreement:

- (a) Maintain an unrestricted current license to practice his or her specialty under the State jurisdiction in which Covered Services are provided and have in effect at all times all licenses required by law for the practice of such provider's profession;
- (b) Maintain credentialing according to NCQA credentialing standards either by PacificSource or PacificSource's agent;
- (c) Secure and maintain, at Provider's expense, throughout the term of this Agreement, professional liability insurance in a minimum amount not less than or as required by state law or OHA;
- (d) Obtain and maintain staff privileges at the hospital primarily used by PacificSource Providers, assuming privileges are available and appropriate to that class of provider;
- (e) Warrant that this Agreement has been executed by its duly authorized representative and that executing this Agreement and performing its obligations hereunder shall not cause Provider to violate any term or covenant of any other agreement or arrangement now existing or hereinafter executed; and
- (f) Notify PacificSource promptly of any (i) modification, restriction, suspension, or revocation of any provider's authorization to prescribe or to administer controlled substances; (ii) imposition of sanctions against Provider under Medicaid, Medicare, or any other governmental program; or (iii) other professional disciplinary action or criminal or professional liability action of any kind against any provider, which is either initiated, in progress, or completed as of the Effective Date of this Agreement and at all times during the term of this Agreement

2.12 Facility Representations. If a facility, then throughout the term of this Agreement, Provider represents and warrants that Provider shall comply with all of the following regards all licensed facilities covered under this Agreement:

- (a) Maintain all appropriate license(s) and certification(s) mandated by governmental regulatory agencies;
- (b) Maintain accreditation by the Joint Commission on Accreditation of Healthcare Organizations ("Joint Commission") or another applicable accrediting agency recognized by PacificSource;
- (c) Maintain compliance with all applicable federal and state laws and regulations related to this Agreement and the services to be provided hereunder, including, without limitation, statutes and regulations related to fraud, abuse, discrimination, disabilities, confidentiality, false claims, and prohibition of kickbacks;
- (d) Establish and maintain an ongoing quality assurance/assessment program which includes, but is not limited to, appropriate credentialing of employees and subcontractors and shall supply to PacificSource the relevant documentation, including, but not limited to, internal quality assurance/assessment protocols, state licenses and certifications, federal agency certifications, and/or registrations upon request;
- (e) Ensure that all ancillary health care personnel employed by, associated or contracted with Facility who treat Members are and will remain throughout the term of this Agreement appropriately licensed and/or certified as required by state law and supervised, and qualified by education, training and experience to perform their professional duties; and will act within the scope of their licensure or certification, as the case may be;
- (f) Maintain credentialing, privileging, and re-appointment procedures in accordance with its medical staffs by-laws, regulations, and policies, if any; meet the querying and reporting requirements of the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank ("HIPDB"); and fulfill all applicable state and Federal standards;
- (g) Warrant that this Agreement has been executed by its duly authorized representative and that executing this Agreement and performing its obligations hereunder shall not cause Provider to violate any term or covenant of any other agreement or arrangement now existing or hereinafter executed; and
- (h) Notify PacificSource promptly of any (i) modification, restriction, suspension, or revocation of Provider's license(s) and/or certification(s); (ii) imposition of sanctions against Provider under the Medicaid program, Medicare program, or any other governmental program; or (iii) other disciplinary action, or criminal or professional liability action of any kind against Provider, which is either initiated, in progress, or completed as of the Effective Date of this Agreement and at all times during the term of this Agreement.

2.13 Credentialing. Provider and practitioners covered under this Agreement agree to comply with credentialing requirements of PacificSource as outlined in the PacificSource Provider

Manual and prior to rendering of Covered Services to Members. Provider warrants that it and any practitioner affiliated with Provider meets PacificSource's credentialing standards and that Provider has all licenses, permits, and/or governmental or board authorizations or approvals necessary to provide Covered Services in accordance with the applicable requirements in the state(s) in which Provider conducts business. Provider will provide immediate written notice to PacificSource of any changes in the licenses, permits, and/or governmental or board authorizations or approvals referenced above.

2.14 Provider Information. Provider shall notify PacificSource of any change in Provider information, including but not limited to, address, phone number, tax identification number, open and closed practice status, board certification and hospital privileges in advance of said change. Provider hereby authorizes any and all hospitals that Provider maintains staff privileges at to notify PacificSource promptly following the initiation of any disciplinary or other action of any kind that could result in any suspension, termination, or restriction in any material way, which would affect the ability of Provider to provide Covered Services to Members.

2.15 Coordination of Benefits. Provider agrees to (a) cooperate in providing for effective implementation of the provisions of all Health Benefit Plans and PacificSource policies relating to coordination of benefits and (b) comply with coordination of benefits policies described in the PacificSource Provider Manual. Provider shall inform PacificSource and OHA if Provider learns that a Member has insurance or health care benefits available from other sources or if a Member's condition is the result of other party liability. Provider will cooperate with PacificSource in pursuing claims against such other payors. In the event of illness or injury for which a third party has accepted financial responsibility or has been judged to be liable, the amount available for collection by Provider from the third party shall be applied to charges for medical care of the Member prior to the resources of PacificSource.

If the third party has reimbursed Provider, or if a Member reimbursed Provider after receiving payment from the third party, then Provider must reimburse Medicare up to the full amount Provider received, if the Member has Medicare and if Medicare is unable to recover its payment from the remainder of the third party payment. If the third party is not liable for the illness or injury of a Member or if recovery from the third party is less than PacificSource's obligation to the Member in the absence of payment by a third party, Provider shall comply with PacificSource's rules governing the provision of Covered Services and the terms of this Agreement in order for PacificSource to accept financial responsibility. Notwithstanding the foregoing, Provider may not refuse to provide Covered Services to a Member because of a potential third party liability, but shall provide Covered Services and cooperate with PacificSource for possible recoupment of funds.

2.16 PacificSource Provider Directory. Provider hereby authorizes PacificSource to list Provider's name, specialty, address, and telephone number in PacificSource's Provider Directory, whether on-line or in print, and in any PacificSource materials to help promote PacificSource or Health Benefit Plans to Members.

2.17 Provider Entities. If Provider is a Provider Entity, Provider shall provide services under this Agreement solely through its individual practitioner shareholders, partners, independent contractors, and/or employees and must ensure that all such shareholders, partners, independent contractors, and/or employees comply with the terms of this Agreement.

- 2.18 Confidentiality.** During and after the term of this Agreement, Provider shall keep confidential any financial, operating, proprietary, or business information relating to PacificSource that is not otherwise public or reasonably identified as confidential, including but not limited to, the terms of this Agreement. The obligations of this Section shall survive the termination of this Agreement.
- 2.19 Non-Solicitation.** Provider shall not directly or indirectly engage in Disparagement, as defined below, of PacificSource to any Member without PacificSource's prior written consent. For the purposes of this Section, "Disparagement" shall mean any oral or written statement that is slanderous, defamatory, or intentionally inaccurate, regarding PacificSource that may be reasonably interpreted to be intended to persuade any Member or employer of such Member to disenroll from a Health Benefit Plan or to encourage any Member or employer of such Member to receive health care from Provider other than pursuant to this Agreement. Nothing in this section is intended to interfere with an Provider's ability to communicate with a Member about the Member's medical condition, proposed treatment, or treatment alternatives whether covered by Health Benefit Plan or not and is consistent with state or federal laws. In addition to any other remedy available at law or in equity, Provider's breach of this Section shall be grounds for termination, pursuant to Section 4.5 (Termination with Cause upon Notice) of this Agreement, from participation in PacificSource's panel of PacificSource Providers and from participation in providing Covered Services to Members in accordance with the terms and conditions of this Agreement.
- 2.20 Eligibility Verification.** Providers will use best efforts to verify the enrollment and assignment of a Member prior to the provision of Covered Services and acknowledge that failure to verify eligibility may result in denial of claims for said Covered Services. PacificSource will use best efforts to provide such enrollment verification information and PacificSource acknowledges that its eligibility verification policies will be consistent with state and/or federal legal requirements.
- 2.21 Pricing and Quality Transparency.** To the extent required by Oregon law, Provider shall promptly provide pricing and quality information to PacificSource as and when requested for the purpose of providing cost estimates to Members.
- 2.22 Emergency Room Referrals.** Providers shall (a) not refer or direct Members to hospital emergency rooms for non-Emergency Medical Conditions and (b) educate and instruct Members in the proper utilization of Provider's office in lieu of the hospital emergency room.
- 2.23 Subrogation.** As required by PacificSource's contract with OHA, Provider agrees to subrogate to OHA any and all claims Provider has or may have against manufacturers, wholesale or retail suppliers, sales representatives, testing laboratories, or other providers in the design, manufacture, marketing, pricing, or quality of drugs, pharmaceuticals, medical supplies, medical devices, DMEPOS, or other products.
- 2.24 Electronic Medical Record Access.** Provider agrees to allow PacificSource, upon request, access to its electronic medical record system for the retrieval and review of Member medical records. Such access will be granted on a continuous basis for the duration of this

Agreement and PacificSource will agree to reasonable restrictions and rules related to such access.

- 2.25 Representations and Warranties.** Provider represents and warrants that (a) it has the power and authority to enter into and perform this Agreement, (b) this Agreement, when executed and delivered, shall be a valid and binding obligation of Provider enforceable in accordance with its terms, (c) Provider has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Provider will apply that skill and knowledge with care and diligence to perform the services contemplated herein in a professional manner and in accordance with standards prevalent in Provider's industry, trade or profession, and (d) Provider shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the services contemplated herein.

3.0 PACIFICSOURCE RESPONSIBILITIES

- 3.1 Payment.** Provider shall be compensated for Covered Services provided to Members in accordance with Attachment A. Unless a claim is disputed, PacificSource shall approve for payment Provider's complete, accurate, and timely submitted Clean Claims for Covered Services rendered to a Member, in accordance with PacificSource policies or applicable laws or regulations. The timing and calculation of payment(s) to Provider for Covered Services shall be according to PacificSource's payment methodology as set forth in this Agreement and Attachment(s).
- 3.2 Refunds.** PacificSource may initiate refunds from Providers for up to one (1) year from the date of payment. Refund statements are generated on a monthly basis, and PacificSource will setoff consistent with Section 2.9 (Cooperation with UM Quality Improvement Activities; PacificSource Committee and Corrective Action Plans). In the event that HSD retroactively disenrolls a Member, PacificSource reserves the right to initiate provider refunds for any applicable time period, which may be longer than one (1) year from the date of payment.
- 3.3 Member Eligibility.** PacificSource shall establish a method for Provider to identify whether a person requesting services is enrolled with PacificSource and eligible to receive Covered Services paid for by PacificSource.
- 3.4 Subcontracts.** PacificSource may subcontract any or all of the services PacificSource agrees to provide under this Agreement. No subcontract shall terminate or limit PacificSource's legal responsibility for the timely and effective performance of its duties and responsibilities under this Agreement.
- 3.5 Marketing.** PacificSource may advertise the participation of Provider with PacificSource in print, voice, and video advertising media. PacificSource may list the name, address, telephone number, and other identifying information of Provider in PacificSource's publications furnished to Providers and Members and may identify Provider as a PacificSource Provider in advertising and marketing materials, in accordance with OHA guidelines.

3.6 Choice of Health Care Provider. PacificSource will allow Member to choose his or her health care provider to the extent possible and appropriate.

4.0 EFFECTIVE DATE; TERM AND TERMINATION.

4.1 Term and Renewal. The term of this Agreement shall begin on the Effective Date and shall continue for an initial term of one (1) year and renew for two (2) terms thereafter..

4.2 Termination without Cause. Either party may terminate this Agreement at any time upon at least one hundred eighty (180) days prior written notice to the other party.

4.3 Immediate Termination. PacificSource shall have the right to terminate this Agreement immediately by written notice to Provider upon the occurrence of any of the following events:

- (a) Provider's license to provide medical services in the state in which services were rendered, as applicable, or authorization to administer controlled substances is terminated, suspended, or restricted in any material way, which would affect the ability of Provider to furnish Covered Services to Members pursuant to the terms of this Agreement;
- (b) Provider's medical staff privileges at any licensed general acute care hospital is suspended, terminated, or restricted in any material way, which would affect Provider's ability to provide Covered Services to Members;
- (c) Provider is suspended from participation in Medicaid or Medicare programs or not enrolled as a Medicaid Provider with the State of Oregon;
- (d) Provider's loss of professional liability coverage as required by this Agreement;
- (e) Provider's death or incapacity. PacificSource reserves the right to determine whether Provider is incapacitated for the purposes of this Section;
- (f) PacificSource makes a reasonable and good faith determination that such termination is necessary to protect the health or welfare of Members; or
- (g) If Provider is a Provider Entity, Provider (i) ceases to be a professional corporation, medical group partnership, or other health care provider organization in good standing under the laws of the state in which Services were rendered, as applicable, or (ii) there is a change in the majority ownership or control of Provider; or (iii) Provider violates the drug-free workplace provisions in this Agreement.

To protect the interests of Members, Provider will provide immediate notice to PacificSource of any of the aforesaid events. PacificSource shall provide Provider an opportunity to respond to PacificSource's termination decision if the basis for PacificSource's termination decision is based upon mistaken or otherwise erroneous information, and shall otherwise follow any legal requirements that apply.

4.4 Immediate Termination of Licensed Facility. For any licensed facilities covered under this Agreement, PacificSource shall have the right to terminate this Agreement immediately by written notice to Provider upon the occurrence of any of the following events:

- (a) Withdrawal, expiration, or non-renewal of any Federal, state, or local license, certificate, approval or authorization of Provider;
- (b) Bankruptcy or receivership of Provider, or an assignment by Provider for the benefit of creditors;
- (c) Loss or material limitation of Provider's insurance;
- (d) Debarment or suspension of Provider from participation in any governmental sponsored program, including, but not limited to Medicare;
- (e) Failure to comply with the notification requirements set forth in this Agreement, including those in Section 2.11 and 2.12;
- (f) Revocation or suspension of Provider's accreditation as required in this Agreement;
- (g) The listing of Provider in the HIPDB; or
- (h) Change of control of Provider to an entity not acceptable to PacificSource, or there is a change in the majority ownership or control of Provider.

To protect the interests of Members, Provider will provide immediate notice to PacificSource of any of the aforesaid events. PacificSource shall provide Provider an opportunity to respond to PacificSource's termination decision if the basis for PacificSource's termination decision is based upon mistaken or otherwise erroneous information, and shall otherwise follow any legal requirements that apply.

4.5 Termination with Cause upon Notice. PacificSource may terminate a Provider for cause, including, without limitation, quality of care, fraud, waste or abuse concerns, from participation in PacificSource's panel of PacificSource Providers and in the provision of Covered Services to Members pursuant to the terms and conditions of this Agreement. For cause shall not include a Provider advocating a decision, policy, or practice solely for reason of such advocacy. In the event of a termination for cause, Provider is entitled to those rights of appeal as described in PacificSource's Appeal Process for Terminated Providers Policy.

4.6 Rights and Obligations upon Termination.

- (a) Continuation of Obligations. Upon termination, all rights and obligations of the parties under this Agreement shall immediately cease, except those rights and obligations that are identified as surviving the term of this Agreement. Termination of this Agreement shall not relieve either party of any obligation to the other party in accordance with the terms of this Agreement, and with respect to services furnished prior to such termination, and shall not relieve Provider of Provider's obligation to cooperate with PacificSource in arranging for the transfer of care of Members receiving treatment from Provider.

- (b) Continuation of Services. If required by a Health Benefit Plan, and unless PacificSource makes provision for the assumption of such services by another practitioner, following termination of this Agreement, Provider shall continue to furnish, and PacificSource shall continue to pay for, in accordance with the terms of this Agreement, Covered Services rendered to Members under the care of Provider at the time of termination until the services being rendered are completed. PacificSource shall use its best efforts to arrange for any Members under the care of Provider at the time of termination of the Agreement to be transferred to another PacificSource Provider at the earliest possible date. In the event of termination of this Agreement, Provider shall cooperate with and not interfere in the transfer of Members under the care of Provider at the time of termination until the services being rendered are completed.
- (c) Access to Records Upon Termination. Notwithstanding any termination of this Agreement, Provider shall continue to provide PacificSource access to Provider's records, so as to allow PacificSource to continue to meet its obligations under the CCO Contract.

5.0 OREGON HEALTH PLAN PROVISIONS

- 5.1 **Accountability.** Provider acknowledges that PacificSource oversees and is ultimately accountable to OHA for the timely and effective performance of PacificSource's duties and responsibilities under PacificSource's contract with the State of Oregon, acting by and through OHA.
- 5.2 **Continuation of Services.** In the event of insolvency or cessation of operations of PacificSource, Provider shall continue to provide Covered Services to Members for the period in which PacificSource continues to receive compensation for administering services under the Oregon Health Plan.
- 5.3 **Incorporation of Provisions.** To the extent that any provision of PacificSource's CCO Contract to implement and administer services under the Oregon Health Plan applies to Provider with respect to the services contemplated hereunder, such provision shall be incorporated by this reference into this Agreement and shall apply equally to Provider.

6.0 GENERAL PROVISIONS.

- 6.1 **Reimbursement; Value-Based Payments.** The parties recognize that the CCO Contract requires transition to value-based payments and agree to use best efforts to work together to establish and implement value-based benefits in a manner that allows PacificSource to fulfill the requirements of the CCO Contract by or before January 1, 2020, including performance measures determined by OHA or in discussions with OHA. Further, the parties agree to use best efforts to continue to work together to expand value-based payments beyond January 1, 2020, again to allow PacificSource to fulfill the requirements of the CCO Contract and value-based payment requirements.
- 6.2 **Non-Exclusivity.** This Agreement is not exclusive, and nothing herein shall preclude either party from contracting with any other person or entity. PacificSource makes no representation or guarantee as to the number of Members who may select Provider for the purpose of receiving Covered Services.

- 6.3 No Third Party Beneficiaries.** Neither Members nor any other third parties are intended by the parties to this Agreement to be third party beneficiaries under this Agreement, and no action may be brought to enforce the terms of this Agreement against either party by any person who is not a party to this Agreement.
- 6.4 Indemnification.** At all times during the term of this Agreement, Provider shall indemnify, defend, and hold PacificSource and PacificSource's employees and agents harmless from and against any and all claims, damages, causes of action, costs, or expenses, including reasonable attorneys' fees, to the extent proximately caused by the gross negligence or willful misconduct of Provider or any employee or agent of Provider's arising out of this Agreement. At all times during the term of this Agreement, PacificSource shall indemnify, defend, and hold Provider and Provider's employees and agents harmless from and against any and all claims, damages, causes of action, costs or expenses, including reasonable attorneys' fees, to the extent proximately caused by the gross negligence or willful misconduct of PacificSource or any PacificSource employee or agent arising from this Agreement. Notwithstanding the foregoing, this Section shall be null and void to the extent that it is interpreted to reduce insurance coverage to which either party is otherwise entitled, by way of any exclusion for contractually assumed liability or otherwise.
- 6.5 Dispute Resolution.** Notwithstanding any other provision in this Agreement, and unless otherwise required by federal law, the parties agree to resolve disputes related to the termination or non-renewal of this Agreement in the manner set forth in OAR 410-141-3269, as that regulation now exists or is amended.
- 6.6 Assignment.** Neither party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other; provided, however, that PacificSource may assign this Agreement, upon thirty (30) days prior written notice, to any entity that controls, is controlled by, or that is under common control with PacificSource now or in the future, or which succeeds to its business through a sale, merger, or other corporate transaction without the prior consent of Provider. Any purported assignment or transfer in violation of this Section 6.6 shall be null and void.
- 6.7 Amendments.** PacificSource may amend this Agreement by providing prior written notice to Provider. Failure of Provider to object in writing to any such proposed amendment within thirty (30) days following receipt of notice shall constitute Provider's acceptance thereof. Any amendment to this Agreement or Exhibits necessary for compliance with state or federal law or regulation shall become effective upon notice from PacificSource to Provider if required by federal or state law. In the event Provider objects to such amendment necessary for compliance with state or federal law, PacificSource may, at its sole option, either continue this Agreement unamended or terminate this Agreement sixty (60) days from the date of receipt of written objection from Provider. During said sixty (60) day period, the terms and conditions of this Agreement as existed on the day prior to the date of the written objection, including all terms and conditions of compensation, shall continue to be in effect. If amendment is to comply with state or federal law, termination of this Agreement under this provision shall be treated as a "voluntary termination" without right to hearing. Notwithstanding the foregoing, this Agreement may be amended at any time by mutual written agreement signed by both parties.
- 6.8 Headings.** The headings of the various sections of this Agreement are merely for

convenience and do not, expressly or by implication, limit, define, or extend the terms of the sections to which they apply.

- 6.9 Notices.** Any notice required to be given pursuant to the terms of this Agreement shall be in writing and shall be either hand delivered, confirmed via facsimile, sent via overnight mail (such as Federal Express), or sent postage prepaid, by certified mail, return receipt requested, to PacificSource or Provider at the address set forth on the signature page of this Agreement. Such address may be changed by giving notice of such change in the manner provided in this Section for giving of such notice. The notice shall be effective on the date of delivery if delivered by hand or confirmed via facsimile, the date of delivery as indicated on the receipt if sent via overnight mail, or the earlier of the date indicated on the return receipt or four (4) business days after mailing if sent by certified mail.
- 6.10 Severability; Conformity with Law.** If any provision of this Agreement is declared invalid or otherwise unenforceable, the enforceability of the remaining provisions shall be unimpaired, and the parties shall replace the invalid or unenforceable provision with a valid and enforceable provision that reflects the original intention of the parties as nearly as possible in accordance with applicable law. This Agreement shall be interpreted and, if necessary, amended to confirm with applicable federal and state law in effect on or after its Effective Date.
- 6.11 Waiver of Breach.** The waiver of any breach of this Agreement by either party shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or any other provision of this Agreement.
- 6.12 Modification of Health Benefit Plan.** PacificSource may change, revise, modify, or alter the form or content of any Health Benefit Plan or Member written materials without prior approval or notice to Provider.
- 6.13 Conflict with Health Benefit Plan; Outside Contracts.** This Agreement does not modify the benefits, terms, or conditions contained in a Member's Health Benefit Plan. In the event of a conflict between this Agreement and the terms of the Member's Health Benefit Plan, the terms of the Member's Health Benefit Plan shall control. PacificSource does not and shall not prohibit a Member from contracting for services outside the Member's Health Benefit Plan; however, PacificSource does not consent to, or agree to be bound by, any terms or conditions that may be offered to, or entered into by, any Member contracting outside of their Health Benefit Plan
- 6.14 Conflict with PacificSource Provider Manual.** In the event the terms and conditions of this Agreement conflict with the terms and conditions of the PacificSource Provider Manual, the terms and conditions of this Agreement shall control.
- 6.15 Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of Oregon.
- 6.16 Entire Agreement.** This Agreement and any and all recitals, amendments, exhibits, attachments, schedules, and addenda in addition to the PacificSource's Policies and procedures contained in the PacificSource Provider Manual contain the entire agreement of the parties, and supersede any other agreement between the parties for Medicaid.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first set forth above.

PACIFICSOURCE:

PacificSource Community Solutions

By: _____

Name: Peter McGarry _____

Title: VP Provider Network _____

Date: _____

PROVIDER:

County of Clackamas, Oregon, signing on behalf of the Board Commissioners:

By: _____

Name: Richard Swift _____

Title: Director _____

Date: _____

Address:

PacificSource Community Solutions

PO Box 7469

Bend, OR 97708

Attn: Provider Contracting

Fax: 541-322-6434

Address:

County of Clackamas, Oregon

2051 Kaen Road

Oregon City, OR 97045

Fax: _____

Schedule of Attachments and Exhibits

- | | |
|--------------|---|
| Attachment A | Reimbursement Schedule |
| Attachment B | Scope of Work and Special Provisions – Provider Specific |
| Attachment C | Scope of Work and Special Provisions – All Providers |
| Attachment D | Credentialing |
| Attachment E | Oregon Health Plan (Oregon Health Authority) Contractual Requirements |
| Exhibit 1 | Required Federal Terms and Conditions |

Attachment A

County of Clackamas, Oregon

April 1, 2020

**Reimbursement Schedule – Non-Risk
Physical Health -- Professional Provider**

These rates shall apply to all PacificSource Community Solutions Networks and Products

1.0 Fee For Service Reimbursement

SERVICE/PROCEDURE	MAXIMUM ALLOWABLE
All Medical Services: As defined in the OHP Medical-Dental Fee Schedule	^{1,2} 100% of current OHP Allowable Amounts
Anesthesia: Service or supply with an ASA value	^{1,2,3} 100% of current OHP Allowable Amounts
Laboratory, DME/supplies	^{1,2} 100% of current OHP Allowable Amounts
Drugs, Injectables, Vaccines, Immunizations:	^{1,2} 100% of current OHP Allowable Amounts
Services and Procedures without an established unit value	PacificSource Community Solutions Default Fee Allowance ⁴

NOTE: Payment will be based on the negotiated rates in effect at the time the services or supplies are rendered or provided as specified above. Payment shall be the lesser of Provider's billed charges or the Maximum Allowable amount.

1. PacificSource will reimburse based on the rates published as of the date of adjudication.
2. Updates to the schedules noted above shall be updated in accordance with the state of Oregon, OHA and HSD.
3. ASA Basic Unit Value and annual updates as defined by the American Society of Anesthesiologists Relative Value Guide. Time units shall be based on 15 minute increments.
4. PacificSource utilizes industry standard publications and rate methods to supplement codes not established by the above noted methodologies.

2.0 GENERAL PROVISIONS

2.1 Requirements

May 14, 2020

Board of County Commissioner
Clackamas County

Members of the Board:

Approval for an Intergovernmental Agreement with
Clackamas County Fire District #1 for Medical Direction

Purpose/Outcomes	This Agreement provides the basis for a cooperative working relationship for the provision of medical direction for Clackamas County Fire District #1
Dollar Amount and Fiscal Impact	Maximum contract value is \$7,350.
Funding Source	Emergency Medical Services Coordination – No General Funds are used.
Duration	Effective June 1, 2020 and terminates on December 31, 2020
Previous Board Action	No Previous Board Action
Strategic Plan Alignment	1. Improved community safety and health 2. Ensure safe, healthy and secure communities
Counsel Review	County Counsel has review and approved this document on April 16, 2020
Contact Person	Richard Swift, interim Public Health Director , 503-650-5694
Contract No.	9690

Background

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Agreement with Clackamas County Fire District #1 for Medical Direction. This Agreement provides the basis for a cooperative working relationship with Clackamas County Fire District #1 for Medical Direction such as, developing a program to ensure they meet the state requirements and to establish performance standards. This agreement will ensure that Clackamas County Fire District #1 first responders meet requirements and protocols for the provision of EMS care.

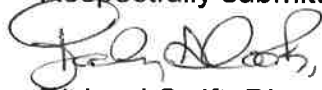
The maximum contract value is \$7,350. This agreement is effective June 1, 2020 and expires on December 31, 2020.

Page 2 Staff Report
May 14, 2020
Agreement #9690

RECOMMENDATION:

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

Respectfully submitted,

 John Black, H3S Deputy Director / FOR

Richard Swift, Director
Health, Housing, and Human Services

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND CLACKAMAS COUNTY FIRE DISTRICT #1**

Contract #9690

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County ("County"), a political subdivision of the State of Oregon, and Clackamas County Fire District #1 ("Agency"), an Oregon municipal corporation, 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.

Clackamas County Fire District #1 desires to contract with County to receive medical direction services for their Emergency Medical Program.

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 June 1, 2020, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or December 31, 2020, whichever is sooner.
2. **Scope of Work.** The Agency agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** The Agency agrees to pay County a sum not to exceed Seven thousand- three hundred-fifty dollars (\$7,350) for accomplishing the Work required by this Agreement.
4. **Payment.** Agency agrees to pay County as stated in Exhibit A.
5. **Representations and Warranties.**
 - A. *Agency Representations and Warranties:* Agency represents and warrants to County that Agency 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 Agency enforceable in accordance with its terms.
 - B. *County Representations and Warranties:* County represents and warrants to Agency that County 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 County 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 the County or the Agency may terminate this Agreement at any time upon thirty (30) days written notice to the other party.

- B. Either the County or the Agency 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. The County or the Agency 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. The Agency may terminate this Agreement in the event the Agency fails to receive expenditure authority sufficient to allow the Agency, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Project under this Agreement is prohibited or the Agency 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. Indemnification.

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the Agency, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the Agency agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the Agency or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the Agency has a right to control.

8. **Insurance.** The Agency agrees to furnish the County with evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of Clackamas County, and their officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Agreement. If self-insured, Agency shall provide documentation to the County of Agency's self-insured status by completing the Self-Insurance Certification form provided by the County.

9. **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 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 or other indication 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. Philip Mason-Joyner or their designee will act as liaison for the County.

Contact Information:

2051 Kaen Road, Suite 367, Oregon City, OR 97045

(503) 742-5956

PMason@clackamas.us

Fred Charlton, Fire Chief, or their designee will act as liaison for the Agency.

Contact Information:

11300 SE Fuller Rd, Milwaukie, OR 97222

(503) 742-2600

fred.charlton@clackamasfire.com

10. 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 and the ordinances of Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and Agency that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas 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 the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Agency, by execution of this Agreement, hereby consents 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. Failure to comply with such obligations is a material breach of this Agreement.
- 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.** Agency shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) 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. Agency 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, Agency shall permit the County’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.
- E. Work Product.** All work performed under this Agreement shall be considered work made for hire and shall be the sole and exclusive property of the District. The District shall own any and all data, documents, plans, copyrights, specifications, working papers and any other materials produced in connection with this Agreement. On completion or termination of the Agreement, the Agency shall promptly deliver these materials to the District’s Project Manager.
- F. Hazard Communication.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 137, or the United States Environmental

Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Agency shall immediately provide Material Safety Data Sheets for the products subject to this provision.

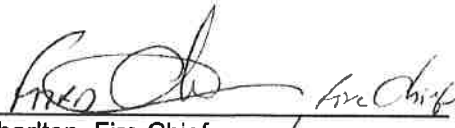
- G. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- H. **Severability.** 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.
- I. **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.
- J. **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.
- K. **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.
- L. **No Third-Party Beneficiary.** Agency and County 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.

- M. **Subcontract and Assignment.** Agency 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 the County, which shall be granted or denied in the County's sole discretion. County's consent to any subcontract shall not relieve Agency of any of its duties or obligations under this Agreement.
- N. **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.
- O. **Survival.** All provisions in Sections 5, 7, and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), (T), and (U) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **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.
- Q. **Time is of the Essence.** Agency agrees that time is of the essence in the performance this Agreement.
- R. **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.
- S. **Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by events outside of the Agency or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Agency shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- T. **Confidentiality.** Agency acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire confidential information. Any and all information of any form obtained by Agency or its employees or agents in the performance of this Agreement shall be deemed confidential information of the County ("Confidential Information"). Agency agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Agency uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

U. **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.

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

CLACKAMAS COUNTY FIRE DISTRICT #1



Fred Charlton, Fire Chief
4-30-2020

Date
11300 SE Fuller Rd.

Street Address
Milwaukie, OR 97222

City / State / Zip
(503) 747-2111 / 503-742-2600

Phone / Fax

CLACKAMAS COUNTY

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

Signing on Behalf of the Board:

Richard Swift, Director
Health, Housing, and Human Services

Date

Exhibit A SCOPE OF WORK

I. Purpose

- A. This Agreement provides the basis for a cooperative working relationship for the provision of medical direction for the Clackamas County Fire District #1.

II. Scope of Cooperation

A. County agrees to:

1. Work with Agency to provide medical director services and to perform the services listed below.
2. Meet with Agency personnel on a mutually agreed upon schedule to develop a program to:
 - a. Ensure that Agency EMS providers meet Oregon State requirements for licensure and have the knowledge, skills and abilities to perform at the standards determined jointly by County and Agency.
 - b. Evaluate each EMS Provider's skill performance annually.
 - c. Provide case reviews.
 - d. Provide round table, or other agreed upon educational activity, on a quarterly basis.
 - e. Oversee and direct training courses.
 - f. Oversee and direct a quality improvement program.
3. Oversee the maintenance, use, and documentation of all Automatic External Defibrillators (AEDs) provided for use by the Agency, in accordance with Federal and State regulations.
4. Provide contact information so that Agency personnel can contact the assigned Medical Director (or designee) in a timely manner.

B. Agency agrees to:

1. Meet with County personnel on a mutually agreed upon schedule to develop and maintain a program to:
 - a. Ensure that Agency EMS providers meet Oregon State requirements for licensure and have the knowledge, skills and abilities to perform at the standards determined jointly by County and Agency.
 - b. Evaluate each EMS Provider's skill performance annually.
 - c. Provide case reviews.
 - d. Oversee and direct training courses.
 - e. Oversee and direct a quality improvement program.

2. Provide an EMS Coordinator to:
 - a. Coordinate training exercises and skill monitoring.
 - b. Maintain a computerized CQI database of all procedures and relevant training for all EMS providers.
 - c. Provide periodic reports to guide training efforts.
3. Agency further agrees to the following regarding the authority of the Medical Director:
 - a. The Agency will not permit its EMS Providers to practice at a level other than that approved by Medical Director.
 - b. Agency personnel will not practice under the medical direction or protocol of any physician other than the one assigned by mutual agreement with the exception of on-line medical control or direct in-person physician supervision provided during patient encounters.
 - c. As per ORS 682.245, Medical Director has the final decision with respect to the standing orders and written authorization to provide EMS care by Agency Department personnel.
 - d. Medical Director may require specific remedial action to correct deficiencies noted in the continuous quality improvement process, or identified violations of federal, state and local laws or regulations.
 - e. County is not an employer of its EMTs, and Agency acknowledges that no employment relationship exists between County and the EMTs employed by the Agency.

III. Compensation

- A. Agency will pay to County an amount not to exceed \$4,200. for services described in Exhibit A. Payments shall be requested and made as follows:

Monthly payments of \$1,050 will be requested by invoice from County.

Payment will be made by Agency within 30 days of receipt of invoice.

- B. All checks shall be made payable to Clackamas County and mailed to the following address:

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

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Personal Services Contract with the Catholic Community Services of
Western Washington, for Crisis and Acute Transition Services

Purpose/ Outcomes	Execution of a contract between the Health, Housing and Human Services Department and Catholic Community Services of Western Washington, for Crisis and Acute Transition Services for youth in Clackamas County.
Dollar Amount and Fiscal Impact	Total contract value including optional renewals through expiration is \$734,260.00
Funding Source	State of Oregon, Oregon Health Authority funding. No County funds involved.
Duration	Effective September 1, 2019 through June 30, 2023.
Previous Board Action	No previous Board action.
Counsel Review	Counsel reviewed and approved Agreement April 29, 2020.
Procurement Review	1. Was the item processed through Procurement? yes <input checked="" type="checkbox"/> no <input type="checkbox"/> 2. If no, provide brief explanation:
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Contact Person	Mary Rumbaugh, Director – Behavioral Health Division – 503-742-5305
Contract No.	#9354

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests approval of a Personal Services Contract with Catholic Community Services of Western Washington (CCSWW) to provide Crisis and Acute Transition Services (CATS). CCSWW was selected to provide CATS program services following a request for proposal process conducting in May and June 2019. CATS is designed to provide community-based alternative to emergency department “boarding” for children and youth in need of acute psychiatric treatment.

Formerly known as Emergency Department Diversion to Community-Based Services and Supports, CCSWW has provided CATS program services since 2015. These services include and require brief crisis services, stabilization, and transition to community-based supports when children and youth from birth to eighteen (18) years of age, present to emergency departments or crisis centers and are at the risk of admission for psychiatric or behavioral crises.

This Contract, with a maximum value of \$734,260.00, is effective from September 1, 2019 and continues through June 30, 2023.

PROCUREMENT PROCESS:

This project was advertised in accordance with ORS 279B and LCRB Rules on May 1, 2019. Proposals were publically opened June 4, 2019. The County received one (1) proposals from Catholic Community Services of Western Washington. Catholic Community Services of Western Washington's proposal was chosen as most complete and comprehensive and was awarded the Contract through June 30, 2023.

RECOMMENDATION:

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

Respectfully submitted,



Richard Swift, Director
Health, Housing and Human Services

Placed on the Agenda of _____ by the Procurement Division.



CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
Contract # 1607 / Behavioral Health Division #9354

This Personal Services Contract (this "Contract") is entered into between Catholic Community Services of Western Washington ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of the Health, Housing, and Human Services Department.

ARTICLE I.

- 1. Effective Date and Duration.** This Contract shall become effective upon the signature of both parties. County and Contractor acknowledge and ratify that Work (defined below) under the Contract was completed before the date of final execution, but not earlier than September 1, 2019. The Work previously performed is and shall remain subject to the terms and conditions of this Contract. County reserves any rights, claims, or causes of action that County may have with respect to Work performed and ratified hereunder. Unless earlier terminated or extended, this Contract shall expire on June 30, 2021. This Contract may be renewed for an additional two (2) year term upon the written agreement of both parties to this Contract.
- 2. Scope of Work.** Contractor shall provide the following personal services: Crisis and Acute Transition Services ("Work" or "Services"), further described in **Exhibits E and G.**
- 3. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed **three hundred sixty-nine thousand and seven hundred twenty-four dollars (\$369,724.00)** for accomplishing the Work required by this Contract from September 1, 2019 through June 30, 2021. If the parties exercise the optional two-year renewal, the County agrees to pay Contractor a sum not to exceed **three hundred sixty-four thousand five hundred thirty-six dollars (\$364,536.00)** for accomplishing Work during the renewal term. The total payments under this Contract, including any optional renewal, shall not exceed **seven hundred thirty-four thousand two hundred sixty dollars (\$734,260.00)**. For the initial term of this contract (September 1, 2019 through June 30, 2021), County shall pay Contractor a fixed fee of \$16,805.63 per month for Work performed. For the optional renewal term, if exercised, the County shall pay Contractor a fixed fee of \$15,189.00 per month for Work performed.
- 4. Invoices and Payments.** No later than the tenth (10th) day of each month, Contractor shall submit monthly invoices for Work performed. The invoices shall include both the total amount due for all Work provided during the month and the total amount billed to date by Contractor prior to the current invoice.

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

Invoices shall reference Contract # 1607 / Behavioral Health Division #9354 and be either submitted by email to BHAP@clackamas.us, and APeterson2@clackamas.us or mailed to the following address: Clackamas County Behavioral Health Division

Accounts Payable
2051 Kaen Road, Suite #154

Oregon City, Oregon 97045

5. **Travel and Other Expense.** Authorized: Yes No

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

6. **Contract Documents.** This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A, Exhibit B, Exhibit C, Exhibit E, Exhibit F, and Exhibit G.

7. **Contractor and County Contacts.**

<p style="text-align: center;">Contractor</p> <p>Administrator: Jessica Brar Phone: 503-758-8222 Email: jessicab@ccsww.org</p>	<p>Clackamas County – Behavioral Health Division County Address: 2051 Kaen Road, Suite 154 Oregon, City, OR 97045 Phone: 503-742-5335 Email: BHContracts@clackamas.us</p>
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Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Contractor shall further comply with any and all terms, conditions, and other obligations as may be required by applicable State and Federal agencies providing funding for performance under this Contract, whether or not specifically referenced herein.
5. **COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.

- 6. GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
- 7. RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. If County does not authorize the attorney engaged by Contractor to represent the County, County may, at its election and expense, assume its own defense and settlement in which event Contractor's duty to indemnify and defend County hereunder shall be null and void and of no effect. The County shall have no authority to defend the claim in the name of the Contractor or any office of the Contractor nor purport to act as legal representative of the Contractor or any office of the Contractor nor to settle any claim on behalf of the Contractor unless agreed to in writing by Contractor and its insurer.
- 8. INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.
- 9. INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit B**, attached hereto and by this reference made a part hereof.
- 10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.

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

12. OWNERSHIP OF WORK PRODUCT.

[Reserved]

13. REPRESENTATIONS AND WARRANTIES. Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

14. SURVIVAL. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 11, 13, 14, 16, 21, 27, 28, 29, and 32, and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to:
(a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

15. SEVERABILITY. If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

16. SUBCONTRACTS AND ASSIGNMENTS. Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

17. SUCCESSORS IN INTEREST. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

18. TAX COMPLIANCE CERTIFICATION. The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation

of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.

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

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

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

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

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

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

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

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

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

- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.

- b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
- c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

27. ABUSE REPORTING. Contractor shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 943-045-0250 through 493-045-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if Contractor were a mandatory reporter. If Contractor is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. Contractor shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

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

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

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

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County

may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

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

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

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

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

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

31. COOPERATIVE CONTRACTING. Pursuant to ORS 279A.200 to 279A.225, other public agencies may use this Contract resulting from a competitive procurement process unless the Contractor expressly noted in their proposal/quote that the prices and services are available to the County only. The condition of such use by other agencies is that any such agency must make and pursue contact, purchase order, delivery arrangements, and all contractual remedies directly with Contractor; the County accepts no responsibility for performance by either the Contractor or such other agency using this Contract. With such condition, the County consents to such use by any other public agency.

32. HIPAA COMPLIANCE. Contractor is a business associate as that term is defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). As a business associate, Contractor agrees to: a) implement appropriate safeguards and maintain individually identifiable patient health information ("Protected Health Information" or "PHI", including electronic PHI) as required by


HIPAA; b) use and disclose only the minimum necessary PHI; c) use and disclose PHI only as permitted under HIPAA for legal, management and administrative purposes in connection with treatment, payment and healthcare operations or as required by law; d) promptly notify County of disclosures of PHI in violation of HIPAA; e) promptly make PHI available to County and patients upon request;. Contractor acknowledges that PHI received from County shall remain County's property and that within ten (10) business days of County's request or upon termination of this Agreement, said PHI shall be returned to County or be destroyed, if County so directs. If such return or destruction is infeasible, Contractor shall use such PHI only for purposes that make such return or destruction infeasible and the provisions of this Agreement shall survive with respect to such PHI. Contractor shall execute the Qualified Service Organization Business Associate Agreement attached hereto as Exhibit F and incorporated by this reference herein. Contractor shall take all necessary steps, and execute all necessary written instructions, to comply with HIPAA, 42 C.F.R. Part 2, and any other applicable state or federal law.

33. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR

WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Catholic Community Services of Western Washington

 4/28/2020
Authorized Signature Date

Mary Stone-Smith Vice President
Name / Title (Printed)

234806-92
Oregon Business Registry #

Nonprofit Corporation/Washington
Entity Type / State of Formation

Clackamas County

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

Signing on Behalf of the Board

Richard Swift, Director
Health, Housing & Human Services Dept.

Date

Approved as to Form:

 04/29/2020
County Counsel Date

EXHIBIT A
DEFINITIONS (CMHP)

Whenever used in this Contract, the following terms shall have the meanings set forth below:

1. **“Addiction Treatment, Recovery, & Prevention Services”** means treatment Services for Individuals diagnosed with disorders related to the taking of a drug of abuse including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse, and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorder, mood disorder, etc., as defined in DSM criteria.
2. **“Aging and People with Disabilities” or “APD”** means a division within the Department of Human Services that is responsible for management, financing and regulation services for aging adults and people with disabilities.
3. **“Allowable Costs”** means the costs described in 2 CFR Part 200 or 45 CFR Part 75, as applicable, except to the extent such costs are limited or excluded by other provisions of the Contract.
4. **“Client” or “Individual”** means, with respect to a particular Service, any person who is receiving that Service, in whole or in part, with funds provided under this Contract.
5. **“Community Mental Health Program” or “CMHP”** means an entity that is responsible for planning the delivery of Services for Individuals with mental or emotional disturbances, drug abuse, alcohol abuse or gambling addiction problems in a specific geographic area of the state under an agreement with OHA or a Local Mental Health Authority.
6. **“Contractor” or “Provider”** means the person or entity providing particular Services, or a portion thereof, under a contract or agreement.
7. **“Coordinated Care Organizations” or “CCO”** means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.
8. **“County”** means Clackamas County, a political subdivision of the State of Oregon.
9. **“DHS”** means the Department of Human Services of the State of Oregon.
10. **“Health Services Division” or “HSD”** means the division of OHA that is responsible for Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services.
11. **“Individual” or “client”** means, with respect to a particular Service, any person who is receiving that Service, in whole or in part, with funds provided under a contract or agreement.
12. **“Local Mental Health Authority” or “LMHA”** means one of the following entities:
 - a. The board of county commissioners of one or more counties that establishes or operates a Community Mental Health Program;
 - b. The tribal council, in the case of a federally recognized tribe of Native Americans, that elects to enter into an agreement to provide mental health services; or
 - c. A regional local mental health authority comprised of two or more boards of county commissioners.
13. **“Misexpenditure”** means funds, other than an Overexpenditure, disbursed to a Contractor by County under this Contract and expended by Contractor that is:

- a. Identified by the federal government as expended contrary to applicable statutes, rules, OMB Circulars or 45 CFR Part 75, as applicable, or any other authority that governs the permissible expenditure of such funds, for which the federal government has requested reimbursement by the State of Oregon, whether in the form of a federal determination of improper use of federal funds, a federal notice of disallowance, or otherwise; or
 - b. Identified by the State of Oregon, OHA, or County as expended in a manner other than that permitted by this Contract, including without limitation any funds expended by Contractor contrary to applicable statutes, rules, OMB Circulars or 45 CFR Part 75, as applicable, or any other authority that governs the permissible expenditure of such funds; or
 - c. Identified by the State of Oregon, OHA, or County as expended on the delivery of a Service that did not meet the standards and requirements of the Contract with respect to that Service.
14. **“Measures and Outcomes Tracking System” or “MOTS”** means the OHA data system that stores data submitted by contractors and subcontractors.
15. **“OAR”** means the Oregon Administrative Rules as promulgated by the Oregon Health Authority and as amended from time to time.
16. **“Oregon Health Authority” or “OHA”** means the agency within the State of Oregon that is responsible for Problem Gambling, Addiction Treatment, Recovery, & Prevention Services, children and adult Community Mental Health Services, and maintaining custody of persons committed to the state, by courts, for care and treatment of mental illness.
17. **“Overexpenditure”** means funds disbursed to Contractor by County under the Contract and expended by Contractor that is identified by the State of Oregon, OHA, or County, through any disbursement reconciliation permitted or required under the Contract, as in excess of the funds Contractor is entitled to.
18. **“Provider” or “Contractor”** mean the person or entity providing particular Services, or a portion thereof, under a contract or agreement.
19. **“Provider Contract” or “Provider Agreement”** means the contract, subcontract, agreement or subrecipient agreement to purchase particular Services.
20. **“Serious and Persistent Mental Illness (SPMI)”** means the current DSM diagnostic criteria for at least one of the following conditions as a primary diagnosis for an adult age 18 or older:
- a. Schizophrenia and other psychotic disorders;
 - b. Major depressive disorder;
 - c. Bipolar disorder;
 - d. Anxiety disorders limited to Obsessive Compulsive Disorder (OCD) and Post Traumatic Stress Disorder (PTSD);
 - e. Schizotypal personality disorder; or
 - f. Borderline personality disorder.
21. **“Trauma Informed Services”** means Services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking Community Mental Health and Addiction Treatment, Recovery, & Prevention Services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.
22. **“Underexpenditure”** means funds disbursed by County under this Contract that remain unexpended at Contract termination or expiration.

**EXHIBIT B
INSURANCE (CMHP)**

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

1. Workers Compensation. Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract 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. Contractors 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 Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract 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 Contract.

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. Contractor'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 Contract.

10. "Tail" Coverage. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor 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 Contract, for a minimum of twenty-four (24) months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under the Provider Contract; or (ii) the expiration of all warranty periods provided under the Contract. Notwithstanding the foregoing 24-month requirement, if the Contractor 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 the Contractor may request and County may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

11. Self-insurance. Contractor may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Contractor's 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. Contractor shall furnish an acceptable insurance certificate to County for any insurance coverage required by this Contract 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. Contractor shall furnish evidence of the insurance required in this Contract. Contractor will maintain the insurance in full force throughout the duration of this Contract. No Contract 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. The insurance for general liability and commercial automobile liability must include an

endorsement naming **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as additional insureds with respect to the Work under this Contract. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County, 2051 Kaen Road, Suite 154, Oregon City, Oregon 97045

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

BHcontracts@clackamas.us

Clackamas County
Contracts Administration
2051 Kaen Road, Suite 154
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the 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. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 14. Waiver of Subrogation.** Contractor agrees to waive their rights of subrogation arising from the Work performed under this Contract.
- 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 the Contractor or its insurer(s) to the County at the following address: Clackamas County Behavioral Health Division, 2051 Kaen Road, Suite 154, Oregon City, OR 97045 or BHcontracts@clackamas.us.
- 16. Insurance Compliance.** The County will be entitled to enforce Contractor 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 Contract as permitted by the Contract, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Contractor to work under this Contract when the County is aware that the Contractor is not in compliance with the insurance requirements.

EXHIBIT C
CMHP REQUIRED PROVIDER CONTRACT PROVISIONS

- 1. Expenditure of Funds.** Contractor may expend the funds paid to Contractor under this Contract solely on the delivery of contracted services subject to the following limitations (in addition to any other restriction of limitations imposed by this Contract):
 - a.** Contractor may not expend on the delivery of Service any funds paid to Contractor under this Contract in excess of the amount reasonable and necessary to provide quality delivery of these Services.
 - b.** If this Contract requires Contractor to deliver more than one service, Contractor may not expend funds paid to Contractor under this Contract for a particular service on the delivery of any other service.
 - c.** If this Contract requires Contractor to deliver Addiction Treatment, Recovery & Prevention, and Problem Gambling Services, Contractor may not use the funds paid to Contractor under this Contract for such services to:
 - i.** Provide inpatient hospital services;
 - ii.** Make cash payment to intended recipients of health services;
 - iii.** Purchase or improve land, to purchase, construct or permanently improve (other than minor remodeling) any building or other facility or to purchase major medical equipment;
 - iv.** Satisfy any requirement for expenditure of non-federal funds as a condition for receipt of federal funds (whether the federal funds are received under this Contract or otherwise);
 - v.** Carry out any program prohibited by section 245(b) of the Health Omnibus Programs Extension Act of 1988 (codified at 42 U.S.C. 300ee-5), which generally prohibits funds provided under this Contract from being used to provide Individuals with hypodermic needles or syringes so that such Individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse.
 - d.** Contractor may expend funds paid to Contractor under this Contract only in accordance with OMB Circulars or 45 CFR Part 75, as applicable on Allowable Costs. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR Part 75, subpart F. If Contractor expends less than \$750,000 in a fiscal year beginning on or after that date, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials. Contractor, if subject to this requirement, shall at Contractor's own expense submit to OHA a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to OHA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Contractor responsible for the financial management of funds received under this Contract. Copies of all audits must be submitted to OHA within thirty (30) calendar days of completion. Audit costs for audits not required in accordance with the Single Audit Act are unallowable. Contractor may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.
-
- 2. Records Maintenance, Access and Confidentiality.**

- a. Access to Records and Facilities.** County, the Oregon Health Authority, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of Contractor that are directly related to this Contract, the funds paid to Contractor hereunder, or any services delivered hereunder for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, Contractor shall permit authorized representatives of County and the Oregon Health Authority to perform site reviews of all services delivered by Contractor hereunder.
- b. Retention of Records.** Contractor shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the funds paid to Contractor hereunder or to any services delivered hereunder, for a minimum of six (6) years, or such longer period as may be required by other provisions of this Contract or applicable law, following the termination or expiration of this Contract. If there are unresolved audit or other questions at the end of the six (6) year period, Contractor shall retain the records until the questions are resolved.
- c. Expenditure Records.** Contractor shall document the expenditure of all funds paid to Contractor under this Contract. Unless applicable federal law requires Contractor to utilize a different accounting system, Contractor shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit County and the Oregon Health Authority to verify how the funds paid to Contractor under this Contract were expended.
- d. Client Records.** Unless otherwise specified in this Contract, Contractor shall create and maintain a client record for each client who receives services under this Contract. The client record must contain:
 - i.** Client identification;
 - ii.** Problem assessment;
 - iii.** Treatment, training and/or care plan;
 - iv.** Medical information when appropriate; and
 - v.** Progress notes including service termination summary and current assessment or evaluation instrument as designated by the Oregon Health Authority in administrative rules.

Contractor shall retain client records in accordance with OAR 166-150-0005 through 166-150-0215 (State Archivist). Unless OAR 166-150-0005 through 166-150-0215 requires a longer retention period, client records must be retained for a minimum of six (6) years from termination or expiration of this Contract.

- e. Safeguarding of Client Information.** Contractor shall maintain the confidentiality of client records as required by applicable state and federal law, including without limitation, ORS 179.945 to 179.507, 45 CRF Part 205, 45 CRF Part 2, any administrative rule adopted by the Oregon Health Authority, implementing the foregoing laws, and any written policies made available to Contractor by County or by the Oregon Health Authority. Contractor shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to County and the Oregon Health Authority for review and inspection as reasonably requested by County or the Oregon Health Authority.
- f. Date Reporting.** All Individuals receiving Services with funds provided under this Contract must be enrolled and that Individual's record maintained in the Measures and Outcome Tracking System (MOTS) as specified in OHA's MOTS Reference Manual, located at:

<http://www.oregon.gov/oha/hsd/amh-mots/Pages/index.aspx>, and the “Who Reports in MOTS Policy”, as stated follows:

Which Behavioral Health Providers are Required to Report in MOTS?

The data collection system for the Health Systems Division (HSD) is the Measures and Outcomes Tracking System or MOTS. In general, behavioral health providers who are either licensed or have a letter of approval from the HSD (or the former Addictions & Mental Health Division [AMH]), and receive public funds to provide treatment services are required to report to MOTS. In addition to the general rule above, there are four basic ways to classify who is required to submit data to MOTS:

- i. Providers with HSD Agreements that deliver treatment services (this includes Community Mental Health Programs [CMHP], Local Mental Health Authorities [LMHA] and other types of community behavioral health providers); these programs should all have a license or letter of approval from the HSD or AMH;
- ii. Providers that are subcontractors (can be a subcontractor of a CMHP or other entity that holds a contract with HSD or OHA, such as a Mental Health Organization [MHO], or a Coordinated Care Organization [CCO]);
- iii. Providers that HSD does not contract with but are required to submit data to MOTS by State/Federal statute or rule; these include DUII providers and methadone maintenance providers; and
- iv. Providers that contract with other governmental agencies (e.g., Oregon Youth Authority [OYA] or the Department of Corrections [DOC] to deliver mental health and/or substance abuse services).

NOTE: Primary care physicians that provide a single service on behalf of the CMHP are not required to report the MOTS status or service level data.

If there are any questions, contact MOTS Support at MOTS.Support@state.or.us.

3. **Alternative Formats of Written Materials.** In connection with the delivery of Services, Contractor shall:
 - a. Make available to a Client, without charge to the Client, upon the Client’s, the County’s or the Oregon Health Authority’s request, an and all written materials in alternate, if appropriate, formats as required by the Oregon Health Authority’s administrative rules or by the Oregon Health Authority’s written policies made available to Contractor.
 - b. Make available to a Client, without charge to the Client, upon the Client’s, County’s or the Oregon Health Authority’s request, any and all written materials in the prevalent non-English languages in the area served by the Contractor.
 - c. Make available to a Client, without charge to the Client, upon the Client’s, County’s or the Oregon Health Authority’s request, oral interpretation services in all non-English languages in the area served by Contractor.
 - d. Make available to a Client with hearing impairments, without charge to the Client, upon the Client’s, County’s or the Oregon Health Authority’s request, sign language interpretation services and telephone communications access services.

For purposes of the foregoing, “written material” includes, without limitation, all written materials created or delivered in connection with the services and all Contractor contracts related to this Contract. The County may develop its own forms and materials and with such

forms and materials the County shall be responsible for making them available to a Client, without charge to the Client or OHA, in the prevalent non-English language. OHA shall be responsible for making it forms and materials available, without charge to the Client or CMHP, in the prevalent non-English language.

4. **Reporting Requirements.** Contractor shall prepare and furnish the following information to County and the Oregon Health Authority when a service is delivered under this Contract.
 - a. Client, service and financial information as specified in the applicable Service Description attached hereto and incorporated herein by this reference.
 - b. All additional information and reports that County or the Oregon Health Authority reasonably requests.
5. **Compliance with Law.** Contractor shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Contract or to the delivery of services hereunder. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract:
 - a. all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations;
 - b. all state laws governing operation of community mental health programs, including without limitation all administrative rules adopted by the Oregon Health Authority related to community mental health programs or related to client rights, OAR 943-005-0000 through 943-005-0070, prohibiting discrimination against Individuals with disabilities;
 - c. all state laws requiring reporting of client abuse; and
 - d. ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws 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 under this Contract.

The laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. All employers, including Contractor, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. In addition, Contractor shall comply, as if it were County thereunder, with the federal requirements set forth in **Exhibit D, Required Federal Terms and Conditions**, to the certain 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services between County and the Oregon Health Authority dates as of July 1, 2019, which Exhibit is incorporated herein by this reference. For purposes of the Contract, all references in this Contract to federal and state laws are references to federal and state laws as they may be amended from time to time.

6. Unless Contractor is a State of Oregon governmental agency, Contractor agrees that it is an independent contractor and not an agent of the State of Oregon, the Oregon Health Authority or County.
7. To the extent permitted by applicable law, Contractor 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 and Clackamas 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 the Contractor, including but not limited to the activities of Contractor or its officers, employees, subcontractors or agents under this Contract.

8. Contractor understands that Contractor may be prosecuted under applicable federal and state criminal and civil laws for submitting false claims, concealing material facts, misrepresentation, falsifying data system input, other acts of misrepresentation, or conspiracy to engage therein.
9. Contractor shall only conduct transactions that are authorized by the County for transactions with the Oregon Health Authority that involve County funds directly related to this Contract.
10. Contractor(s) that are not units of local government as defined in ORS 190.003 shall obtain, at Contractor's expense, and maintain in effect with respect to all occurrences taking place during the term of the Contract, insurance requirements as defined in the Contract and incorporated herein by this reference (**Exhibit B, Insurance**).
11. Contractor(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 not 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 Contractor or any of the officers, agents, employees or subcontractors of the contractor (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 the Contractor from and against any and all claims.
12. Contractor shall include sections 1 through 11, in substantially the form set forth above, in all permitted Contractor contracts under this Contract.
13. **Ownership of Intellectual Property.**
 - a. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA and the County will not own the right, title and interest in any intellectual property created or delivered by the Contractor in connection with the Services. With respect to that portion of the intellectual property that the Contractor owns, Contractor grants to OHA and the County a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 13.a.(1) on OHA and the County's behalf; and (3) sublicense to third parties the rights set forth in Section 13.a.(1).
 - b. If state or federal law requires that OHA or County grant to the United States a license to any intellectual property, or if state or federal law requires that OHA or the United States own the intellectual property, then Contractor shall execute such further documents and instruments as OHA may reasonably request in order to make any such grant or to assign ownership in the intellectual property created or delivered by Contractor in connection with the Services, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Contract that restrict or prohibit dissemination or disclosure of information, to Contractor to use, copy distribute, display, build upon and improve the intellectual property.

EXHIBIT D
CMHP REQUIRED FEDERAL TERMS AND CONDITIONS

Contractor shall comply with the following federal requirements, when federal funding is being used to fund this Contract. 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.** Contractors shall comply with all federal laws, regulations, and executive orders applicable to the Contract or to the delivery of Services. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. No federal funds may be used to provide Services in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** Contractor 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).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Contract, including amendments, exceeds \$150,000 Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 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. Contractors 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.
- 4. Energy Efficiency.** Contractors 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).
- 5. Truth in Lobbying.** By signing this Contract, 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 contract, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative contract.

- 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.** 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.
- 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 or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

- 6. Resource Conservation and Recovery.** Contractor 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.

7. **Audits.** Subrecipients, as defined in 45 CFR 75.2, shall comply with applicable Code of Federal Regulations (CFR) governing expenditure of federal funds. If a sub-recipient expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. Copies of all audits must be submitted to County within thirty (30) calendar days of completion. If a sub recipient expends less than \$750,000 in a fiscal year beginning on or after December 26, 2014, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials.
8. **Debarment and Suspension.** Contractor shall not permit any person or entity to be a provider 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 Non-procurement 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. Providers 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.
9. **Drug-Free Workplace.** Contractor shall comply with the following provisions to maintain a drug-free workplace: (i) Contractor 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 Contractor's workplace or while providing Services to OHA clients. Contractor's notice shall specify the actions that will be taken by Contractor 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, Contractor'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 Contract 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 Contract, 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 through (vii) above; (ix) Neither Contractor, or any of Contractor's employees, officers, agents may provide any Service required under this Contract 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 Contractor or Contractor's employee, officer, agent has used a controlled substance, prescription or non-prescription medication that impairs the Contractor or Contractor's employee, officer, agent or Contractor'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 Contract.

10. **Pro-Children Act.** Contractor shall comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
11. **Medicaid Services.** To the extent Contractor provides any Service in which costs are paid in whole or in part by Medicaid, Contractor 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. Contractor shall acknowledge Contractor'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 Contract 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).
12. **ADA.** Contractor 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.
13. **Agency-Based Voter Registration.** If applicable, Contractor 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.
14. **Disclosure.**
 - a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an Individual, the

date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (Individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (Individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last ten (10) years.
- c. County or OHA reserves the right to take such action required by law, or where County or OHA has discretion, it deems appropriate, based on the information received (or the failure to receive) from the provider, fiscal agent or managed care entity.

15. Special Federal Requirements Applicable to Addiction Treatment, Recovery & Prevention Services for Agencies receiving Substance Abuse Prevention and Treatment (SAPT) Block Grant funds.

- a. **Order for Admissions:**
 - (i) Pregnant women who inject drugs;
 - (ii) Pregnant substance abusers;
 - (iii) Other Individuals who inject drugs; and
 - (iv) All others.
- b. **Women's or Parent's Services.** If Contractor provides A&D 61 and A&D 62 Services, Contractor must:
 - (i.) Treat the family as a unit and admit both women or parent and their children if appropriate.
 - (ii.) Provide or arrange for the following services to pregnant women and women with dependent children:
 - 1. Primary medical care, including referral for prenatal care;
 - 2. Pediatric care, including immunizations, for their children;
 - 3. Gender-specific treatment and other therapeutic interventions, e.g. sexual and physical abuse counseling, parenting training, and childcare;
 - 4. Therapeutic interventions for children in custody of women or parent in treatment, which address, but are not limited to, the children's developmental needs and issues of abuse and neglect; and
 - 5. Appropriate case management services and transportation to ensure that women or parents and their children have access to the services in 1 through 4 above.

- c. **Pregnant Women.** If Contractor provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, Contractor must:
 - (i.) Within the priority categories, if any, set forth in a particular Service Description, give preference in admission to pregnant women in need of treatment, who seek or are referred for and would benefit from such Services, within forty-eight (48) hours;
 - (ii.) If Contractor has insufficient capacity to provide treatment Services to a pregnant woman, Contractor must refer the women to another Provider with capacity or if no available treatment capacity can be located, the outpatient Provider that the Individual is enrolled with will ensure that Interim Services are being offered. Counseling on the effects of alcohol and drug use on the fetus must be given within forty-eight (48) hours, including a referral for prenatal care; and
 - (iii.) Perform outreach to inform pregnant women of the availability of treatment Services targeted to them and the fact that pregnant women receive preference in admission to these programs.
- d. **Intravenous Drug Abusers.** If Contractor provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, Contractor must:
 - (i.) Within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women described above, give preference in admission to intravenous drug abusers;
 - (ii.) Programs that receive funding under the grant and that treat Individuals for intravenous substance abuse, upon reaching ninety (90) percent of its capacity to admit Individuals to the program, must provide notification of that fact to the State within seven (7) calendar days;
 - (iii.) If Contractor receives a request for admission to treatment from an intravenous drug abuse, Contractor must, unless it succeeds in referring the Individual to another Provider with treatment capacity, admit the Individual to treatment not later than:
 1. Fourteen (14) calendar days after the request for admission to Contractor is made;
 2. One hundred-twenty (120) after the date of such request if no Provider has the capacity to admit the Individual on the date of such request and, if Interim Services are made available not less than forty-eight (48) hours after such request; or
 3. If Contractor has insufficient capacity to provide treatment Services to an intravenous drug abuser, refer the intravenous drug abuser to another Provider with capacity or if no available treatment capacity can be located, the outpatient provider that the Individual is enrolled with will ensure that interim services are being offered. If the Individual is not enrolled in outpatient treatment and is on a waitlist for residential treatment, the provider referring the Individual to residential services will make available counseling and education about human immunodeficiency virus (HIV) and tuberculosis (TB), risk of sharing needles, risks of transmission to sexual partners and infant, steps to ensure HIV and TB transmission does not occur, referral for HIV or TB treatment services, if necessary, within forty-eight (48) hours.
- e. **Infectious Diseases.** If Contractor provides any Addiction Treatment, Recovery & Prevention Services, other than A&D 84, Problem Gambling, Client Finding Outreach Services, Contractor must:

- (i.) Complete a risk assessment for infectious disease including human immunodeficiency virus (HIV) and tuberculosis (TB), as well as sexually transmitted diseases, based on protocols established by OHA, for every Individual seeking Services from Contractor; and
- (ii.) Routinely make tuberculosis services available to each Individual receiving Services for alcohol/drug abuse either directly or through other arrangements with public or non-profit entities and, if Contractor denies an Individual admission on the bases of lack of capacity, refer the Individual to another provider of tuberculosis services.
- (iii.) For purposes of (ii) above, “tuberculosis services” means:
 1. Counseling the Individual with respect to tuberculosis;
 2. Testing to determine whether the Individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the Individual; and
 3. Appropriate treatment services.
- f. **OHA Referrals.** If Contractor provides any Addiction Treatment, Recovery & Prevention Services other than A&D 84, Problem Gambling, Client Finding Outreach Services, Contractor must, within the priority categories, if any, set forth in a particular Service Description and subject to the preference for pregnant women and intravenous drug users described above, give preference in Addiction Treatment, Recovery & Prevention and Problem Gambling Service delivery to persons referred by OHA.
- g. **Barriers to Treatment.** Where there is a barrier to delivery of any Addiction Treatment, Recovery & Prevention and Problem Gambling Service due to culture, gender, language, illiteracy, or disability, Contractor shall develop support services available to address or overcome the barrier, including:
 - (i.) Providing, if needed, hearing impaired or foreign language interpreters.
 - (ii.) Providing translation of written materials to appropriate language or method of communication.
 - (iii.) Providing devices that assist in minimizing the impact of the barrier.
 - (iv.) Not charging clients for the costs of measures, such as interpreters, that are required to provide nondiscriminatory treatment.
- h. **Misrepresentation.** Contractor shall not knowingly or willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or Services for which payments may be made by County or OHA.
- i. **Oregon Residency.** Addiction Treatment, Recovery & Prevention and Problem Gambling Services funded through this Contract, may only be provided to residents of Oregon. Residents of Oregon are Individuals who live in Oregon. There is no minimum amount of time an Individual must live in Oregon to qualify as a resident so long as the Individual intends to remain in Oregon. A child’s residence is not dependent on the residence of his or her parents. A child living in Oregon may meet the residency requirement if the caretaker relative with whom the child is living is an Oregon resident.
- j. **Tobacco Use.** If Contractor has Addiction Treatment, Recovery & Prevention Services treatment capacity that has been designated for children, adolescents, pregnant women, and women with dependent children, Contractor must implement a policy to eliminate smoking and other use of tobacco at the facilities where the Services are delivered and on the grounds of such facilities.
- k. **Client Authorization.** Contractor must comply with 42 CFR Part 2 when delivering an Addiction Treatment, Recovery & Prevention Service that includes disclosure of Client information for purposes of eligibility determination. Contractor must obtain Client authorization for disclosure of billing information, to the extent and in the manner required by 42 CFR Part 2, before a Disbursement Claim is submitted with

respect to delivery of an Addiction Treatment, Recovery & Prevention Service to that Individual.

16. Special Federal Requirements Applicable To Addiction Treatment, Recovery & Prevention Services for Contractors Receiving Temporary Assistance for Needy Families (TANF) Grant Funds.

Funding Requirements. TANF may only be used for families receiving TANF, and for families at-risk of receiving TANF, and for the purpose of providing housing services (room and board) for Individuals who are dependent children ages eighteen (18) years or younger whose parent is in adult addiction residential treatment, so that the children may reside with their parent in the same treatment facility. Families at-risk of receiving TANF must:

- a. Include a dependent child age eighteen (18) years of age or under, who is living with a parent or caretaker relative. "Caretaker relative" means a blood relative of the child; stepmother, stepfather, stepbrother, or stepsister, or an individual who has legally adopted the child.
- b. Be an Oregon resident.
- c. Have income at or below 25% of the Federal Poverty Level.

Use of TANF block grant funds and state expenditures counted towards TANF MOE must meet the requirements of 45 CFR 263. Only non-medical services may be provided with TANF Block Grant Funds.

17. Community Mental Health Block Grant (CFDA 93.958). All funds, if any, awarded under this Contract for Community Mental Health Services are subject to the federal use restrictions and requirements set forth in Catalog of Federal Domestic Assistance Number 93.958 and to the federal statutory and regulatory restrictions imposed by or pursuant to the Community Mental Health Block Grant portion of the Public Health Services Act, 42 U.S.C. 300x-1 *et. seq.*, and Contractor shall comply with those restrictions.

18. Substance Abuse Prevention and Treatment (CFDA 93.959). To the extent Contractor provides any Service in which costs are paid in whole or in part by the Substance Abuse, Prevention, and Treatment Block Grant, Contractor shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 U.S.C. 300x through 300x-66) and 45 CFR 96.130 regarding the sale of tobacco products. Regardless of funding source, to the extent Contractor provides any substance abuse prevention or treatment services, Contractor shall comply with the confidentiality requirements of 42 CFR Part 2. CMHP may not use the funds received under this Contract for inherently religious activities, as described in 45 CFR Part 87.

19. Information Required by 2 CFR Subtitle B with guidance at 2 CFR Part 200. All required data elements in accordance with 45 CFR 75.352 are available at: <http://www.oregon.gov/oha/hsd/amh/Pages/federal-reporting.aspx>.

20. Super Circular Requirements. 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding agency in 2 CFR Subtitle B, including but not limited to the following:

- a. **Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment

purchased with federal funds.

- b. Procurement Standards.** When procuring goods and services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B, and 279C or 2 CFR §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
- c. Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of Contractor.

EXHIBIT E
CMHP SERVICE ELEMENT - MHS 08

MHS 08 – CRISIS AND ACUTE TRANSITION SERVICES (CATS)
(Formerly known as Emergency Department Diversion to Community-Based Services and Supports)

1. Service Description

Crisis and Acute Transition Services (CATS) (MHS 08 Services) are designed to provide a community-based alternative to Emergency Department “boarding” for children, youth, and young adults (Individuals) in need of acute psychiatric treatment, who are awaiting inpatient psychiatric hospitalization. ORS 430.630.

The program includes and requires brief crisis services, stabilization, and transition to community-based supports and services when Individuals from birth through eighteen (18) years of age present to emergency departments or crisis centers and are at risk of admission for psychiatric or behavioral crises. Programs must serve all Individuals presenting in the settings indicated above, including those with public, private, or no insurance.

2. Performance Requirements

- a. Eligible Population: Individuals from birth through eighteen (18) years of age who have symptoms consistent with psychiatric or serious emotional disorders, and present at program partner Emergency Departments or community crisis centers (those that have a contractual agreement with the OHA Contract holder or County). This includes Individuals who are uninsured, underinsured, not eligible for Medicaid, or have exhausted Medicaid services, including those who meet the criteria for the Citizen Alien Waived Medical Program. Programs are expected to maximize this funding to enhance an existing continuum of crisis and acute care for Individuals and families through the provision of the elements listed below.
- b. Clinical, Social, and Residential Services Provided:
 - i. These Services are appropriate when the Individual is given a mental health and safety assessment, has reached an established level of acuity (through administration of a standardized acuity measure), and it is deemed safe, appropriate, and optimal to refer them to a CATS program.
 - ii. Clinical services normally last up to forty-five (45) calendar days, or as long as is necessary to provide the Individual and their family with sufficient stabilization and support to establish strong connectivity with community-based supports.
 - iii. Initial contact from the clinical team will occur within 1-3 hours of the referral. Within seventy-two (72) hours of the referral, both the family partner and the clinical team will meet with the Individual and family together. Contacts should be as frequent as is necessary for the goals of the project to occur, in person as much as possible, but no less than twice per week.
- c. CATS programs are team-based. Each team provides an array of recovery-oriented agency or community-based services and supports, including, but not limited to:
 - i. Functioning as a collaborative unit, sharing duties, information and support for each Individual and family. This requires ongoing and frequent communication, supportive interagency processes, and intentional organization to support the provision of CATS as a model of coordinated care. The work is organized and agreed upon through a Memorandum of Understanding (MOU) between each program’s partners, to be submitted to OHA within forty-five (45) calendar days of the execution of the Contract. Hospitals must be partners in the service design and delivery;

- ii. Conducting assessment, that includes mental health assessment, safety assessment, acuity level and safety plan prior to discharge from crisis center or emergency department;
 - iii. Alleviating the immediate crisis through connections to the family and Individual, and work with mental health team members;
 - iv. Providing CATS Guidebook for Families, or the equivalent, describing to the Individual and family the anticipated experience in the CATS program, and providing Individuals and families with relevant and individualized psychosocial information. An equivalent resource means a guide or booklet (print or online) which includes all items listed in the Family Transition Inventory/Checklist, and which has been reviewed by OHA and OHSU staff;
 - v. Establishing with the family and Individual a transition plan designed to safely prevent readmission to the emergency department, and improved access and connectivity to community resources;
 - vi. Conduction a closing meeting (in-person or via phone) must be completed with the family prior to transitioning care, and data must be collected at this meeting. If the team is unable to have a closing meeting with the family, documentation explaining the circumstances is required.
 - vii. Participation in collaborative state-wide efforts to establish shared programmatic standards, expectations for results and services, and key reporting requirements; and
 - viii. Specific services associated with the required elements must include, but are not limited to:
 - 1. Suicide-Related Interventions; Safety assessment, Counseling On Lethal Means (CALM), and lethal means counseling where needed;
 - 2. Family and Young Adult Peer Support;
 - 3. Access to and coordination of immediate resources;
 - 4. Brief mental health therapy provided during CATS participation;
 - 5. Rapid access to psychiatric and counseling services;
 - 6. Transition to existing health and community resources; and
 - 7. Use of linguistically and culturally appropriate materials for the Individual and family, necessary for them to understand and to participate fully in the CATS program.
- d. Who Can Provide These Services:
 - i. Family and youth peer support specialist, care coordinators, licensed medical prescribers, Qualified Mental Health Professional (QMHP), mental health therapists, and skills trainers;
 - ii. Programs must provide dedicated CATS staff and family partners. Those individuals are presented to the Individual and family as a combined resource that is the cornerstone of the CATS model;
 - iii. Recommended supplemental training might include supplemental peer and clinical training in crisis response, use of the CATS Guidebook for Families, use of the Oregon Health & Sciences University (OHSU) RedCap survey, and any others that would enhance work with the families in crisis; and
 - iv. Staff working in the programs must have training in suicide prevention and intervention strategies, and Trauma Informed Care (TIO), and must be provided with ongoing maintenance of the skills and practice associated with these approaches.
- e. Setting(s) for service delivery: Emergency departments, crisis centers, provider sites, homes, and community settings. Locations as preferred by the Individual and family, and family-inclusive safety planning.
- f. County is required to monitor sub-contracted Services and provide initial copies of the sub-contract to OHA staff, and work with OHA staff to devise an ongoing monitoring process.

3. Reporting Requirements

All Individuals receiving MHS 08 Services with funds provided through this Contract must be enrolled and that Individual's record maintained in the Measures and Outcomes Tracking System (MOTS) as specified in OHA's MOTS Reference Manual, located at: <http://www.oregon.gov/OHA/HSD/AMH-MOTS/pages/resource.aspx>, and the Who Reports in MOTS Policy.

Contractor shall provide timely and relevant information to County as needed to enable County to submit reports to the State of Oregon on the delivery of all Services supported with funds provided through this Contract.

4. Special Reporting Requirements

Contractor providing MHS 08 Services directly to Individuals shall submit data quarterly, as specified by OHA, directly to the Oregon Health & Science University (OHSU) RedCap Data System.

Contractor shall meet data reporting requirements to input data with fourteen (14) calendar days of closure, unless otherwise arranged with the OHSU/OHA team. This includes timely collection and submission of outcome-based measures for each Individual in the program, including but not limited to, demographic and presenting referral information, KIDSCREEN-10, Crisis Assessment Tool, intervention details, and transition plan details.

a. Survey data that includes, but not limited to, the following:

- i. Client demographics;
- ii. Presenting diagnosis and issues;
- iii. Diversions;
- iv. Re-admissions;
- v. Response time;
- vi. Connectivity with peer support;
- vii. Initial contacts;
- viii. Frequency of contact;
- ix. Transitional service referrals; and
- x. Other information deemed beneficial to the development of the Service.

b. Contractor is required to encourage and enable CATS program participants, both Individuals and family members, to participate in a follow-up study. Staff from OHSU Child and Adolescent Psychiatry Unit will follow-up with CATS participants at exit and at established post-exit interviews. Data from follow-up interviews will be shared with program teams and agencies with the goal of improved services.

5. Confirmation of Performance and Reporting Requirements

Contractor shall be required to demonstrate through the data properly reported in accordance with the "Reporting Requirements" section above and any reporting requirement contained in Exhibit G, Scope of Work, of this Contract, how funds provided for MHS 04 Services were utilized consistent with the terms and limitations herein to meet the performance requirement of this Service Description, and that the Contractor may be subject to the monitoring and review of performance requirements and quality measures by OHA.

EXHIBIT F
QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

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

RECITALS

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

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

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

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

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

Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
 - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
 - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
 - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.
- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

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

SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the

- Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
 - 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
 - 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
 - 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
 - 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
 - 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
 - 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual 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
 - 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

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

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

SECTION IV – NOTICE OF PRIVACY PRACTICES

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

SECTION V – BREACH NOTIFICATION REQUIREMENTS

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
 - a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
 - b. By notice in plain language including and to the extent possible:
 - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

- 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
 - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
 - d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

SECTION VI – TERM AND TERMINATION

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

continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

SECTION VII – GENERAL PROVISIONS

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

(Signature Page for QSOBAA Follows)

SIGNATURE PAGE FOR QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

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

Business Associate

Covered Entity

CATHOLIC COMMUNITY SERVICES OF WESTERN WASHINGTON

CLACKAMAS COUNTY



Authorized Signature

4/28/2020

Date

Richard Swift

Date

Health, Housing and Human Services

Mary Stone-Smith Vice President

Name / Title (Printed)

EXHIBIT G SCOPE OF WORK

Statement of Work:

Contractor shall provide Crisis and Acute Transition Services (CATS) to children who meet the eligibility criteria listed below. Contractor shall provide crisis and transition planning in a natural setting where children and youth remain connected with family and other community supports. Services provided shall allow a child to remain in the community as an alternative to inpatient hospitalization or sub-acute admission.

To be eligible for services under this Contract, children and youth must meet all of the following criteria:

1. Youth from birth to 18 years of age;
2. Youth must present to the Emergency Department at Providence Willamette Falls Medical Center, Providence Milwaukie Hospital or Clackamas County Mental Health Center (Clackamas MHC) in psychiatric crisis regardless of insurance coverage or lack thereof;
3. Youth must have a qualifying/covered DSM V diagnosis which is the focus of the needed mental health treatment;
4. Youth must present with a primary concern that is not due to:
 - a. Placement issues related to abuse,
 - b. Neglect or caregiver incapacity/behavior;
 - c. Substance use/abuse or intoxication;
 - d. Developmental disability;
 - e. Medical causes.
5. Assessing team must have determined that CATS is the best option because:
 - a. The youth cannot be adequately served by other community resources (i.e. primary care clinics, substance abuse treatment programs, or other community resources); AND
 - b. Less restrictive levels of care have been explored, including increasing the intensity of treatment, and demonstrated to be less likely to be effective, more intrusive, unavailable or too dangerous; AND
6. Crisis Stabilization services are likely to alleviate symptoms and/or improve functioning.
7. Youth must be medically stable.
8. Youth must be in crisis as defined by at least one of the following:
 - a. Youth meets medical necessity criteria for hospitalization and is being diverted;
 - b. Youth meets medical necessity criteria for subacute or residential treatment; and
 - c. Family prefers to divert subacute/residential placement; OR
 - d. The youth has been referred, but no bed is open, and the family is willing to explore community-based supports as an alternative to restrictive care;
 - e. Youth demonstrates a clear risk of harm to self or others through a current plan with intent; OR
 - f. Current ideation with a history of attempts and/or hospitalizations.
9. Youth demonstrates dangerous assaultive or other uncontrolled behavior, including extensive damage to property, not due to substance abuse.
10. Youth demonstrates inability to provide for basic needs, safety and welfare.
11. Youth demonstrates an acute deterioration in mental health functioning leading to an exacerbation of other medical conditions.
12. Youth is a high utilizer of emergency department services with at least two visits in the past 30 days.
13. Family is refusing to take the youth home because they do not feel able to ensure the youth's safety with their current supports (not due to unwillingness to be a placement option for the youth).

Contractor's CATS Team shall work flexible hours and be available twenty-four (24) hours a day, including evenings and weekends, to meet a family's needs and actively work toward a less intensive treatment option. Services are intended to be short term (30-45 days in length), and shall include:

1. Assessment and safety planning;
2. Brief, solution-focused Individual and family therapy;
3. Psychiatric care;
4. Case management;
5. Care coordination.

Contractor shall provide services that:

1. Are flexible and tailored in frequency, intensity, type and duration to meet the individual child and family's needs;
2. Are culturally responsive, when appropriate or requested;
3. Are provided creatively, with attention to what is needed to safely maintain the child in the community setting, and may include flexible services such as support at the school, parent coaching, etc.; and
4. Reflect the philosophy of families as equal partners and insure family involvement and participation in all phases of assessment, treatment planning and the child's treatment by documentation in the clinical record.

Contractor shall work to transition services back to the client's existing outpatient treatment provider. If client does not have an outpatient provider or wishes to choose a new provider, Contractor shall work closely with the client and caregiver to identify and transition services to an outpatient provider. Contractor shall provide case management, co-therapy sessions, care coordination, and treatment planning during the term of service. Contractor shall only serve a maximum of ten (10) youth at any given time.

Contractor shall respond to the request for services at Providence Willamette Falls Medical Center or Providence Milwaukie Hospital emergency departments, or Clackamas MHC. Contractor's staff shall be available to meet with a youth and conduct an assessment 24 hours a day, 7 days a week, including evenings and weekends.

Contractor shall manage utilization throughout the authorization period to ensure that the client is receiving services of the appropriate type and intensity that are clinically indicated and medically necessary. Crisis and Acute Transition Services will be authorized 30-45 days at a time, with services continuing until the outcomes of intervention are met. Contractor shall actively work on transitioning the child to the most clinically appropriate level of ongoing mental health care.

Contractor shall have a policy and procedure on family involvement that includes specific supports to family members that address and prevent barriers to family involvement.

Reporting Requirements

- Contractor shall submit encounters to County's Third Party Administrator, Performance Health Technology, Ltd. (PH Tech) for all services provided under this contract.
- All Individuals receiving MHS 08 Services with funds provided through this Contract must be enrolled and that Individual's record maintained in the Measures and Outcomes Tracking System (MOTS) as specified in OHA's MOTS Reference Manual, located at: <http://www.oregon.gov/OHA/HSD/AMH-MOTS/pages/resource.aspx>, and the Who Reports in MOTS Policy.
- Incident Reporting: Clackamas County BHD defines a reportable incident as an event in which an individual is believed to have been abused, endangered, or significantly harmed. A reportable incident may include, but is not limited to, any serious incident that presents a risk to health and safety and may be a result of staff action or inaction, incidents between individuals, incidents that

occur on passes, or incidents of self-harm where medical attention is necessary. Any such incident involving a client that occurs on the Contractor's premise, with Contractor staff, or during the course of treatment by the Contractor must be reported.

Examples of reportable incidents include:

- Seclusion and/or restraint resulting in physical injury
- Runaway from program or while on pass
- Medication error, which a reasonable person would conclude might result in a death, serious injury or hospitalization. {Notes: medication non-compliance does not have to be reported unless there is a resulting reportable event; medications missed while hospitalized does not have to be reported}
- ***Severe property damage***
- ***Serious injury resulting in medical attention***
- ***Significant suicide attempt resulting in medical attention***
- ***Death of a client/resident***
- ***Death or serious injury of another individual caused by the client/resident***
- ***Physical attack on another individual resulting in a physical injury***
- ***Mandatory reporting event***
- ***Allegation of abuse by program staff {See OAR 407-045-0290(5)}***

Procedure

- A. **Items above in bold, italicized lettering require immediate notification by phone to the Program Supervisor when such an incident occurs.**
- B. Contractor must send via secure email a copy of the incident report within twenty-four (24) hours, using the following address:

Secure email: BH-ProgramSupportRequests@co.clackamas.or.us

Staff Standards:

Contractor shall complete the following for all staff:

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

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

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

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

If Contractor is unable to adhere with requirements listed, Contractor shall communicate directly with the Behavioral Health Division’s Child Care Management Program Supervisor with a plan for meeting contract requirements.