

September 16, 2021

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Renewal Intergovernmental Agreement with State of Oregon, Oregon Health Authority, for the Foodborne Illness Prevention Program

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| Purpose/Outcomes | This agreement allows the Public Health Division to provide complete environmental health food licensing and inspections to safeguard the health of residents in Clackamas County. |
| Dollar Amount and Fiscal Impact | This is a no Maximum Agreement |
| Funding Source | Fee for Services - No County General Funds are involved. |
| Duration | Effective June 30, 2021 and terminates on June 30, 2023 |
| Previous Board Action | The BCC last approved the item on June 22, 2017 062221-A2 |
| Strategic Plan Alignment | 1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities |
| Counsel Review | County counsel has reviewed and approved this document on July 27, 2021 KR |
| Procurement Review | 1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. This item is an IGA |
| Contact Person | Philip Mason-Joyner, Public Health Director – (503)742-5956 |
| Contract No. | 10292 |

BACKGROUND:

The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of an Intergovernmental Agreement with State of Oregon, Oregon Health Authority for the Food Bourne Illness Prevention Program. This agreement allows CCPHD to provide complete environmental health food licensing and inspections to safeguard the health of residents in Clackamas County.

This Agreement is effective June 30, 2021 and continues through June 30, 2023. This Agreement is a fee for service and is a No Maximum value.

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RECOMMENDATION:

Staff recommends the Board approval of this Amendment.

Respectfully submitted,

Mary A. Rumbaugh

For Rodney A. Cook

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

Mary A. Rumbaugh

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

AGREEMENT # 170698

OREGON HEALTH AUTHORITY INTERGOVERNMENTAL AGREEMENT FOR ENVIRONMENTAL HEALTH SERVICES

This Agreement is between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and Clackamas County, by and through its Department of Environmental Health, the Local Public Health Authority (“LPHA”), each a “Party” and together, the “Parties.” This Agreement consists of this document and includes the following listed exhibits which are incorporated into this agreement:

- Exhibit A: Subcontractor insurance requirements

SECTION 1. AUTHORITY

- ORS 446.310 to 446.350 establishes a state licensure program for tourist facilities.
- Upon request from a county, ORS 446.425 requires OHA to delegate to the county board of commissioners any of the duties and functions of the director under ORS 446.310, 446.320, 446.330 to 446.340, 446.345, 446.350 and 446.990 if OHA determines that the county is able to carry out the rules of OHA relating to fee collection, inspections, enforcement and issuance and revocation of permits and licenses in compliance with standards for enforcement by the counties and monitoring by OHA.
- ORS 448.005 to 448.090 establishes a state licensure program for pool and spa facilities.
- Upon request from a county, ORS 448.100 requires OHA to delegate to the county board of commissioners any of the duties and functions of the director under ORS 448.005, 448.011, 448.020 to 448.035, 448.040 to 448.060 and ORS 448.100 if OHA determines that the county is able to carry out the rules of OHA relating to fee collection, licensing, inspections, enforcement and issuance and revocation of permits and certificates in compliance with standards for enforcement by the counties and monitoring by OHA.
- ORS 624.010 to 624.121 establishes a state licensure program for restaurants and bed and breakfast facilities.
- ORS 624.310 to 624.340 establishes a state licensure program for commissaries, mobile units, warehouse and vending machines.
- ORS 624.510 requires OHA to enter into this Agreement with a LPHA delegating to the LPHA the administration and enforcement within the jurisdiction of the LPHA of the powers, duties and functions of the OHA director under ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992. This Agreement must describe the powers, duties and functions of the local public health authority relating to fee collection, licensing, inspections, enforcement, civil penalties and issuance and revocation of permits and certificates, standards for enforcement by the LPHA and the monitoring to be performed by the OHA.

SECTION 2. PURPOSE

The purposes of this Agreement are:

- For LPHAs to request the duties and functions of OHA and for OHA to review whether the requested delegation is appropriate as described in Section 6 of this Agreement. For OHA to delegate responsibility to LPHAs who have requested the duties and functions of OHA for carrying out the following programs:
 - The Tourist Facility program in ORS 446.310 to 446.350 pursuant to ORS 446.425(1);
 - The Pool/Spa program in ORS 448.005 to 448.090 pursuant to ORS 448.100(1) except for the authority to issue variances under ORS 448.037 and except for plan review and approval under ORS 448.030 pursuant to ORS 448.100(1); and
 - The restaurant, bed and breakfast facility, commissary, mobile unit, warehouse and vending machine licensing programs in ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992 pursuant to ORS 624.510(1).
- For OHA to delegate responsibility to LPHAs for carrying out the restaurant, bed and breakfast facility, commissary, mobile unit, warehouse and vending machine licensing programs in ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992 pursuant to ORS 624.510(1).
- To establish the duties, standards and responsibilities of the LPHA in carrying out the delegated duties.
- To establish OHA's duties and responsibilities under this Agreement to enable the LPHA to meet the requirements of the delegation and to provide for OHA's review and monitoring of the LPHA's performance.

SECTION 3. EFFECTIVE DATE

Upon approval of this Agreement by the parties, and when required, the Department of Justice, this Agreement shall become effective on **June 30, 2021** regardless of the date this Agreement has been fully executed by each Party. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2023**. Agreement termination or expiration shall not extinguish or prejudice either Party's right to enforce this Agreement with respect to any default by the other Party that has not been cured.

This Agreement supersedes and replaces any previous delegations of authority under ORS 446.425, 448.100, and 624.510.

SECTION 4. AUTHORIZED REPRESENTATIVES

4.1 AGENCY'S AUTHORIZED REPRESENTATIVE IS:

Name: André Ourso
Title: Administrator, Center for Health Protection
Date: July 1, 2021
Phone: (971) 673-0403
Email: andre.ourso@state.or.us

4.2 LPHA'S AUTHORIZED REPRESENTATIVE IS:

Name: Philip Mason-Joyner
Title: Director, Clackamas County Health Department
Date: July 1, 2021
Phone: (503) 655-8384
Email: pmason@clackamas.us

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 5. DEFINITIONS

Unless otherwise specified the definitions in ORS 431.003, 446.310, 448.005, 624.005, 624.010, 624.310 and OAR 333, Divisions 12, 14, 29 to 31, 60, 62, 150, 157, 158, 160, 162, 170, and 175 apply to this Agreement.

- “CLEHS” means the Conference of Local Environmental Health Supervisors.
- “CLHO” means the Conference of Local Health Officials.
- “FIPP” means the Foodborne Illness Prevention Program.
- “FPLHS” means the Food, Pool and Lodging Health and Safety Programs.
- “LPHA” means the Local Public Health Authority.

SECTION 6. LPHA’S REQUEST FOR DELEGATION AND OHA REVIEW OF REQUEST

By signing this Agreement, **Clackamas County** hereby requests delegation of the duties and functions of the Pool/Spa and Tourist Facilities programs. The requested delegation includes the following programs:

- The Tourist Facility program in ORS 446.310 to 446.350 pursuant to ORS 446.425(1); and
- The Pool/Spa program in ORS 448.005 to 448.090 except for plan review and approval under ORS 448.030 pursuant to ORS 448.100(1) and except for the authority to issue variances under ORS 448.037.

After receipt of the request above and prior to signing this Agreement, the Director of OHA will evaluate the LPHA to determine whether delegation is appropriate under the applicable statutes and rules. ORS 446.425, 448.100, and 624.510; Oregon Administrative Rules Chapter 333, Division 12. This determination is primarily based on findings from the most recent Triennial Review of the LPHA. By signing this Agreement, the Director of OHA hereby determines that delegation is appropriate as described in this Section.

SECTION 7. OHA RESPONSIBILITIES

OHA hereby delegates authority to administer the following programs to the LPHA:

- The Tourist Facility programs in accordance with 446.425.
- The Pool/Spa program in ORS 448.005 to 448.090 except for plan review and approval under ORS 448.030 and except for the authority to issue variances under ORS 448.037; and
- The restaurant, bed and breakfast facility, commissary, mobile unit and vending machine licensing programs to the LPHA in accordance with ORS 624.510.

To enable LPHA to carry out its delegated duties under this agreement, OHA shall:

- 7.1 Provide training to LPHA staff including at least one annual conference relating to the Food, Pool/Spa and Tourist Facilities programs and one virtual or in-person regional meeting. OHA will cover the costs for these meetings such as registration, room rental, food and beverages, and speaker fees but will not cover LPHA staff travel expenses (e.g. lodging, mileage, per diem beyond meals provided, etc.).
- 7.2 Provide a statewide licensing and inspection software application for use by LPHAs. OHA will provide support and technical assistance to users of the system. OHA will develop a communication protocol to provide direction on how to request support and technical assistance from contract vendors or FIPP staff.
- 7.3 Provide at no cost, printed materials required in statute or rule that are necessary to implement the programs and are listed on OHA General Requisition for 34-00A, such as but not limited to handwashing placards, compliance stickers, inspection forms, closure orders and license applications. OHA will consult with the Conference of Local Health Officials (CLHO) or its designee to determine additional printing needs.

- 7.4 Ensure access to electronic versions of the administrative rules, food handlers manuals and other educational materials.
- 7.5 Work with CLHO or its designee, using the Four-Factor Analysis adopted by the federal Department of Health and Human Services to determine which forms and documents need to be translated, and which forms and documents will be provided to the LPHA in printed form.
- In addition to CLHO, work with CLEHS using the following Four Factor analysis to determine which forms and documents need to be translated into other languages and applicable timelines. The Four Factors are:
- The number or proportion of limited English proficiency (LEP) persons eligible to be served or likely to be encountered by the LPHA;
 - The frequency with which LEP individuals come into contact with the LPHA's environmental health services program;
 - The nature and importance of the program, activity or service provided by the LPHA to its beneficiaries; and
 - The resources available to OHA and the costs of interpretation/translation services.
- 7.6 Provide consultation and technical assistance to LPHAs to support implementation of the administrative rules and other laws enforced by LPHA under this Agreement relating to the Food, Pool/Spa and Tourist Facility programs.
- 7.7 Provide FIPP standardization and certificate of completion to at least one person in each LPHA as required in OAR 333-012-0060(3).
- 7.8 (Reserved).
- 7.9 (Reserved)
- 7.10 Provide LPHA with information relating to the status of variance applications within the LPHA's jurisdiction and communicate when necessary with LPHA's Environmental Health Supervisor if the status changes.
- 7.11 In September of each year, OHA will provide LPHAs with a projected FPLHS program budget and a preliminary list of all LPHA remittance fees for the next fiscal year or biennium (depending where the date lands in the fiscal biennium). This budget and remittance information will be reviewed at a regularly scheduled CLHO meeting or designated subcommittee. A second report containing the final budget and remittance totals will be provided in April at a regularly scheduled CLHO meeting and designated subcommittee.
- 7.12 Provide a budget update for Food, Pool/Spa and Tourist Facilities Programs that includes expenditures and remaining balances. Reports will be provided to CLHO or its designee in April and October of each year.
- 7.13 In March of each year, convene a workgroup consisting of CLHO representatives (including CLEHS and CLHO or its designee), a local public health administrator and food service industry members to review and provide recommendations for the Annual Program Plan for FIPP, Public Pool/Spa and Tourist Facility Programs. OHA staff shall provide the workgroup, CLEHS and CLHO or its designee

with a report summarizing program activities from the previous year.

- 7.14 Consult with CLHO or its designee prior to any substantive modification to the Annual Foodborne Illness Prevention Program and Public Pool/Spa and Tourist Facility Program Plans and, in a timely manner, consult with CLHO or its designee regarding any other major changes to those programs that affect the LPHA, to the extent possible and feasible.
- 7.15 Provide personnel to LPHA to perform inspection services in the case of an emergency.
- 7.16 Comply with applicable provisions of ORS 446.310 to 446.350 and 446.990, ORS 448.005 to 448.090, ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992, OAR 333, Divisions 12, 14, 29 to 31, 60, 62, 150, 157, 158, 160, 162, 170, and 175.

SECTION 8. LPHA RESPONSIBILITIES

LPHA accepts OHA's delegation of authority to carry out the following programs:

- Tourist Facility program in ORS 446.310 to 446.350 and 446.990.
- The Pool/Spa program in ORS 448.005 to 448.090 except for plan review and approval under ORS 448.030 and except for the authority to issue variances under ORS 448.037; and
- Restaurant, bed and breakfast facility, commissary, mobile unit, warehouses and vending machine licensing programs in ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992.

Pursuant to OHA's delegation of authority, LPHA shall:

- 8.1 Carry out the statutes and rules of OHA relating to fee collection, inspections, enforcement and issuance and revocation of permits and licenses in compliance with standards for enforcement in ORS 446.310 to 446.350 and 446.990, ORS 448.005 to 448.090 (except for 448.030 and 448.307), ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992, OAR 333, Divisions 12, 29 to 31, 60, 62, 150, 157, 158, 160, 162, 170, and 175.
- 8.2 Not later than thirty (30) days following receipt of an invoice from OHA, remit the following licensing fees to OHA:
 - For the Tourist Facility program, fifteen percent (15%) of the state licensing fee or fifteen percent (15 %) of the county licensing fee, whichever is less, collected by county that quarter, in accordance with ORS 446.425.
 - For the Pool/Spa program, in the amount of \$45, for each license issued by the LPHA in that quarter under ORS 448.035 or such other amount agreed upon by the parties;
 - For the restaurant, bed and breakfast facility, commissary, mobile unit and warehouse licensing programs, a predetermined percentage of licensing revenue. For each biennium, this amount is determined by dividing OHA's food program costs by the total projected statewide licensing revenue. Statewide revenue is calculated using marker fees set forth in ORS 624.490.
 - (Biennial cost of FIPP / Total projected licensing revenue for the biennium for all LPHAs = Remittance Factor (Represented as a percentage.)) FIPP's biennial budget includes all program costs (i.e., staffing, fringe, travel, supplies, indirect costs, and statewide licensing software application). For the final invoice of a given fiscal year, LPHA may request an invoice in advance of the actual due date and pay the required licensing fees in advance.
 - For the fiscal biennium beginning July 1, 2021 and ending June 30, 2023, the remittance factor is 12.81% of licensing revenue, based on licensing fees in statute. (Biennial cost of

FIPP (\$2,328,526)/Total projected statewide licensing revenue for the biennium (\$18,179,220) =12.81%.)

- 8.3 Provide to OHA's Agreement Administrator with each quarterly remittance a written summary report that includes:
- The quarterly remittance amount due to support the FIPP. If the payment amount is greater or less than the fixed quarterly remittance payment, include both amounts; and
 - The total number of pool/spa licenses issued by the LPHA in the quarter for which the remittance is due; and
 - The total number of tourist facility licenses issued by the LPHA in the quarter for which the remittance is due, including the number of spaces for recreation parks.
- 8.4 Use or be transitioning toward the use of the statewide licensing software within 12 months of OHA notifying LPHAs that it has signed a contract with the service provider, if the LPHA is not already using this software.
- 8.5 Provide to OHA information required to produce Licensed Facility Statistics Reports (Stats Report) by February 28 of each year. Information required includes-the number of complaints by type, foodborne illness outbreak investigations conducted, enforcement actions taken, number of food handler cards issued, number of food service managers trained, environmental health FTE information for Food, Pool/Spa and Tourist Facility Programs, number of OHA-standardized staff and number of staff with National Swimming Pool Foundation-certified pool operator training or equivalent.
- 8.6 All licensing fees for food, pool/spa and tourist facilities as well as food handler certification fees collected by the LPHA are to be used to support the respective programs at the local and state level and cannot be used to support any other activities.

SECTION 9. ACCOUNTING

OHA may request that the LPHA provide an accounting of the fees collected pursuant to this Agreement for the previous three years and the LPHA and/or its subcontractor's expenditures of those fees to ensure the fees were expended only for the duties and functions delegated to the LPHA under this Agreement. Licensing fees must be used for inspection and related administration purposes only, including direct and indirect costs for the program. If an LPHA terminates this Agreement, any fees collected for inspections that the LPHA has not spent on services performed under this Agreement shall be returned to OHA within thirty days of termination.

SECTION 10. CONFLICT RESOLUTION

The Parties agree to meet, in person if possible, to discuss any conflict that arises between the Parties concerning this Agreement and to work in good faith to resolve the matter in a way that is mutually agreeable.

SECTION 11. REVIEW OF AGREEMENT

The Parties will review this Agreement every five years or sooner upon the agreement of both Parties.

SECTION 12. SUSPENSION AND TERMINATION

- 12.1 Either Party may terminate this Agreement upon 180 days written notice to the other Party.
- 12.2 OHA may terminate this Agreement in accordance with OAR 333-012-0070(6) to (8).
- 12.3. If the delegations in this Agreement are suspended or terminated the LPHA must return any unexpended portion of the fees collected by the LPHA or its subcontractor under ORS 446.425(2), 448.100(2) and 624.510(2) to OHA for carrying out the powers, duties and functions under ORS 446, 448 and 624. For purposes of this paragraph any unexpended portion of the fees collected includes licensing fees collected for a given licensing year minus credits determined by OHA for inspections performed by the LPHA or its subcontractor, as documented in the statewide licensing database.

- 12.4 The LPHA may terminate this Agreement if the LPHA requests a transfer of the LPHA's responsibilities to OHA in accordance with ORS 431.382, but such a termination does not take effect until 180 days after OHA receives the request, unless otherwise agreed to by OHA and the LPHA.
- 12.5 Upon termination of this Agreement, LPHA shall have no further obligation to make remittance payments to OHA under this Agreement, except as specified in paragraph 11.3.
- 12.6 Any termination of this Agreement shall not prejudice any obligations or liabilities of either Party accrued prior to such termination.

SECTION 13. AMENDMENTS

- 13.1 The terms of this Agreement may not be waived, altered, modified, supplemented or otherwise amended, in any manner whatsoever, except by written mutual agreement of the Parties.
- 13.2 This Agreement must be amended if the percentages or formulas for remittance in Section 8.2 change.

SECTION 14. NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to a Party's Authorized Representative at the address or number set forth in this Agreement, or to such other addresses or numbers as a Party may indicate pursuant to this section.

SECTION 15. SURVIVAL

All rights and obligations shall cease upon termination of this Agreement, except for those rights and obligations that by their nature or express terms survive termination of this Agreement. Termination shall not prejudice any rights or obligations accrued to the Parties prior to termination.

SECTION 16. SEVERABILITY

The Parties agree that if any term or provision of this Agreement 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 Agreement did not contain the particular term or provision held to be invalid.

SECTION 17. COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

SECTION 18. LIABILITY AND INSURANCE

The LPHA and its employees or contractors in carrying out the functions and duties delegated in this agreement have the sole right of control as to the physical details of the manner of performance of the inspections to be conducted. The LPHA further understands and agrees that its employees or contractors carrying out the functions and duties delegated in this agreement will be properly trained by the LPHA with regard to the applicable statutes and rules of OHA relating to the delegated programs.

Contribution. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own

choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the LPHA (or would be if joined in the Third Party Claim), OHA shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the LPHA in such proportion as is appropriate to reflect the relative fault of OHA on the one hand and of the LPHA on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of OHA on the one hand and of the LPHA on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. OHA's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the LPHA is jointly liable with OHA (or would be if joined in the Third Party Claim), the LPHA shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by OHA in such proportion as is appropriate to reflect the relative fault of the LPHA on the one hand and of OHA on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the LPHA on the one hand and of OHA on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The LPHA's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

LPHA shall require subcontractors to maintain insurance as set forth in Exhibit A ("Subcontractor Insurance Requirements") which is attached hereto.

SECTION 19. DAS REPORTING REQUIREMENT

The Parties agree that OHA shall be the Reporting Party for purposes of ORS 190.115, Summaries of Agreements of State Agencies. OHA shall submit a summary of this Agreement to the Oregon Department of Administrative Services through the electronic Oregon Procurement Information Network (ORPIN), within the 30-day period immediately following the Effective Date of the Agreement.

SECTION 20. RECORDS

The Parties shall create and maintain records documenting their performance under this Agreement. The Oregon Secretary of State's Office, the federal government, the other Party, and their duly authorized representatives shall have access to the books, documents, papers, and records of a Party that are directly related to this Agreement for the purposes of making audit, examination, excerpts, and transcripts for a period of six years after termination of this Agreement.

SECTION 21. NO THIRD-PARTY BENEFICIARIES

OHA and LPHA 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.

SECTION 22. MERGER, WAIVER AND MODIFICATION

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. 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. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.

SECTION 23. SUBCONTRACTS AND ASSIGNMENT

23.1 If LPHA intends to contract with a person to perform services or activities required under this Agreement, such person may not perform any function, duty or power of the LPHA related to governance as that is described in OAR 333-014-0580. LPHA must provide notice to OHA in accordance with OAR 333-014-0570(2) and (5) and subcontracts must comply with OAR 333-014-0570(4).

23.2 Neither Party may assign, delegate or transfer any of its rights or obligations under this Agreement.

SECTION 24. INDEMNIFICATION BY SUBCONTRACTORS.

LPHA shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of LPHA's 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.

SECTION 25. ADDITIONAL PROVISIONS

25.1 Vendor or Sub-Recipient Determination.

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, OHA's determination is that:

LPHA is a sub-recipient LPHA is a vendor Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: (Not Applicable)

25.2 LPHA Data and Certification.

a. **LPHA Information.** LPHA shall provide information set forth below. This information is requested pursuant to ORS 305.385.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

LPHA Name (exactly as filed with the IRS): _____

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: _____

()

Facsimile: () _____

Federal Employer Identification Number: _____

Proof of Insurance:

Workers' Compensation Insurance Company: _____

Policy #: _____ Expiration Date: _____

The above information must be provided prior to Agreement approval. LPHA shall provide proof of Insurance upon request by OHA or OHA designee.

b. Certification. The LPHA acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the LPHA and that pertains to this Agreement or to the project for which the Agreement work is being performed. The LPHA certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. LPHA further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the LPHA. Without limiting the generality of the foregoing, by signature on this Agreement, the LPHA hereby certifies that:

- (1) The information shown in Section 25.2 a, LPHA Information, is LPHA’s true, accurate and correct information;
- (2) To the best of the undersigned’s knowledge, LPHA has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (3) LPHA and LPHA’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:
<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (4) LPHA is not listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal procurement or Non-procurement Programs” found at: <https://www.sam.gov/portal/public/SAM/>; and
- (5) LPHA is not subject to backup withholding because:
 - (a) LPHA is exempt from backup withholding;
 - (b) LPHA has not been notified by the IRS that LPHA is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified LPHA that LPHA is no longer subject to backup withholding.

c. LPHA is required to provide its Federal Employer Identification Number (FEIN). By LPHA’s signature on this Agreement, LPHA hereby certifies that the FEIN provided to OHA is true and accurate. If this information changes, LPHA is also required to provide OHA with the new FEIN within 10 days.

EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Signatures.

Clackamas County, by and through its Department of Environmental Health:

By:

Authorized Signature

Title

Date

State of Oregon, acting by and through its Oregon Health Authority, pursuant to ORS 190

By:

Authorized Signature

Title

Date

Approved for Legal Sufficiency:

Approved via email by:

Shannon Ofallon, Assistant Attorney General

June 29, 2021

Assistant Attorney General

Date

OHA Program Representative:

Approved via email by:

Brett W. Sherry, Program Manager, Regulatory Unit, Public Health Division

July 23, 2021

Authorized Signature

Title

Date

**OREGON HEALTH AUTHORITY
INTERGOVERNMENTAL AGREEMENT
FOR ENVIRONMENTAL HEALTH SERVICES**

EXHIBIT A

SUBCONTRACTOR INSURANCE REQUIREMENTS

LPHA shall require its first tier contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between the LPHA and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OHA. The LPHA shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, LPHA shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. The LPHA shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall 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 or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall the LPHA permit a contractor to work under a Subcontract when the LPHA is aware that the contractor is not in compliance with the insurance requirements. As used in this Exhibit, a "first tier" contractor is a contractor with which the LPHA directly enters into a contract. It does not include a subcontractor with which the Contractor enters into a contract.

TYPES AND AMOUNTS

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY:

Required **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$ 1,000,000 per occurrence. Annual aggregate limit shall not be less than \$ 2,000,000.

AUTOMOBILE LIABILITY INSURANCE:

Required **Not required**

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned,

or hired vehicles with a combined single limit of not less than \$ 1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY:

Required **Not required**

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$ 1,000,000 per claim. Annual aggregate limit shall not be less than \$ 2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

EXCESS/UMBRELLA INSURANCE:

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL COVERAGE REQUIREMENTS:

Contractor's insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the OHA or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the OHA has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

TAIL COVERAGE:

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, 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 this Subcontract, for a minimum of 24 months following the later of (i) Contractor's completion and LPHA's acceptance of all Services required under this Subcontract, or, (ii) LPHA's or Contractor termination of contract, or, iii) The expiration of all warranty periods provided under this Subcontract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

The LPHA shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language

effecting coverage required by this contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance OHA has the right to request copies of insurance policies and endorsements relating to the insurance requirements in Exhibit A.

NOTICE OF CHANGE OR CANCELLATION:

The Contractor or its insurer must provide at least 30 days' written notice to LPHA before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Contractor agrees to periodic review of insurance requirements by OHA under this agreement and to provide updated requirements as mutually agreed upon by Contractor and OHA.

STATE ACCEPTANCE:

All insurance providers are subject to OHA acceptance. If requested by OHA, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to OHA's representatives responsible for verification of the insurance coverages required under this Exhibit A.

September 16, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Sub-recipient Professional Services Agreement with Cascade AIDS Project
for Human Immunodeficiency Virus (HIV) Testing and Counseling Services

| | |
|--|--|
| Purpose/Outcomes | Provide HIV testing, counseling, and outreach to Clackamas County population. |
| Dollar Amount and Fiscal Impact | The maximum Agreement value is \$75,000. |
| Funding Source | Funding provided by the State of Oregon - Oregon Health Authority. No County General Funds are involved. |
| Duration | Effective upon signature and terminates on June 30, 2022 |
| Previous Board Action | No Previous Board Actions have been taken. |
| Strategic Plan Alignment | 1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities |
| Counsel Review | County counsel has reviewed and approved this document on June 28, 2021 Counsel staff: AN |
| Contact Person | Rodney A. Cook, Interim Public Health Director – 503-650-5694 |
| Contract No. | 10127 |

BACKGROUND:

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

This Agreement has a maximum value of \$75,000. This Agreement is effective upon signature and continues through June 30, 2022.

RECOMMENDATION:

Staff recommends the Board of County Commissioner's approve this Agreement.

Respectfully submitted,



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

| CLACKAMAS COUNTY, OREGON SUBRECIPIENT GRANT AGREEMENT #22-014 | |
|---|---|
| Project Name: HIV Testing – Contract #10127 | |
| Project Number: 40063 | |
| This Agreement is between Clackamas County , a political subdivision of the State of Oregon, acting by and through its Department of Health, Housing and Human Services, Public Health Division (“COUNTY”) and Cascade AIDS Project (CAP) (“SUBRECIPIENT”), an Oregon Nonprofit Organization. | |
| Clackamas County Data | |
| Grant Accountant: Sherry Olson | Program Manager: Anna Summer |
| Clackamas County – Public Health Division 2051 Kaen Road, Suite 367 Oregon City, OR 97045 Phone: (503) 742-5342 Email: SOlson4@co.clackamas.or.us | Clackamas County – Public Health Division 2051 Kaen Road, Suite 367 Oregon City, OR 97045 Phone: (503) 742-5382 Email: ASummer@co.clackamas.or.us |
| Subrecipient Data | |
| Finance/Fiscal Representative: John Domingo, CFO | Program Representative: Chris Altavilla |
| Cascade AIDS Project (CAP) 520 NW Davis St., Suite 215 Portland, OR 97209 Phone: Email: jdomingo@capnw.org.org | Cascade AIDS Project (CAP) 520 NW Davis St., Suite 215 Portland, OR 97209 Phone: (480) 215-5287 Email: Chris@prismhealth.org |
| DUNS: 867947061 | |

RECITALS

1. COUNTY has an Intergovernmental Agreement (“IGA”) for the Financing of Public Health Services through its Public Health Division, the entity designated, pursuant to ORS 431.110, 431.115 AND 431.413 as the Local Public Health Authority for Clackamas County (“LPHA”) and the State of Oregon acting by and through its Oregon Health Authority (“OHA”) for the biennium period 2019-2021. SUBRECIPIENT desires to partner with COUNTY to fulfill the objectives of such IGA, which includes Program Element 07 for HIV Prevention Services. Funds provided under this Agreement for such Program Element may only be used in accordance with and subject to the requirements and limitations for the following services and appropriate costs associated with the delivery of such services (Services):
 - a. Confidential HIV counseling, rapid testing, and referral services;
 - b. Other HIV prevention services with evidence of effectiveness to identified high-risk populations in COUNTY’s service area; and
 - c. Structural activities that facilitate the delivery of HIV prevention services to high-risk populations in COUNTY’s service area.

2. Priority populations for service focus in Oregon are identified in the current Integrated HIV Prevention and Care Plan Guidance found at: <https://hab.hrsa.gov/sites/default/files/hab/Global/hivpreventionplan062015.pdf>. Funds awarded

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under this Agreement may only be expended on Services included in COUNTY's HIV Prevention Program Model Plan that has been approved by the Department of Human Services ("DHS") HIV Prevention Program, with an emphasis focused predominantly on services for the high-risk populations identified above.

3. Project description: Expand HIV client-centered counseling, testing and referral services ("CTRS") and continue to provide outreach to CTRS to sexual and social networks of men who have sex with men ("MSM") and other priority populations who reside in Clackamas County.
4. This Grant Agreement of Federal financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program. NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement (this "Agreement") COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used to reimburse subrecipient for expenses approved in writing by COUNTY relating to the project incurred no earlier than **July 1, 2021** and not later than **June 30, 2022**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit A: Subrecipient Statement of Program Objectives. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the 2020-2021 State of Oregon Intergovernmental Agreement by and through the Oregon Health Authority for the Financing of Public Health Services and the U.S. Department of Health and Human Services, that is the source of the grant funding, in addition to compliance with requirements of Title 45 of the *Code of Federal Regulations*, Part 75. A copy of the applicable sections of the grant award has been provided to SUBRECIPIENT by COUNTY. A complete copy of the 2020-2021 State of Oregon Intergovernmental Agreement by and through the Oregon Health Authority will be provided upon request by SUBRECIPIENT. SUBRECIPIENT shall further comply with any requirements required by the State of Oregon, Department of Human Services, together with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
4. **Grant Funds.** The maximum, not to exceed, amount COUNTY will pay is \$75,000. COUNTY's funding for this Agreement is the Oregon Health Authority 2021-2023. Intergovernmental Agreement [#159803] for HIV Prevention Activities for Health Departments. Funding between sources is distributed as follows:
 - Federal Pass through funds (\$45,000.00) [U.S. Department of Health and Human Services; **CFDA 93.940**].
 - Oregon Health Authority State funds (\$30,000.00)
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or

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amended, in any manner whatsoever, except by written instrument signed by both parties.

SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty five (45) calendar days before this Agreement expires. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.

6. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:
- Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
 - Mutual agreement by COUNTY and SUBRECIPIENT.
 - Written notice provided by COUNTY determining funds are no longer available for this purpose.
 - Written notice provided by COUNTY that it lacks sufficient funds, as determined by COUNTY in its sole discretion, to continue to perform under this Agreement.

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

7. **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:
- Has already accrued hereunder;
 - Comes into effect due to the expiration or termination of the Agreement; or
 - Otherwise survives the expiration or termination of this Agreement.
8. **Funds Available and Authorized.** COUNTY certifies that funds sufficient to pay for this Agreement have been obligated to COUNTY. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 7.
10. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:

- Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—Post Federal Award Requirements, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
- Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are “earned.” All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.
- Change in Key Personnel.** SUBRECIPIENT is required to notify COUNTY, in writing, whenever there is a change in SUBRECIPIENT key administrative or programmatic personnel and the reason for the change. Key personnel include but are not limited to: Executive Director, Finance Director, Program Manager, Bookkeeper, or any equivalent to these positions within the organization.
- Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of SUBRECIPIENT.

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- e. **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- f. **Match.** Matching funds are not required for this Agreement.
- g. **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- h. **Indirect Cost Recovery.** A non-federally-funded indirect cost rate of 8.7% is provided to SUBRECIPIENT and is incorporated by reference into Exhibit B: SUBRECIPIENT BUDGET.
- i. **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- j. **Payment.** SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit D: Required Financial Reporting and Reimbursement Request.
- k. **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit E for each period (monthly, quarterly, and final) during the term of this Agreement.
- l. **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Exhibit D: Required Financial Reporting and Reimbursement Request on a monthly basis.
- m. **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—Closeout. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibits F, G & H), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement. At closeout, SUBRECIPIENT must account for all equipment with remaining value over \$5,000 and residual supplies valued over \$5,000 in the aggregate that were purchased with Federal funds authorized by this Agreement. Compensation to the Federal Agency may be required for equipment or residual supplies valued over \$5,000 per 2 CFR 200.313 & 314.
- n. **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering System (“DUNS”) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.
- o. **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts sub awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- p. **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a

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nonprofit organization described in Section 501(c) (4) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- q. **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse (“FAC”) within 9 months from SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- r. **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY’S discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- s. **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of three (3) years, or such longer period as may be required by the Federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.
- t. **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for contained in the State of Oregon Grant Intergovernmental Agreement, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to COUNTY, as grantee, under those grant documents.
- u. **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY’S right, but not obligation, to withhold RECIPIENT grant funds until compliance is met, terminate this Agreement and all associated amendments, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement

11. Compliance with Applicable Laws

- a. **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, “Equal Employment Opportunity” as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans’ Readjustment b. Assistance Act of 1974, as amended; (viii) all regulations and

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administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT.

- b. **Clean Air Act** (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency.
- c. **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- d. **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. The County shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- e. **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- f. **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT's written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.
- g. **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:
 - Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
 - Procure a commercial sex act during the period of time the award is in effect; or
 - Used forced labor in the performance of the Agreement or sub award under this Agreement.

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

12. Federal and State Procurement Standards

- a. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All

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sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.

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

13. General Agreement Provisions.

- a. **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b. **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to (1) SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control; or (2) SUBRECIPIENT'S performance under this Agreement including, but not limited to, any claim by a State or Federal funding source that SUBRECIPIENT used funds for an ineligible purpose. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c. **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:

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

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

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19) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.

20) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

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

- **Exhibit A:** SUBRECIPIENT Statement of Program Objectives
- **Exhibit B:** SUBRECIPIENT Program Budget
- **Exhibit C:** Congressional Lobbying Certificate
- **Exhibit D:** Required Financial Reporting
- **Exhibit D.1** SUBRECIPIENT Reimbursement Request
- **Exhibit E:** Quarterly Performance Reports and State of Oregon HIV Prevention Program Work Plan for FY2021
- **Exhibit F:** Final Financial Report
- **Exhibit G:** Residual Supplies Inventory
- **Exhibit H:** Business Associate Agreement

Signature page follows

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

CLACKAMAS COUNTY

CASCADE AIDS PROJECT

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

Signing on Behalf of the Board,

By: _____
Tootie Smith, Chair
Board of County Commissioners

By: Tyler TerMeer _____
Tyler TerMeer, Executive Director
CEO

Dated: _____

Dated 06-29-2021 | 12:36 PM PDT

Approved to Form

By: Andrew Naylor
County Counsel

Dated: June 28, 2021

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EXHIBIT A

| Activity A: HIV Testing | | | |
|--|--|-----------------|-------------------------------------|
| Contractor: Cascade AIDS Project | | | |
| Objective 1: Increase the number of POF (Population of Focus): MSM, PWID, and populations with serodiscordant sexual activity receiving HIV testing | | | |
| Baseline: 25% of the population of focus were tested for HIV in FY21 | Current Year Target: At least 40% of the population of focus will be tested for HIV in FY22 | | |
| Objective 2: Reestablish regular HIV testing in Clackamas County during FY22 | | | |
| Baseline: In 2021 a total number of 98 HIV test were conducted | Current Year Target: At least 60 HIV tests will be conducted | | |
| Key activities | Lead(s) & Key Partners | Timeline | Comments: |
| Resume in person HIV testing in Clackamas county. Rapid HIV testing will be offered at no less than 5 unique sites. | Anna Saeger, Prevention Navigator- Matthew Lucas Manager of Prevtion Services | 11/1/2022 | |
| Conduct HIV and Safer Sex education outreach via geo-social app (Grindr, Growlr, Scruff). At least 15 paid push messages (i.e. SHOUTS! on Growlr) will be sent to 2500 individual consumers of the sites listed. | Anna Saeger, Prevention Navigator | 6/30/2022 | |
| Provide at least 25 HIV home testing kits by mail to Clackamas county residents | Anna Saeger, Prevention Navigator | 6/30/2022 | MTL and Oraquick testing technology |
| Weekly HIV Counseling Rapid Testing and Confirmatory Testing performed two hours per week for a total of at least 40 hours of routine HIV testing. | Anna Saeger, Prevention Navigator | 6/30/2022 | |

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| Activity B: Linkage to HIV Care | | | |
|--|---|-----------------|------------------|
| Contractor: Cascade AIDS Project | | | |
| Objective 1: All newly diagnosed HIV-positive persons identified through CAP’s Clackamas County HIV testing activities will be supported by CAP staff in order to access HIV medical care and other supportive services, including scheduling their first medical appointment, etc. | | | |
| Baseline: In FY21 100% of all newly diagnosed will receive linkage to care services within 30 days | Current Year Target: In FY22 100% of all newly diagnosed will receive linkage to care services within 30days | | |
| Key Activities | Lead(s) & Key Partners | Timeline | Comments: |
| The prevention Navigator will consult with the CareLink Team about navigation and client services. | Anna Saeger, Prevention Navigator | 6/30/2022 | |
| Meet with the Manager of Clinical Services to discuss any changes or updates to the Prelim Positive protocol. | Anna Saeger, Prevention Navigator | 11/30/2022 | |
| Report all newly diagnosed HIV cases to DIS for client interview and linkage to care | Anna Saeger, Prevention Navigator | 6/30/2022 | |

| Activity C: PrEP/nPEP | | | |
|--|---|-----------------|------------------|
| Contractor: Cascade AIDS Project | | | |
| Objective 1: At least 80% of HRN individuals tested through CAP’s Clackamas County activities will receive PrEP or other prevention referral/ service | | | |
| Baseline: In FY21 74% of HRN received PrEP or other prevention referral/ service | Current Year Target: At least 80% of HRN individuals will receive PrEP or other referral /services | | |
| Key Activities | Lead(s) & Key Partners | Timeline | Comments: |
| PrEP and PEP is promoted through posters, handouts and geosocial app outreach at 100% of testing and outreach events | Anna Saeger, Prevention navigator | 6/30/2022 | |

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| | | | |
|---|--|-----------------|------------------|
| PrEP and/or nPEP referrals are provided to at least 50 Clackamas county residents | Anna Saeger, Prevention navigator | 6/30/2022 | |
| The Manager of Prevention Services will conduct a data analysis quarterly of PrEP and PEP referrals in Clackamas County. Included in the data will be # of PrEP and PEP referrals, # of Clack Co residents who started PrEP, adherence to PrEP rate after 90 days and the number of Clackamas County residents getting care at CAP's other sites (PIVOT, PRISM) | Matthew Lucas, Manager of Prevention Services | Quarterly | |
| Objective 2: 75% of HRN testing in Clackamas County will receive an STD or HCV testing service (or referral when STD or HCV testing cannot be provided) | | | |
| Baseline: In FY21 93% of HRN received an STD or HCV service or referral | Current Year Target: In FY22, 98% of HRN will receive an STD or HCV service or referral | | |
| Key Activities | Lead(s) & Key Partners | Timeline | Comments: |
| Offer an STD and or HCV test or referral when conducting HIV testing | Anna Saeger, Prevention Navigator | 6/30/2022 | |
| Create a one pager that has current STD/HCV testing options in Clackamas County | Anna Saeger, Prevention Navigator | 6/30/2022 | |

| | | | |
|---|---|-----------------|------------------|
| Activity D: Community-level HIV Prevention | | | |
| Contractor: Cascade AIDS Project | | | |
| D1: Condom and lubricant distribution | | | |
| Objective 1: Distribute at least 4,000 safer sex materials (condoms and lubricant) to at least 4 different sites in Clackamas County | | | |
| Baseline: In FY21 about 14,000 safer sex materials (condoms and lubricant) were distributed at 8 sites | Current Year Target: At least 4,000 safer sex materials (condoms and lubricant) will be distributed in F22 | | |
| Key Activities | Lead(s) & Key Partners | Timeline | Comments: |
| Meet with CCPH at least quarterly to discuss needs in the community and plan to meet identified needs | Anna Saeger, Prevention Navigator | Quarterly | |

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| | | | |
|--|---|-----------------|--|
| Regularly follow-up and check in with existing community partners to assess need for safer sex materials; establish mechanism for meeting needs identified | Anna Saeger, Prevention Navigator | 6/30/2022 | Ex: Clackamas Service Center, Clackamas Outreach Connections, Love One, Fort Kennedy, Founders Clinic, Rahab Sisters, The Living Room, Youth E.R.A |
| Ensure that a safer sex packet (condoms, lubricant, "how-to" guide) is mailed along with every HIV testing kit to each participant | Anna Saeger, Prevention Navigator | 6/30/2022 | |
| | | | |
| D2: Social media & marketing | | | |
| Objective 1: Reach more people in FY21 than in FY20 through expanded social media and marketing efforts | | | |
| Baseline: In FY 20 we reached about 26,000 using the following metrics: engagement, people reached, HIV tests, total reach, total impressions | Current Year Target: In FY21, increase by 10% the number of people reached through social media and marketing using the following metrics: engagement, people reached, HIV tests, total reach, and total impressions | | |
| Key Activities: | Lead(s) & Key Partners | Timeline | Comments: |
| Weekly updates to CAP's Community Testing Facebook page | Anna Saeger, Prevention Navigator | 6/30/2022 | |
| Daily app outreach including logging on and push messages | Anna Saeger, Prevention Navigator | 6/30/2022 | |
| Weekly push messages via geo social apps reporting testing sites. i.e. Sunnyside, outreach events | Anna Saeger, Prevention Navigator | 6/30/2022 | |
| | | | |
| | | | |
| D3: Community Mobilization | | | |
| Objective 1: Improve communication between CAP and CCPH to inform strategies for community mobilization | | | |

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| | | | |
|---|--|-----------------|----------------------|
| Baseline: During FY21 recurring meetings with CCPH and CAP were not scheduled with the entire team | Current Year Target: To increase communication and planning strategies with CCPH by scheduling recurring meetings | | Final Target: |
| Key Activities: | Lead(s) & Key Partners | Timeline | Comments: |
| Schedule a recurring meeting with CCPH to review progress on contract objectives, outreach strategies, discuss needs in the county. | Anna Saeger, Prevention Navigator-Matthew Lucas, Manager of Prevention Services | Quarterly | |

| | | | |
|--|--|-----------------|---|
| D4: Engagement with Communities of Color | | | |
| Objective 1: Increase percentage of HIV tests provided to Communities of Color (race and/or ethnicity other than White) in Clackamas County | | | |
| Baseline: Testing outcomes in FY21 - 32% identified with a race and/or ethnicity other than White • 22% tested identify as Hispanic/Latino • 6.4% tested identify as Black/African American | Current Year Target: Increase HIV testing among Communities of Color overall by 5% compared to FY22 | | |
| Key Activities: | Lead(s) & Key Partners | Timeline | Comments: |
| Partner with culturally specific agencies to offer and conduct testing and prevention education | Anna Saeger, Prevention Navigator-Matthew Lucas, Manager of Prevention Services | 6/30/2022 | |
| Meet with CAP staff who hold culturally specific job titles to inquire about wants in the community they support | Anna Saeger, Prevention Navigator-Matthew Lucas, Manager of Prevention Services | 6/30/2022 | |
| Continue testing and outreach activities that support diverse communities | Anna Saeger, Prevention Navigator | 6/30/2022 | i.e. The Sunnyside Clinic, Youth ERA, & Clackamas Community College |

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EXHIBIT B: SUBRECIPIENT PROGRAM BUDGET

| HIV Prevention - FY22 Subcontractor Line Item Budget | | | | | | | | Contract Amount: \$75,000 | | |
|---|--|---|---|-----------------------------------|-----------------|---------------|----------------------|--------------------------------------|---------------------------------|----------------|
| Complete <u>all</u> yellow shaded areas and cell values colored blue. | | | | | | | | | | |
| For assistance, contact: Barbara Keepes, 971-673-0573, barbara.j.keepes@state.or.us | | | | | | | | | | |
| County: Clackamas | | | | | | | | | | |
| Subcontractor: Cascade Aids Project (CAP) | | | | | | | | | | |
| Completed by: (include contact information): Matthew Lucas | | | | | | | | | | |
| Date Completed: 3/17/2021 | | | | | | | | | | |
| IMPORTANT: | | | | | | | | | | |
| 1. This form must be completed by staff responsible for program budgets and fiscal monitoring. | | | | | | | | | | |
| 2. If your agency is subcontracting for services, a separate line item budget is required for each subcontractor. | | | | | | | | | | |
| Budget Categories | | Description | | | | | | (A) Services / Costs Sub-Total | Federal Portion CFDA #93.940 | State Portion |
| A) Personnel | | Name & Title | Annual Salary & Fringe (Direct Services) | FTE based on 2080 hr work year | Rate / hr | Hrs / mo | # of mo. budgeted | Total | Total | Total |
| <i>Example</i> | | <i>Jane Doe, R.N.</i> | <i>\$38,750.00</i> | <i>0.50</i> | <i>#DIV/0!</i> | <i>0.00</i> | <i>12</i> | <i>#DIV/0!</i> | <i>#DIV/0!</i> | <i>#DIV/0!</i> |
| 1 | | M. Lucas - Manager of Prevention Services | \$63,550.00 | 0.05 | \$30.55 | 8.67 | 12 | \$3,178 | \$3,178 | \$0 |
| 2 | | E. Mendez - Manager of Clinical Health Services | \$63,550.00 | 0.10 | \$30.55 | 17.33 | 12 | \$6,355 | \$6,355 | \$0 |
| 3 | | T. Casey - Prevention Services Coordinator | \$45,147.00 | 0.05 | \$21.71 | 8.67 | 12 | \$2,257 | \$2,257 | \$0 |
| 4 | | A. Saeger - Prevention Navigator | \$45,147.00 | 0.64 | \$21.71 | 110.93 | 12 | \$28,894 | \$28,894 | \$0 |
| | | Total | \$217,394.00 | 0.84 | \$104.52 | 145.60 | | \$40,684 | \$40,684 | \$0 |
| B) Fringe Benefits | | Personnel Costs | Fringe Benefit Rate % | | | | | Total: | Total: | Total: |
| | | \$40,683.93 | 30% | | | | | \$12,205 | \$12,205 | \$0 |

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| | | | | | |
|--------------|--------------|--|----------------|------------|----------------|
| C) Travel | Item | Include calculations for lodging, per diem, mileage, location of travel, number of people traveling and purpose of travel. Mileage rate may not exceed \$0.56 / mile. Do not budget mileage on county owned cars. | | | |
| | | Detail | | | |
| | 1 | Program Mileage for Clackamas County HIV Prevention activities including HIV testing and condoms distribution at IRS rate of \$.575/mile. Costs based on previous year's expenditures and estimated total miles driven for HIV prevention contract specific activities for one program year (662 miles x \$.575/mile). | \$300 | \$0 | \$300 |
| | 2 | Program Parking for Clackamas County HIV Prevention activities including HIV testing and condoms distribution at agency rate of \$16/day. Costs based on previous year's expenditures and estimated total days driven for one program year. (\$16 per day x 73 days) | \$592 | \$0 | \$592 |
| | 3 | | \$0 | \$0 | \$0 |
| | Total | | \$892 | \$0 | \$892 |
| D) Equipment | Item | Equipment is defined as costing \$5000 or greater and having a useful life of at least one year. Equipment purchases must be preapproved. | | | |
| | | Detail | | | |
| | 1 | | \$0 | \$0 | \$0 |
| | 3 | | \$0 | \$0 | \$0 |
| | Total | | \$0 | \$0 | \$0 |
| E) Supplies | Item | List supply detail including office & medical supplies. If using an allocation method, detail how costs are allocated, (i.e. FTE, sq footage, etc). For supplies, list item, quantity and cost. Preprinted, purchased materials are considered a supply item, direct printing costs of materials, is to be listed in section G, Other. The purchase of furniture is not allowed in this award. | | | |
| | | List item and cost | | | |
| | 1 | Clinical Supplies - For HIV Testing including: gauze, phlebotomy supplies, bandages, lancets, disposable test pads, surface sanitation wipes, etc. Phlebotomy supplies are for confirmatory HIV testing. | \$351 | \$0 | \$351 |
| | 2 | Safer Sex Supplies - Specialty condoms, insertive condoms, safer sex kits, and lube for distribution in Clackamas County | \$694 | \$0 | \$694 |
| | 3 | HIV Test Kits - Total cost for 125 Alere Determine Combo (\$10 per test) & 50 Inti One Minute tests (\$15 per test). Tests are budgeted over the forecasted amount tests performed to account for running controls, invalid tests, and practice tests. | \$2,000 | \$0 | \$2,000 |
| | 4 | Central Supplies - General office supplies (e.g. pens, paper, note pads, etc.) based on FTE for program (\$175.13 x .8875 FTE) | \$155 | \$0 | \$155 |
| | 5 | | \$0 | \$0 | |
| | Total | | \$3,200 | \$0 | \$3,200 |

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| F) Consultants | List all consultant costs and area in which consultative services are to be provided | | | | |
|----------------|--|--|----------------|------------|----------------|
| | Summarize cost for each consultant | | | | |
| | 1 | | \$0 | \$0 | \$0 |
| | 2 | | \$0 | \$0 | \$0 |
| | Total | | \$0 | \$0 | \$0 |
| G) Other | Item | Detail | | | |
| | | List costs for staff training or trainings that the LPHA will be providing, marketing / advertising costs for all replication and distribution of materials, telephone, and other direct costs not already indicated. Printing costs, postage and office equipment rental. Note: food and beverages are only allowable when used as an incentive or as an integral part of an intervention. Incentives must be detailed, including individual costs, purpose of the incentive, and how incentive is to be used and tracked. For negotiable incentives, e.g., gift cards, a copy of cash handling procedures must be submitted with any request for incentive use. Any costs that are allocated costs must include allocation method. | | | |
| | 1 | Staff Training - Agency trainings calculated at actual FTE (\$221.83 x .8875 FTE) plus \$500 x .80 FTE for Phlebotomy training & certification. Agency trainings include HIV Prevention Specific Trainings, Trauma Informed Care, Motivational Interviewing, etc. | \$597 | \$0 | \$597 |
| | 2 | Phone & Internet - Basic telephone & internet service for agency allocated at .8875 FTE (plus cell phone reimbursement for .8875 FTE \$35 x 12 mos X .8875 FTE) | \$812 | \$0 | \$812 |
| | 3 | Copies & In House Printing - Agency copier lease & in-house printing charges FTE based (\$142 x .8875 FTE) for general staff documents as well as testing forms, flyers, prevention messaging (e.g. PrEP, HIV 101), etc. Costs are shared across programs. | \$126 | \$0 | \$126 |
| | 4 | Printing - Expenses for Clackamas County HIV Prevention print materials that require external printing. Covers the printing cost of HIV result tent cards, palm cards, and other materials intended to promote HIV testing site information and prevention messages, including PrEP, particularly among MSM and other HRN. Total costs are based on previous year's expenditures and cost per item to print. | \$358 | \$0 | \$358 |
| | 5 | Advertising for HIV Testing Recruitment & HIV Prevention Messaging - Total program promotion costs for Clackamas County HIV Prevention activities allocated towards percentage of budget. This includes things such as social media promotion, geo-social networking app direct messaging, banner advertisements, etc. Emphasis on promotion of HIV testing sites and PrEP navigation services among MSM and other HRN. Total costs are based on historical cost of targeted social marketing and program promotion and are pulled from last year's expenditures. | \$349 | \$0 | \$349 |
| | 6 | Volunteer Resources - Costs include: Volunteer Coordinator, volunteer database costs, volunteer staff training, volunteer recruitment, background investigation of all potential new volunteers, volunteer training, and printing of volunteer materials. The expenses of operating CAP's volunteer support are allocated using a calculation of the prior fiscal year's actual volunteer hours spent on this program's activities compared to total volunteer hours. Specific programs are charged accordingly to their actual use of volunteers. | \$342 | \$0 | \$342 |
| | 7 | Targeted HIV Testing Incentives - Targeted testing incentives used for HIV testing promotion and recruitment through raffles at HIV testing events targeting high-risk HIV negative MSM, particularly MSM of color. Testing incentives details: 3 cases of ONE condom Pride safer sex kits (with 12 safer sex kits per case of condoms, lube, stickers, Pride beads, and vibrator) at \$60 each (3 cases x \$60 = 36 kits); Nike sports bag (\$90 value, provided through in-kind donation). Types of targeted testing incentives were selected by members of the target populations. | \$424 | \$0 | \$424 |
| | Total | | \$3,008 | \$0 | \$3,008 |

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| H) Contractual | Item | List all subcontracts, submit a separate line item budget for each contractor | | | |
|---|--------------|--|-----------------|-----------------|-----------------|
| | | Subcontracted Agency | | | |
| | 1 | | \$0 | \$0 | \$0 |
| | 2 | | \$0 | \$0 | \$0 |
| | 3 | | \$0 | \$0 | \$0 |
| | Total | | \$0 | \$0 | \$0 |
| I) Total Direct Costs | | | | | |
| Sum of A - H | | | | | |
| Total | | | \$59,989 | \$52,889 | \$7,100 |
| J) Other | | | | | |
| | 1 | Davis Office Rent - Office space and utilities for direct services staff based on .8875 FTE | \$6,264 | \$0 | \$6,264 |
| | 2 | Belmont Office Rent (Pivot) - Office space & utilities for all clinical supplies for HIV testing in Clackamas County, all safer sex material storage for Clackamas County, Pivot HIV/STI testing services that are provided to Clackamas County residents at Pivot location, and all testing file storage. Clackamas County residents accounted for 6.8% of Pivot clients in FY19. FY21 Pivot rent calculated as 6.77% of total cost of Pivot site rent = \$4747.46. Total rent is \$2,747.26 after \$2,000 reduction due to IN KIND donation by CAP for Washington County efforts. This \$6,000 is not covered by any other contracts. | \$2,747 | \$0 | \$2,747 |
| | Total | | \$9,011 | \$0 | \$9,011 |
| K) Indirect Costs | | | | | |
| | Item | 8.7% of total costs. Non-federally funded. | \$5,999 | \$0 | \$5,999 |
| | Total | | \$5,999 | \$0 | \$5,999 |
| K | | | | | |
| Total Direct Program Expenses - must match contract amount - sum of I, J & K | | | \$75,000 | \$52,889 | \$22,110 |

**EXHIBIT C
CONGRESSIONAL LOBBYING CERTIFICATE**

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

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

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

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

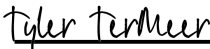
| | |
|---|------------------------------|
| Cascade AIDS Project (CAP) | 22-014 HIV Testing |
| Organization Name | Award Number or Project Name |
|  | 06-29-2021 12:36 PM PDT |
| Signature | Date |
| Tyler TerMeer, Executive Director - CEO | |
| Name and Title of Authorized Representative | |

EXHIBIT D
REQUIRED FINANCIAL REPORTING AND REIMBURSEMENT REQUEST

| | |
|--|--|
| PROJECT NAME: HIV Testing and Counseling | AGREEMENT #22-014 Contract #10127 |
| SUB-RECIPIENT: CASCADE AIDS PROJECT (CAP) | |

COMPENSATION AND RECORDS

- A. COUNTY shall compensate SUBRECIPIENT for satisfactorily completing activities described in EXHIBIT A, above.
- B. Total payments to SUBRECIPIENT shall not exceed **\$75,244**.
- C. COUNTY agrees to pay SUBRECIPIENT true and verifiable expenses on a monthly basis after payment is received from the State of Oregon.
- D. Method of Payment: To receive payment, SUBRECIPIENT shall submit Request for Reimbursement Form monthly for true and verifiable expenses as outlined below:

SUBRECIPIENT shall submit Request for Reimbursement Form monthly for true and verifiable expenses by the tenth day of the month following that in which service was performed. Requests shall be submitted to Clackamas County Public Health (“CCPHD”), Attn: Sherry Olson 2051 Kaen Road, Suite 367, Oregon City, Oregon 97045, or electronically to: SOlson4@co.clackamas.or.us. When submitting electronically, designate SUBRECIPIENT name and contract **Agreement # 22-014 Contract #10127** in the subject of the e-mail.

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

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

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

Reporting Periods:

07/01/2021 - 09/30/2021, 10/01/2021 - 12/31/2021, 01/01/2022 - 03/31/2022, 04/01/2022 – 06/30/2022

- E. Record and Fiscal Control System: All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of seven (7) years after receipt of final payment under this contract; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
- F. Access to Records: COUNTY, the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of SUBRECIPIENT, which are directly pertinent to the contract for making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to SUBRECIPIENT were in excess of the amount to which the SUBRECIPIENT was entitled, then SUBRECIPIENT shall repay the amount of the excess to COUNTY.

(Sample of Request for reimbursement form on next page)

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

| | | | |
|--|--|----------------------|---|
| Organization: | | CLAIM PERIOD: | Note: This form derives from the approved budget in your grant Agreement. All expenditures must have adequate supporting documentation. |
| Service: | | | |
| Program Contact: | | | |
| Agreement Term: 7/01/21 through 6/30/22 | | | |
| Agreement Number: 22-014 | | | |

| Category | Approved Grant Amount | Monthly Grant Expenditure | Total Monthly Expenditure | YTD Grant Expenditure | Balance |
|--|------------------------------|----------------------------------|----------------------------------|------------------------------|----------------|
| Personnel (List salary, FTE & Fringe costs for each position) | | | | | |
| [Funded Position Name - Salary] | \$ - | \$ - | \$ - | \$ - | \$ - |
| [Funded Position Name - Fringe] | \$ - | \$ - | \$ - | \$ - | \$ - |
| Total Personnel Services | \$ - | \$ - | \$ - | \$ - | \$ - |
| Supplies | | | | | |
| Phone, computer | \$ - | \$ - | \$ - | \$ - | \$ - |
| Travel | | | | | |
| Mileage (.54/milex200 miles) | \$ - | \$ - | \$ - | \$ - | \$ - |
| Additional (please specify) | | | | | |
| Client assistance (bus tickets, etc.) | \$ - | \$ - | \$ - | \$ - | \$ - |
| Total Programmatic Costs | \$ - | \$ - | \$ - | \$ - | \$ - |
| Indirect Rate (X%) | \$ - | \$ - | \$ - | \$ - | \$ - |
| Total Grant Costs | \$ - | \$ - | \$ - | \$ - | \$ - |

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

CERTIFICATION

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

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

EXHIBIT E
MONTHLY AND FINAL PERFORMANCE REPORT

| | |
|--|--|
| <i>PROJECT NAME: HIV Testing and Counseling</i> | <i>AGREEMENT # 22-014 Contract #10127</i> |
| <i>SUBRECIPIENT: CASCADE AIDS PROJECT (CAP)</i> | |

OHA will send the HIV Prevention Program Work Plan to SUBRECIPIENT and CCPHD. SUBRECIPIENT will complete the Work Plan and send to CCPHD 10 days prior to the OHA due date (30 DAY AFTER QUARTER END)

Reporting Periods:

07/01/2021- 09/30/2021, 10/01/2021- 12/31/2021, 01/01/2022 - 03/31/2022, 04/01/2022 – 06/30/2022

**CLACKAMAS COUNTY AND CASCADE AIDS PROJECT (CAP)
 SUBRECIPIENT AGREEMENT EXHIBIT F: FINAL FINANCIAL REPORT**

| | |
|---|-------------------------------------|
| Project Name: HIV Testing and Counseling | Agreement #: 22-014 |
| Federal Award #: | Date of Submission: XX/XX/XX |
| Subrecipient: CASCADE AIDS PROJECT (CAP) | |
| Has Subrecipient submitted all requests for reimbursement? Y/N | |
| Has Subrecipient met all programmatic closeout requirements? Y/N | |

Final Financial Report

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

| | |
|---|----------|
| Total Federal Funds authorized on this agreement: | \$45,000 |
| Year-to-Date Federal Funds requested for reimbursement on this agreement: | |
| Total Federal Funds received on this agreement: | |
| Balance of unexpended Federal Funds (Line 1 minus Line 3): | |

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

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

CLACKAMAS COUNTY AND CASCADE AIDS PROJECT (CAP) SUBRECIPIENT GRANT AGREEMENT EXHIBIT G: RESIDUAL SUPPLIES INVENTORY

| | |
|--|-------------------------------------|
| Project Name: HIV TESTING AND COUNSELING | Agreement #: 22-014 |
| Federal Award: # | Date of Submission: XX/XX/XX |
| Subrecipient: CASCADE AIDS PROJECT (CAP) | |
| Is this program continuing beyond the expiration of this agreement?: Y/N | |
| If yes, does the subrecipient request to continue to use all or part of the supplies? Y/N (If yes, identify all such supplies below by marking it with a highlighter) | |
| OR | |
| Does the subrecipient request the use of the supplies on other federally supported activities? Y/N | |
| If subrecipient does not request continued use of items of equipment, the federal agency will issue disposition instructions. Other agency-specific requirements may apply. | |

Residual Supplies Inventory
Items of Supplies with an Aggregate, Current Fair Market Value of \$5,000 or more and purchased with Federal Grant Funds

Attach more sheets if necessary

| Items Description | Location | Estimated Current Fair Market Value | Disposition Date & Price, if applicable |
|-------------------|----------|-------------------------------------|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

Subrecipient's Certifying Official's telephone: _____

EXHIBIT H BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is entered into as of July 1, 2021 (“Effective Date”) by and between Clackamas County Health, Housing and Human Services, Public Health Division (“Covered Entity”) and Cascade AIDS Project (“CAP”) (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996, and its regulations (“HIPAA”).

RECITALS

Whereas, the Covered Entity has engaged the services of the Business Associate, as defined under 45 CFR §160.103, for or on behalf of the Covered Entity;
Whereas, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Agreement”);
Whereas, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;
Whereas, the Parties agree to establish safeguards for the protection of such information;
Whereas, the Covered Entity and Business Associate desire to enter into this Business Associate Agreement to address certain requirements under the HIPAA Rules;
Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

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

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

SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Business Associate Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Business Associate Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Business Associate Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Business Associate Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual’s designee as necessary to meet the Covered Entity’s obligations under 45 CFR §164.524; provided, however, that this Section 2.6 is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section 2.7 is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate

- on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - 2.10 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Business Associate Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - 2.11 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such Electronic PHI agrees to implement reasonable and appropriate security measures to protect the information. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
 - 2.12 To retain records related to the PHI hereunder for a period of six (6) years unless the Business Associate Agreement is terminated prior thereto. In the event of termination of this Business Associate Agreement, the provisions of Section V of this Business Associate Agreement shall govern record retention, return or destruction;
 - 2.13 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach in accordance with 45 CFR §164.410. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
 - 2.14 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

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

- 3.1 Business Associate agrees to make uses, disclosures, and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.2 Except as otherwise limited in this Business Associate Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by the Covered Entity; and,
- 3.3 Except as otherwise limited in this Business Associate Agreement, the Business Associate may:
 - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and,
 - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the

Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

SECTION IV – NOTICE OF PRIVACY PRACTICES

4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Standards if done by the Covered Entity, except as set forth in Section 3.2 above.

SECTION V – BREACH NOTIFICATION REQUIREMENTS

5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:

- a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
- b. In plain language including and to the extent possible:
 - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - 4) A brief description of what the Covered Entity and/or Business Associate is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
 - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
- d. Provided to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.

5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

SECTION VI – TERM AND TERMINATION

6.1 **Term.** The term of this Business Associate Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI created, maintained, transmitted

or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Business Associate Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Business Associate Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Business Associate Agreement if cure is not reasonably possible.

If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.

Upon the Business Associate's knowledge of a material breach of this Business Associate Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Business Associate Agreement and the Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Business Associate Agreement if the Covered Entity has breached a material term of this Business Associate Agreement if cure is not reasonably possible.

6.3 **Effect of Termination.**

- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Business Associate Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Business Associate Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

SECTION VII – GENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Business Associate Agreement to the HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Business Associate Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.

- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Sections II and III of this Business Associate Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Survival.** The respective rights and obligations of Business Associate under Section II of this Business Associate Agreement shall survive the termination of the Services Agreement and this Business Associate Agreement.
- 7.6 **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.

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

Business Associate

Covered Entity

Cascade AIDS Project (CAP)

Clackamas County

By: *Tyler TenMeer* By: _____

Title: Executive Director CEO Title: Director, H3S

Date: 06-29-2021 | 12:36 PM PDT Date: _____

September 16, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Sub-recipient Professional Services Agreement with Outside In
for Human Immunodeficiency Virus (HIV) Testing and Counseling Services

| | |
|--|--|
| Purpose/Outcomes | Provide HIV testing, counseling, and outreach to Clackamas County population. |
| Dollar Amount and Fiscal Impact | The maximum Agreement value is \$22,184. |
| Funding Source | Funding provided by the State of Oregon - Oregon Health Authority. No County General Funds are involved. |
| Duration | Effective upon signature and terminates on June 30, 2022 |
| Previous Board Action | No Previous Board Actions have been taken. |
| Strategic Plan Alignment | 1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities |
| Counsel Review | County counsel has reviewed and approved this document on June 29, 2021 Counsel staff: AN |
| Contact Person | Rodney A. Cook, Interim Public Health Director – 503-650-5694 |
| Contract No. | 10131 |

BACKGROUND:


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

This Agreement has a maximum value of \$22,184. This Agreement is effective upon execution and continues through June 30, 2022.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve this Agreement.

Respectfully submitted,



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

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT #22-013**

Project Name: **HIV Testing – Contract #10131**
Project Number: **40063**

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

Clackamas County Data

| | |
|---|---|
| Grant Accountant: Sherry Olson | Program Manager: Anna Summer |
| Clackamas County – Public Health Division 2051 Kaen Road, Suite 367 Oregon City, OR 97045 Phone: (503) 742-5342 Email: SOlson4@co.clackamas.or.us | Clackamas County – Public Health Division 2051 Kaen Road, Suite 367 Oregon City, OR 97045 Phone: (503) 742-5382 Email: ASummer@co.clackamas.or.us |

Subrecipient Data

| | |
|--|--|
| Finance/Fiscal Representative: Bonnie Ross | Program Representative: Haven Wheelock |
| Outside In, Inc. 1132 SW 13 th Ave Portland, OR 97205 Phone: 503-535-3803 Email: terryn@outsidein.org | Outside In 1132 SW 13 th Ave Portland, OR 97205 Phone: 503-535-3826 Email: havenw@outsidein.org |
| DUNS: 867947061 | |

RECITALS

1. COUNTY has an Intergovernmental Agreement (“IGA”) for the Financing of Public Health Services through its Public Health Division, the entity designated, pursuant to ORS 431.375(2), as the Local Public Health Authority for Clackamas County (“LPHA”) and the State of Oregon acting by and through its Oregon Health Authority (“OHA”) for the biennium period 2019-2021. SUBRECIPIENT desires to partner with COUNTY to fulfill the objectives of such IGA, which includes Program Element 07 for HIV Prevention Services. Funds provided under this Agreement for such Program Element may only be used in accordance with and subject to the requirements and limitations for the following services and appropriate costs associated with the delivery of such services (“Services”):
 - a. Confidential HIV counseling, rapid testing, and referral services;
 - b. Other HIV prevention services with evidence of effectiveness to identified high-risk populations in COUNTY’s service area; and
 - c. Structural activities that facilitate the delivery of HIV prevention services to high-risk populations in COUNTY’s service area.
2. Priority populations for service focus in Oregon are identified in the current Integrated HIV Prevention and Care Plan Guidance found at:

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

3. Project description: Expand HIV client-centered counseling, testing and referral services ("CTRS") and continue to provide outreach to CTRS to sexual and social networks of men who have sex with men ("MSM") and other priority populations who reside in Clackamas County.
4. This Grant Agreement of Federal financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement (this "Agreement") COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

- 1) **Term and Effective Date.** This Agreement becomes effective on execution. Eligible expenses for this Agreement may be charged during the period beginning **July 1, 2021** and expiring **June 30, 2022** a total of twelve (12) months.
- 2) **Program.** The Program is described in Attached Exhibit A: Subrecipient Statement of Program Objectives. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement.
- 3) **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the 2020-2021 State of Oregon Intergovernmental Agreement by and through the Oregon Health Authority for the Financing of Public Health Services and the U.S. Department of Health and Human Services, that is the source of the grant funding, in addition to compliance with requirements of Title 45 of the *Code of Federal Regulations*, Part 74. A copy of the applicable sections of the grant award has been provided to SUBRECIPIENT by COUNTY. A complete copy of the 2020-2021 State of Oregon Intergovernmental Agreement by and through the Oregon Health Authority will be provided upon request by SUBRECIPIENT. SUBRECIPIENT shall further comply with any requirements required by the State of Oregon, Department of Human Services, together with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
- 4) **Grant Funds.** The maximum, not to exceed, amount COUNTY will pay is **\$22,184**. COUNTY's funding for this Agreement is the **2021-2023** Intergovernmental Agreement [#159803] with Oregon Health Authority to the **Local Public Health Authority (LPHA)** for, HIV Prevention Activities for Health Departments as follows:
 - Federal Pass through funds (**\$17,566**) [U.S. Department of Health and Human Services; **CFDA 93.940**]
 - Oregon Health Authority State funds (**\$4,619**)
- 5) **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.

SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty five (45) calendar days before this Agreement expires. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.

- 6) **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:
- a) Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
 - b) Mutual agreement by COUNTY and SUBRECIPIENT.
 - c) Written notice provided by COUNTY that OHA has determined funds are no longer available for this purpose.
 - d) Written notice provided by COUNTY that it lacks sufficient funds, as determined by COUNTY in its sole discretion, to continue to perform under this Agreement.

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

- 7) **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:
- a) Has already accrued hereunder;
 - b) Comes into effect due to the expiration or termination of the Agreement; or
 - c) Otherwise survives the expiration or termination of this Agreement.

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

- 8) **Funds Available and Authorized.** COUNTY certifies that it has received an award sufficient to pay for this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
- 9) **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 8.
- 10) **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
- a) **Financial Management.** SUBRECIPIENT shall comply with 2 CFR Part 200, Subpart D—*Post Federal Award Requirements*, and agrees to adhere to the accounting principles and procedures required therein, use adequate internal controls, and maintain necessary sources documentation for all costs incurred.
 - b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are

“earned.” All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to the County within 15 days.

- c) **Change in Key Personnel.** SUBRECIPIENT is required to notify COUNTY, in writing, whenever there is a change in SUBRECIPIENT key administrative or programmatic personnel and the reason for the change. Key personnel include but are not limited to: Executive Director, Finance Director, Program Manager, Bookkeeper, or any equivalent to these positions within the organization.
- d) **Cost Principles.** SUBRECIPIENT shall administer the award in conformity with 2 CFR 200, Subpart E. These cost principles must be applied for all costs incurred whether charged on a direct or indirect basis. Costs disallowed by the Federal government shall be the liability of SUBRECIPIENT.
- e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- f) **Match.** Matching funds are not required for this Agreement.
- g) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: Subrecipient Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- h) **Indirect Cost Recovery.** SUBRECIPIENT will receive a non-federally funded 10% indirect cost rate as shown in Exhibit B: SUBRECIPIENT BUDGET.
- i) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- j) **Payment.** SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement. Routine requests for reimbursement should be submitted as specified in Exhibit D: Required Financial Reporting and Reimbursement Request.
- k) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit E for each period (monthly, quarterly, and final) during the term of this Agreement.
- l) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Exhibit D: Required Financial Reporting and Reimbursement Request on a monthly basis.
- m) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibits F & G), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement. At closeout, SUBRECIPIENT must account for all residual supplies valued over \$5,000 in the aggregate that were purchased with Federal funds authorized by this Agreement. Compensation to the Federal Agency may be required for residual supplies valued over \$5,000 per 2 CFR 200.313 & 314.

- n) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering System (“DUNS”) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, now located at <http://www.sam.gov>.
- o) **Suspension and Debarment.** SUBRECIPIENT shall comply with 2 CFR 180.220 and 901. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. SUBRECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. SUBRECIPIENT may access the Excluded Parties List System at <http://www.sam.gov>. The Excluded Parties List System contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 and 12689. Awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
- p) **Lobbying.** SUBRECIPIENT certifies (Exhibit C: Lobbying) that no portion of the Federal grant funds will be used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law and shall abide by 2 CFR 200.450 and the Byrd Anti-Lobbying Amendment 31 U. S. C. 1352. In addition, SUBRECIPIENT certifies that it is a nonprofit organization described in Section 501(c) (3) of the Code, but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.
- q) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse (“FAC”) within 9 months from SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://harvester.census.gov/facweb/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from SUBRECIPIENT’S fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- r) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY’S discretion. Depending on the outcomes of the financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.
- s) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, or such longer period as may be required by the Federal agency or applicable state law, following final payment and termination of this Agreement, or until the

conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.

- t) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications for contained in the State of Oregon Grant Intergovernmental Agreement, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to COUNTY, as grantee, under those grant documents.
- u) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, terminate this Agreement and all associated amendments, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.

11) Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended and supplemented in U.S. Department of Labor regulations (41 CFR Part 60); (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; (ix) all federal laws requiring reporting of Client abuse, and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT. No federal funds may be used to provide services in violation of 42 U.S.C. 14402.
- b) **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).** SUBRECIPIENT agrees that if this Agreement is in excess of \$150,000, the recipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. Violations shall be reported to the awarding Federal Department and the appropriate Regional Office of the Environmental Protection Agency.
- c) **Energy Efficiency.** SUBRECIPIENT will 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).
- d) **Pro-Children Act.** SUBRECIPIENT shall comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
- e) **Safeguarding of Client Information.** SUBRECIPIENT shall maintain the confidentiality of client records as required by applicable state and federal law. Without limiting the generality of the

preceding sentence, SUBRECIPIENT shall comply with the following confidentiality laws, as applicable: ORS 433.045, 433.075, 433.008, 433.017, 433.092, 433.096, 433.098, 42 CFR Part 2 and any administrative rule adopted by OHA implementing the foregoing laws, and any written policies made available to COUNTY by OHA. Subcontractor 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.

- f) **Information Privacy/Security/Access.** If the services performed under this Agreement requires SUBRECIPIENT to access or otherwise use any OHA Information Asset or Network and Information System to which security and privacy requirements apply, and OHA grants COUNTY, its subrecipient(s), or both access to such OHA Information Assets or Network and Information Systems, SUBRECIPIENT shall comply and require its staff to which such access has been granted to comply with the terms and conditions applicable to such access or use, including OAR 943-014-0300 through OAR 943-014-0320, as such rules may be revised from time to time. For purposes of this section, “Information Asset” and “Network and Information System” have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time.
- a) **Resource Conservation and Recovery.** SUBRECIPIENT shall comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
- b) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- c) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. The County shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- d) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- e) **Mileage reimbursement.** If mileage reimbursement is authorized in SUBRECIPIENT budget or by the written approval of COUNTY, mileage must be paid at the rate established by SUBRECIPIENT’s written policies covering all organizational mileage reimbursement or at the IRS mileage rate at the time of travel, whichever is lowest.
- f) **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:

- Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
- Procure a commercial sex act during the period of time the award is in effect; or
- Used forced labor in the performance of the Agreement or subaward under this Agreement.

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

12) Federal and State Procurement Standards

- a) All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements must receive prior written approval from COUNTY in addition to any other approvals required by law applicable to SUBRECIPIENT. Justification for sole-source procurement should include a description of the project and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. Interagency agreements between units of government are excluded from this provision.
- b) COUNTY's performance under the Agreement is conditioned upon SUBRECIPIENT's compliance with, and SUBRECIPIENT shall comply with, the obligations applicable to public contracts under the Oregon Public Contracting Code and applicable Local Contract Review Board rules, which are incorporated by reference herein.
- c) SUBRECIPIENT must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. If SUBRECIPIENT has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, SUBRECIPIENT must also maintain written standards of conduct covering organizational conflicts of interest. SUBRECIPIENT shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals ("RFP") for a proposed procurement must be excluded by SUBRECIPIENT from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to COUNTY.
- d) SUBRECIPIENT agrees that, to the extent they use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

13) General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.
- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents, and the State of Oregon and its officers, employees and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to (1) SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control; or (2)

SUBRECIPIENT'S performance under this Agreement including, but not limited to, any claim by a State or Federal funding source that SUBRECIPIENT used funds for an ineligible purpose. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.

- c) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
- 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, elected officials, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
 - 2) **Commercial Automobile Liability.** If the Agreement involves the use of vehicles, SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence for bodily injury, death and property damage shall not be less than \$1,000,000. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability").
 - 3) **Professional Liability.** If the Agreement involves the provision of professional services, SUBRECIPIENT shall obtain and furnish COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, elected officials and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this Agreement. COUNTY, at its option, may require a complete copy of the above policy.
 - 4) **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$500,000.
 - 5) **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, SUBRECIPIENT shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Agreement, for a minimum of 24 months following the later of : (i) the SUBRECIPIENT's completion and COUNTY's acceptance of all Services required under this Agreement or, (ii) the expiration of all warranty periods provided under this Agreement. Notwithstanding the foregoing 24-month requirement, if SUBRECIPIENT elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then SUBRECIPIENT may request and OHA may grant approval of the maximum "tail " coverage period reasonably available in

the marketplace. If OHA approval is granted, the SUBRECIPIENT shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonably available in the marketplace.

- 6) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers’ Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include “Clackamas County, its agents, elected officials, officers, and employees” as an additional insured.
 - 7) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 30 days-notice of cancellation provision shall be physically endorsed on to the policy.
 - 8) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best’s Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
 - 9) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. COUNTY and its elected officials, employees and officers must be named as an additional insured on the Certificate of Insurance. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
 - 10) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
 - 11) **Cross-Liability Clause.** A cross-liability clause or separation of insured’s condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
 - 12) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement.
- d) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
 - e) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY or the State of Oregon and undertakes this work independent from the control and direction of COUNTY and the State of Oregon excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY or the State of Oregon in any transaction or activity.
 - f) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed.

Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.

- g) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- h) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- j) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- k) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.

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

- **Exhibit A:** SUBRECIPIENT Statement of Program Objectives
- **Exhibit B:** SUBRECIPIENT Program Budget
- **Exhibit C:** Congressional Lobbying Certificate
- **Exhibit D:** Required Financial Reporting
- **Exhibit D.1** SUBRECIPIENT Reimbursement Request
- **Exhibit E:** Quarterly Performance Reports and State of Oregon HIV Prevention Program Workbook for FY2019
- **Exhibit F:** Final Financial Report
- **Exhibit G:** Business Associate Agreement

Signature page follows

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

CLACKAMAS COUNTY

OUTSIDE IN, INC.

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

Signing on Behalf of the Board,

By: _____
Chair of County Commissioners

By: **Patricia Patron** Digitally signed by Patricia Patron
DN: cn=Patricia Patron, o=Outside In, ou,
email=patriciap@outsidein.org, c=US
Date: 2021.08.05 17:24:16 -0700

Patricia Patrón, Executive Director

Dated: _____

Dated: 8/5/21 _____

Approved to Form

By: Andrew Naylor
County Counsel

Dated: 6/29/21 _____

EXHIBIT A

OUTSIDE IN SCOPE OF WORK FOR HIV TESTING

Background:

This work will be conducted to accomplish, in part, the following strategies for HIV Prevention (Program Element 7) CDC HIV Prevention & Surveillance Integrated Grant 2018-2022:

- ❖ Identify person with HIV infection or uninfected persons at risk for HIV infection which includes:
 - HIV testing
 - Partner Services
 - Data-to-care
- ❖ Comprehensive prevention services for HIV-negative persons at risk for HIV infection that includes:
 - PrEP/nPEP referrals and navigation

Section I: Scope of Work

A. SUBRECIPIENT agrees to the following:

1. Conduct confidential HIV Testing Clinics as described below:
 - a. Clackamas Service Center 2 times per week (Days and times to be determined by mutual agreement of both parties.)
 - b. The Founders Clinic 1 time per week (Days and times to be determined by mutual agreement of both parties.)
 - c. Conduct a minimum of 250 HIV tests annually targeting people who inject drugs.
 - i) SUBRECIPIENT shall direct services to people who inject drugs and other affected populations known through local epidemiology to be at disproportionate risk for HIV infection. SUBRECIPIENT shall use the Oregon Integrated HIV Prevention and Care Plan 2017 – 2021 plan and local epidemiological data to guide decisions. All oversight, quality assurances, liability and other processes for the provision of HIV testing and counseling are the sole responsibility of SUBRECIPIENT.
 - d. Offer same day confirmatory HIV testing to individuals testing positive to rapid preliminary testing.
2. Partner Services facilitation to ensure linkage to medical care / support services and to support the notification of sex and needle-sharing partners.
 - a. SUBRECIPIENT shall comply with Oregon disease reporting guidelines and inform clients with positive HIV test results that their health department will

contact them to offer help with partner services and linking to care. Per investigative guidelines, COUNTY requires that individuals with preliminary positive HIV rapid tests who refuse same day confirmatory testing be reported.

- b. SUBRECIPIENT shall refer HIV confirmatory positive clients and preliminary positive clients declining confirmatory testing to COUNTY Partner Services program. A referral system will be mutually established by SUBRECIPIENT and COUNTY. In collaboration with COUNTY, SUBRECIPIENT shall ensure linkage into medical care and supportive services.
3. Provide education around Pre-Exposure Prophylaxis (“PrEP”) and Non-occupational Post Exposure Prophylaxis (“nPEP”) awareness with persons at risk to prevent acquisition of HIV.
4. Ensure all non-licensed team members conducting HIV testing have received trainings as required by the Oregon Health Authority HIV/STD/TB Program.
5. Routinely and with 95% accuracy collect and enter required variables into data system housed and managed by Multnomah County Public Health.
6. Provide agency level medical oversight and medical authorization of non-licensed employees.
7. Obtain and maintain a Clinical Laboratory Improvement Amendments (“CLIA”) certificate of waiver for rapid HIV.
8. Submit a monthly numbers report and quarterly narrative report to COUNTY.
9. SUBRECIPIENT shall comply with Oregon Health Authority HIV/STD/TB Program (“OHA/HST”) revised data management guidelines short-term plan and pending finalized plan.
10. If SUBRECIPIENT is contacted by the media for information regarding the services under this contract, the SUBRECIPIENT is required to notify Anna Summer (503-742-5382) to discuss the most appropriate response. Contact shall be made by telephone the same business day or the following business day if after hours.

B. COUNTY agrees to:

1. Arrange SUBRECIPIENT access to no cost Oregon State Public Health Laboratory standard and confirmatory HIV testing.
 - a. <https://apps.state.or.us/Forms/Served/le0042p.pdf> On-line fillable Oregon State Public Health Laboratory Form.
2. Prioritize access to Partner Services for clients testing HIV confirmatory positive.

3. Provision of local and relevant (as mutually determined between both parties) data to support this Scope of Work.
 4. Disease Intervention Specialist (“DIS”) staff time to collaborate and plan to accomplish this Scope of Work.
 5. Infectious Disease Control and Prevention management time to provide oversight and support this Scope of Work.
- C. SUBRECIPIENT reporting requirements:
1. Quarterly Workbook completion and submitted to Clackamas County Public Health Infectious Disease Control Program (“CCPH IDCP”) by the following dates: October 15, 2021; January 15, April 15, and July 15, 2022;
 2. Quarterly management check-in meetings to review deliverables - dates to be scheduled between SUBRECIPIENT and CCPH IDCP management during week of workbook completion (see dates above).
 3. Routine SUBRECIPIENT internal tracking reports of prevention services activities not provided in Evaluation Web or Workbook reporting formats provided to CCPH IDCP program manager and staff to utilize for planning and intervention services as needed [frequency of reporting, means of verification and person(s) responsible outlined in internal tracking sheet developed by SUBRECIPIENT/CCPH IDCP management.
 4. Quarterly in-person meetings as well as on-going communication as needed w/ CCPH DIS and SUBRECIPIENT field staff to coordinate outreach and services.

EXHIBIT B
SUBRECIPIENT BUDGET

| | | | | | | | | | | | |
|---|----------------|--|--|--------------------------------------|----------------|--------------|----------------------|--------------------------------------|---------------------------------|----------------|--|
| HIV Prevention - FY22 Subcontractor Line Item Budget | | | | | | | | Contract Amount: | \$22,184 | | |
| Complete all yellow shaded areas and cell values colored blue. | | | | | | | | | | | |
| For assistance, contact: Barbara Keepes, 971-673-0573, barbara.j.keepes@state.or.us | | | | | | | | | | | |
| County: Clackamas | | | | | | | | | | | |
| Subcontractor: OUTSIDE IN | | | | | | | | | | | |
| Completed by: (include contact information): ANNI ZIELER, CONTROLLER, anniz@outsidein.org | | | | | | | | | | | |
| Date Completed: 4/1/2021 | | | | | | | | | | | |
| IMPORTANT: 1. This form must be completed by staff responsible for program budgets and fiscal monitoring. 2. If your agency is subcontracting for services, a separate line item budget is required for each subcontractor. | | | | | | | | | | | |
| Budget Categories | | Description | | | | | | (A) Services / Costs Sub-Total | Federal Portion CFDA #93.940 | State Portion | |
| A) Personnel | | Name & Title | Annual Salary & Fringe (Direct Services) | FTE based on 2080 hr work year | Rate / hr | Hrs / mo | # of mo. budgeted | Total | Total | Total | |
| | <i>Example</i> | <i>JANE DOE, R.N.</i> | \$38,750.00 | <i>0.50</i> | <i>#DIV/0!</i> | <i>0.00</i> | <i>12</i> | <i>#DIV/0!</i> | <i>#DIV/0!</i> | <i>#DIV/0!</i> | |
| | 1 | Syringe Exchange Specialist | \$40,652.00 | 0.20 | \$19.55 | 34.67 | 12 | \$8,133 | \$8,133 | \$0 | |
| | 3 | IDUHS Program Coordinator (Haven Wheelock) | \$68,994.00 | 0.08 | | 13.00 | 12 | \$5,175 | \$5,175 | \$0 | |
| | | Total | \$109,646.00 | 0.28 | \$19.55 | 47.67 | | \$13,307 | \$13,308 | \$0 | |
| B) Fringe Benefits | | Personnel Costs | Fringe Benefit Rate % | | | | Total: | Total: | Total: | | |
| | | \$13,307.35 | 32% | | | | \$4,258 | \$4,258 | \$0 | | |

| | | | | | |
|----------------|--------------|--|----------------|------------|----------------|
| C) Travel | | Include calculations for lodging, per diem, mileage, location of travel, number of people traveling and purpose of travel. Mileage rate may not exceed \$0.56 / mile. Do not budget mileage on county owned cars. | | | |
| | Item | Detail | | | |
| | 1 | Round Trip from OI to Clackamas Service Center and Oregon City is 65 miles per week Total 65miles/wk X 52weeks X \$0.56 | \$1,892 | \$0 | \$1,892 |
| | 2 | | \$0 | \$0 | \$0 |
| | 3 | | \$0 | \$0 | \$0 |
| | Total | | \$1,892 | \$0 | \$1,892 |
| D) Equipment | | Equipment is defined as costing \$5000 or greater and having a useful life of at least one year. Equipment purchases must be preapproved. | | | |
| | Item | Detail | | | |
| | 1 | | \$0 | \$0 | \$0 |
| | 3 | | \$0 | \$0 | \$0 |
| | Total | | \$0 | \$0 | \$0 |
| E) Supplies | | List supply detail including office & medical supplies. If using an allocation method, detail how costs are allocated, (i.e. FTE, sq footage, etc). For supplies, list item, quantity and cost. Preprinted, purchased materials are considered a supply item, direct printing costs of materials, is to be listed in section G, Other. The purchase of furniture is not allowed in this award. | | | |
| | Item | List item and cost | | | |
| | 1 | Alere HIV test kits \$16.40 @ 25 per year | \$410 | \$0 | \$410 |
| | 2 | Safer Sex Supplies -Condoms and lube for distribution in Clackamas County | \$200 | \$0 | \$200 |
| | 3 | Misc testing supplies (lances bandades gauze ect) | \$100 | \$0 | \$100 |
| | 4 | | \$0 | | |
| 5 | | \$0 | | | |
| | Total | | \$710 | \$0 | \$710 |
| F) Consultants | | List all consultant costs and area in which consultative services are to be provided | | | |
| | | Summarize cost for each consultant | | | |
| | 1 | | \$0 | \$0 | \$0 |
| | 2 | | \$0 | \$0 | \$0 |
| | Total | | \$0 | \$0 | \$0 |

| | | | | | |
|---|--------------|--|-----------------|-----------------|----------------|
| G) Other | | List costs for staff training or trainings that the LPHA will be providing, marketing / advertising costs for all replication and distribution of materials, telephone, and other direct costs not already indicated. Printing costs, postage and office equipment rental. Note: food and beverages are only allowable when used as an incentive or as an integral part of an intervention. Incentives must be detailed, including individual costs, purpose of the incentive, and how incentive is to be used and tracked. For negotiable incentives, e.g., gift cards, a copy of cash handling procedures must be submitted with any request for incentive use. Any costs that are allocated costs must include allocation method. | | | |
| | Item | Detail | | | |
| | 1 | | \$0 | \$0 | \$0 |
| | 2 | | \$0 | \$0 | \$0 |
| | 3 | | \$0 | \$0 | \$0 |
| | Total | | \$0 | \$0 | \$0 |
| H) Contractual | | List all subcontracts, submit a separate line item budget for each contractor | | | |
| | Item | Subcontracted Agency | | | |
| | 1 | | \$0 | \$0 | \$0 |
| | 2 | | \$0 | \$0 | \$0 |
| | 3 | | \$0 | \$0 | \$0 |
| | Total | | \$0 | \$0 | \$0 |
| I) Total Direct Costs | Sum of A - H | | | | |
| | Total | | \$20,168 | \$17,566 | \$2,602 |
| J) Indirect Costs | Item | 10% of total direct costs (state funded) | \$2,017 | \$0 | \$2,017 |
| | Total | | | | |
| Total Direct Program Expenses + Indirect Costs - must match contract amount - sum of I & J | | | \$22,184 | \$17,566 | \$4,619 |

**EXHIBIT C
CONGRESSIONAL LOBBYING CERTIFICATE**

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

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

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions[as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

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

| | |
|---|------------------------------|
| Outside In | |
| Organization Name | Award Number or Project Name |
| Outside In | |
| Name and Title of Authorized Representative | |
| Patricia Patron | Executive Director 8/5/21 |
| Signature | Date |

Digitally signed by Patricia Patron
DN: cn=Patricia Patron, o=Outside In, ou,
email=patriciap@outsidein.org, c=US
Date: 2021.08.05 17:25:10 -0700

EXHIBIT D
REQUIRED FINANCIAL REPORTING AND REIMBURSEMENT REQUEST

| | |
|---|---|
| PROJECT NAME: HIV Testing and Counseling | AGREEMENT # 22-013 Contract #10131 |
| SUB-RECIPIENT: OUTSIDE IN, INC. | |

COMPENSATION AND RECORDS

- A. COUNTY shall compensate SUBRECIPIENT for satisfactorily completing activities described in EXHIBIT A, above.
- B. Total payments to SUBRECIPIENT shall not exceed **\$22,184**.
- C. COUNTY agrees to pay SUBRECIPIENT true and verifiable expenses on a monthly basis contingent on COUNTY receiving award funds from the State of Oregon.
- B. Method of Payment: To receive payment, SUBRECIPIENT shall submit Request for Reimbursement Form monthly for true and verifiable expenses as outlined below:

SUBRECIPIENT shall submit Request for Reimbursement Form monthly for true and verifiable expenses by the tenth day of the month following that in which service was performed. Requests shall be submitted to Clackamas County Public Health (“CCPHD”), Attn: Sherry Olson 2051 Kaen Road, Suite 367, Oregon City, Oregon 97045, or electronically to: SOlson4@co.clackamas.or.us. When submitting electronically, designate SUBRECIPIENT name and contract **Agreement # 22-013 Contract #10131** in the subject of the e-mail.

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

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

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

Reporting Periods:

**07/01/2021 - 09/30/2021, 10/31/2020 - 12/31/2021, 01/01/2022 - 03/31/2022, 04/01/2022
– 06/30/2022**

(Sample of Request for reimbursement form on next page)

| EXHIBIT D1: SUBRECIPIENT REQUEST FOR REIMBURSEMENT CLACKAMAS COUNTY PUBLIC HEALTH DIVISION | | | | | |
|---|------------------------------|----------------------------------|----------------------------------|---|----------------|
| Organization: | Outside In | | CLAIM PERIOD: | Note: This form derives from the approved budget in your grant agreement. All expenditures must have adequate supporting documentation. | |
| Service: | HIV Testing | | | | |
| Program Contact: | | | | | |
| Agreement Term: | July 1, 2021 – June 30, 2022 | | | | |
| Agreement Number: | 22-013 | | | | |
| | Approved Grant Amount | Monthly Grant Expenditure | Total Monthly Expenditure | YTD Grant Expenditure | Balance |
| Category | | | | | |
| Personnel (List salary, FTE & Fringe costs for each position) | | | | | |
| Syringe Exchange Specialist | \$40,652.00 | \$ - | \$ - | \$ - | \$ - |
| IDUHS Program Coordinator | \$68,994.00 | \$ - | \$ - | \$ - | \$ - |
| Total Fringe: 32% | \$13,307.35 | | | | |
| Total Personnel Services | \$ - | \$ - | \$ - | \$ - | \$ - |
| Supplies | | | | | |
| Testing, safe sex supplies | \$710.00 | \$ - | \$ - | \$ - | \$ - |
| Travel | | | | | |
| Mileage (.56/milex3,380 miles) | \$1,892.00 | \$ - | \$ - | \$ - | \$ - |
| Additional (please specify) | | | | | |
| | \$ - | \$ - | \$ - | \$ - | \$ - |
| Total Programmatic Costs | \$20,168.00 | \$ - | \$ - | \$ - | \$ - |
| Indirect Rate (10% non-federal) | \$2,017.00 | \$ - | \$ - | \$ - | \$ - |
| Total Grant Costs | \$22,184.00 | \$ - | \$ - | \$ - | \$ - |

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

CERTIFICATION

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

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

EXHIBIT E
MONTHLY AND FINAL PERFORMANCE REPORT

| | |
|---|--|
| PROJECT NAME: HIV Testing and Counseling | AGREEMENT #22-013 Contract #10131 |
| SUBRECIPIENT: OUTSIDE IN, INC. | |

OHA will send the HIV Prevention Program Workbook to SUBRECIPIENT and CCPHD. SUBRECIPIENT will complete the workbook and send to CCPHD 10 days prior to the OHA due date (30 DAYS AFTER QUARTER END)

Reporting Periods:

07/01/2021- 09/30/2021, 10/31/2021- 12/31/2021, 01/01/2022 - 03/31/2022, 04/01/2022 – 06/30/2022

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

| | |
|---|-------------------------------------|
| Project Name: HIV Testing and Counseling | Agreement #: 22-013 |
| Federal Award #: | Date of Submission: XX/XX/XX |
| Subrecipient: OUTSIDE IN, INC. | |
| Has Subrecipient submitted all requests for reimbursement? Y/N | |
| Has Subrecipient met all programmatic closeout requirements? Y/N | |

Final Financial Report

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

| | |
|---|----------|
| Total Federal Funds authorized on this agreement: | \$17,566 |
| Year-to-Date Federal Funds requested for reimbursement on this agreement: | |
| Total Federal Funds received on this agreement: | |
| Balance of unexpended non-Federal Funds (Line 1 minus Line 3): | |

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

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

**EXHIBIT G
BUSINESS ASSOCIATE AGREEMENT**

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

RECITALS

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

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

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

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

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

Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

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

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

SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Business Associate Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Business Associate Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Business Associate Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Business Associate Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual’s designee as necessary to meet the Covered Entity’s obligations under 45 CFR §164.524; provided, however, that this Section 2.6 is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section 2.7 is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate

- on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - 2.10 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Business Associate Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - 2.11 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such Electronic PHI agrees to implement reasonable and appropriate security measures to protect the information. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
 - 2.12 To retain records related to the PHI hereunder for a period of six (6) years unless the Business Associate Agreement is terminated prior thereto. In the event of termination of this Business Associate Agreement, the provisions of Section V of this Business Associate Agreement shall govern record retention, return or destruction;
 - 2.13 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach in accordance with 45 CFR §164.410. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
 - 2.14 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

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

- 3.1 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.2 Except as otherwise limited in this Business Associate Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by the Covered Entity; and,
- 3.3 Except as otherwise limited in this Business Associate Agreement, the Business Associate may:
 - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and,
 - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the

Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

SECTION IV – NOTICE OF PRIVACY PRACTICES

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Standards if done by the Covered Entity, except as set forth in Section 3.2 above.

SECTION V – BREACH NOTIFICATION REQUIREMENTS

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
- a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
 - b. In plain language including and to the extent possible:
 - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - 4) A brief description of what the Covered Entity and/or Business Associate is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
 - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
 - c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
 - d. Provided to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.

5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Business Associate Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI created, maintained, transmitted

or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Business Associate Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Business Associate Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Business Associate Agreement if cure is not reasonably possible.

If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.

Upon the Business Associate's knowledge of a material breach of this Business Associate Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Business Associate Agreement and the Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Business Associate Agreement if the Covered Entity has breached a material term of this Business Associate Agreement if cure is not reasonably possible.

6.3 **Effect of Termination.**

- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Business Associate Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Business Associate Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

SECTION VII – GENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Business Associate Agreement to the HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Business Associate Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.

- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as "Indemnified Party," against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate's breach of Sections II and III of this Business Associate Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate's breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Survival.** The respective rights and obligations of Business Associate under Section II of this Business Associate Agreement shall survive the termination of the Services Agreement and this Business Associate Agreement.
- 7.6 **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.

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

Business Associate

Covered Entity

Outside In

Clackamas County

By: Patricia Patrón
Digitally signed by Patricia Patrón
DN: cn=Patricia Patrón, o=Outside In, ou,
email=patriciap@outsidein.org, c=US
Date: 2021.08.05 17:26:31 -07'00'

By: _____

Patricia Patrón,

Rodney A. Cook

Title: Executive Director

Title: Interim Director, H3S

Date: 8/5/21

Date: _____

September 16, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #01 to a Subrecipient Grant Agreement with
CODA, Inc. for Housing Assistance Program Services

| | |
|--|---|
| Purpose/Outcomes | Provides housing assistance and services for Clackamas County residents in alcohol and drug recovery to assist them in becoming self-sufficient and obtaining permanent housing placements. |
| Dollar Amount and Fiscal Impact | Amendment #01 does not change the value of the Agreement. The agreement maximum value remains \$599,772.53. |
| Funding Source | No County General Funds are involved. Federal and State funds provided by the State of Oregon, Community Mental Health Program (CMHP). |
| Duration | Effective July 1, 2021 and terminates on September 30, 2021. |
| Previous Board Action | Agreement reviewed and approved March 19, 2020, Agenda Item 031920-A4. |
| Strategic Plan Alignment | Ensuring safe, healthy and secure communities through the provision of housing assistance and services for Clackamas County residents in recovery. |
| Counsel Review | Amendment reviewed and approved August 9, 2021 (AN) |
| Procurement Review | Was this item reviewed by Procurement? No. Review not required for subrecipient agreements and amendments. |
| Contact Person | Mary Rumbaugh, Director – Behavioral Health Division 503-742-5305 |
| Contract No. | Subrecipient 20-029 / Behavioral Health 9371 |

BACKGROUND:

The Behavioral Health Division of the Health, Housing & Human Services Department requests the approval of Amendment #01 to a Subrecipient Grant Agreement with CODA, Inc. for Housing Assistance Program services for Clackamas County residents in alcohol and drug recovery. CODA will support the substance abuse treatment and early recovery efforts of the participants while also focusing on participants becoming self-sufficient and obtaining permanent housing placements. Participants need to be fully engaged in alcohol and drug treatment in order to access housing services. Behavioral Health has engaged CODA to provide these services to Clackamas County residents since 2012.

Amendment #01, effective July 1, 2021 and continues through September 30, 2021, extends the term of the Agreement three (3) months to ensure no gap in services while a formal procurement process for these services is completed.

Healthy Families. Strong Communities.

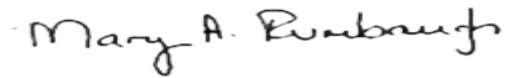
2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

Clackamas.us/h3s

RECOMMENDATION:

Staff recommends approval of this Amendment.

Respectfully submitted,

A handwritten signature in black ink that reads "Mary A. Rumbaut". The signature is written in a cursive style with a horizontal line through the middle of the letters.

For Rodney A. Cook

Rodney A. Cook, Interim Director
Health, Housing & Human Services Department

Subrecipient Amendment

| | |
|--|--|
| <u>Subrecipient Agreement Number: 20-029 (BH 9371)</u> | <u>Board Order Number: N/A</u> |
| <u>Department/Division: H3S/Behavioral Health</u> | <u>Amendment No. 01</u> |
| <u>Subrecipient: CODA, Inc.</u> | <u>Amendment Requested By: Mary Rumbaugh</u> |
| Changes: <input type="checkbox"/> Scope of Service | <input type="checkbox"/> Agreement Budget |
| <input checked="" type="checkbox"/> Agreement Time | <input checked="" type="checkbox"/> Other: Update reporting period/dates |

Justification for Amendment:

This Amendment #1 is entered into between CODA, Inc. ("SUBRECIPIENT") and Clackamas County ("COUNTY") and shall become part of that Subrecipient Grant Agreement ("Agreement") entered into between both parties on March 19, 2020. The purpose of this Amendment #1 is to extend the term of Agreement by an additional three (3) months through September 30, 2021, and to add additional funding source information.

This Amendment #1 also updates the grant accountant and financial and performance reporting periods and dates.

Compensation is unchanged by this Amendment #1.

Except as amended hereby, all other terms and conditions of the contract remain in full force and effect. The County has identified the changes with "***bold/italic***" font for easy reference.

AMEND Clackamas County Data, Grant Accountant:

| |
|--|
| Grant Accountant: Ke`ala Adolpho |
| Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 (503) 742-5410 KAdolpho@clackamas.us |

TO READ:

| |
|---|
| Grant Accountant: Nicole Unck |
| Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 (503) 742-5430 NUnck@clackamas.us |

AMEND Recitals #2:

WHEREAS, COUNTY holds an Intergovernmental Agreement ("IGA") for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159) with the State of Oregon acting by and through its Oregon Health Authority ("OHA") for the biennium term of 2019-2021;

TO READ:

WHEREAS, COUNTY holds *Intergovernmental Agreements (collectively the "IGA")* for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159 **and 166036**) with the State of Oregon acting by and through its Oregon Health Authority ("OHA") for the biennium term of 2019-2021;

AMEND Section 1 of the Agreement:

1. **Term and Effective Date.** Pursuant to the terms of the grant award, this Agreement shall be effective **July 1, 2019** and shall expire on **June 30, 2021**, unless sooner terminated or extended pursuant to the terms hereof.

TO READ:

1. **Term and Effective Date.** Pursuant to the terms of the grant award, this Agreement shall be effective **July 1, 2019** and shall expire on **September 30, 2021**, unless sooner terminated or extended pursuant to the terms hereof.

AMEND Section 3 of the Agreement:

3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Community Mental Health Program ("CMHP") IGA No. 159159 awarded on June 26, 2019 which is/are the source of the grant funding, in addition to compliance with requirements of Title 42 of the *Code of Federal Regulations* ("CFR"), Part 6A, Sub-Part II & III. A copy of the relevant sections of that grant award have been provided to SUBRECIPIENT by COUNTY, which are attached to and made a part of this Agreement by reference. SUBRECIPIENT shall further comply with any requirements required by U.S. Department of Health and Human Services, together with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.

TO READ:

3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations. Furthermore, SUBRECIPIENT shall comply with the requirements of the Community Mental Health Program ("CMHP") IGA No. 159159 awarded on June 26, 2019 **and IGA No. 166036 awarded on May 25, 2021**, which is/are the source of the grant funding, in addition to compliance with requirements of Title 42 of the *Code of Federal Regulations* ("CFR"), Part 6A, Sub-Part II & III. A copy of the relevant sections of that grant award have been provided to SUBRECIPIENT by COUNTY, which are attached to and made a part of this Agreement by reference. SUBRECIPIENT shall further comply with any requirements required by U.S. Department of Health and Human Services, together with any and all terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.

AMEND Section 4 of the Agreement:

4. **Grant Funds.** COUNTY's funding for this Agreement is the 2019-2021 Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Program Gambling Services (Agreement No. 159159). The maximum, not to exceed, grant amount COUNTY will pay is **\$599,772.53**. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in **Exhibit D: Required Financial Reporting and Reimbursement Request** and **Exhibit E: Performance Reporting**. Failure to comply with the terms of this Agreement may result in withholding of payment. Funding for this Agreement is from the following sources:
- 4.1. **Federal Funds: \$586,307.52** in federal funds are provided through the Intergovernmental Agreement for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159) (**CFDA 93.959**) issued to COUNTY by the State of Oregon acting by and through its OHA. The State of Oregon receives funds through the Substance Abuse, Prevention, and Treatment ("SAPT") Block Grant from the U.S. Department of Health and Human Services, Office of Substance Abuse and Mental Health Services Administration.
- 4.2. **Other Funds: \$13,465.01** in State funds are provided for funding of other items in the program budget.

TO READ:

4. **Grant Funds.** COUNTY's funding for this Agreement **are the 2019-2021 Intergovernmental Agreements** for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Program Gambling Services (Agreement No. 159159 **and 166036**). The maximum, not to exceed, grant amount COUNTY will pay is **\$599,772.53**. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in **Exhibit D: Required Financial Reporting and Reimbursement Request** and **Exhibit E: Performance Reporting**. Failure to comply with the terms of this Agreement may result in withholding of payment. Funding for this Agreement is from the following sources:

4.1. **Federal Funds:** **\$586,307.52** in federal funds are provided through the Intergovernmental **Agreements** for the Financing of Community Mental Health, Addiction Treatment, Recovery & Prevention, and Problem Gambling Services (Agreement No. 159159 **and 166036**) (CFDA 93.959) issued to COUNTY by the State of Oregon acting by and through its OHA. The State of Oregon receives funds through the Substance Abuse, Prevention, and Treatment ("SAPT") Block Grant from the U.S. Department of Health and Human Services, Office of Substance Abuse and Mental Health Services Administration.

4.2. **Other Funds:** **\$13,465.01** in State funds are provided for funding of other items in the program budget.

REPLACE SECTION 9.b. (Administrative Requirements: Personnel) with:

- b) **Change in Key Personnel.** SUBRECIPIENT is required to notify COUNTY, in writing, whenever there is a change in SUBRECIPIENT key administrative or programmatic personnel and the reason for the change. Key personnel include but are not limited to: Executive Director, Finance Director, Program Manager, Bookkeeper, or any equivalent to these positions within the organization.

AMEND Section 2 of Exhibit D, Required Financial Reporting and Reimbursement Request:

- 2. Requests for reimbursement shall be submitted by the **15th of the month** for the previous month. The final request for reimbursement shall be submitted by July 15, 2021 for June 30, 2021 expenses.

TO READ:

- 2. Requests for reimbursement shall be submitted by the **15th of the month** for the previous month. The final request for reimbursement shall be submitted by **October 15, 2021 for September 30, 2021 expenses**.

AMEND Section A of Exhibit E, Performance Reporting:

- A. In addition to **Section 4, Reporting Requirements of Exhibit H, CMHP Required Provider Agreement Provisions** and **Section 2, Performance Requirements of Exhibit I, CMHP Service Element**, Subrecipient shall submit reports every six (6) months. Reports shall be submitted to COUNTY no later than twenty (20) days following the end of the reporting period. SUBRECIPIENT shall submit Performance Reports per the following schedule:

| Reporting Period | Report Due |
|----------------------------|--------------------------------|
| July 1 – December 31, 2019 | No later than January 20, 2020 |
| January 1 – June 30, 2020 | No later than July 20, 2020 |
| July 1 – December 31, 2020 | No later than January 20, 2021 |
| January 1 – June 30, 2021 | No later than July 20, 2021 |

Reports shall include:

- Number of individuals who have stayed in the program
- Number of individuals clean and sober
- Number of individuals who have not entered into criminal activity
- Number of individuals who have remained housed
- Number of individuals who have connected with entitlements
- Number of individuals who have found employment and/or increased their income.

TO READ:

- B.** In addition to **Section 4, Reporting Requirements of Exhibit H, CMHP Required Provider Agreement Provisions** and **Section 2, Performance Requirements of Exhibit I, CMHP Service Element**, Reports shall be submitted to COUNTY no later than twenty (20) days following the end of the reporting period. SUBRECIPIENT shall submit Performance Reports per the following schedule:

| Reporting Period | Report Due |
|---|--|
| July 1 – December 31, 2019 | No later than January 20, 2020 |
| January 1 – June 30, 2020 | No later than July 20, 2020 |
| July 1 – December 31, 2020 | No later than January 20, 2021 |
| January 1 – June 30, 2021 | No later than July 20, 2021 |
| <i>July 1 – September 30, 2021</i> | <i>No later than October 20, 2021</i> |

Reports shall include:

- Number of individuals who have stayed in the program
- Number of individuals clean and sober
- Number of individuals who have not entered into criminal activity
- Number of individuals who have remained housed
- Number of individuals who have connected with entitlements
- Number of individuals who have found employment and/or increased their income.

AMEND Section E of Exhibit E, Performance Reporting:

- E.** SUBRECIPIENT must submit a final Performance Report no later than **July 20, 2021**.

TO READ:

- E.** SUBRECIPIENT must submit a final Performance Report no later than **October 20, 2021**.

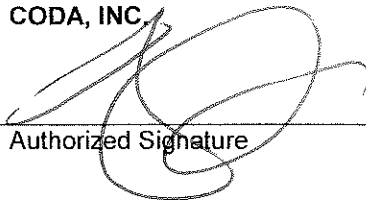
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SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have caused this Amendment #1 to be executed by their duly authorized officers.

CODA, INC.


COUNTY OF CLACKAMAS

 7.26.21
Authorized Signature Date

Tootie Smith, Chair Date
Board of County Commissioners

Alison Noice / Executive Director

Name / Title (Printed)

Approved as to form:
 08/09/2021

County Counsel Date

September 16, 2021

Board of County of Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #2 to the Subrecipient Agreement with
Clackamas County Children’s Commission (CCCC) for Rapid Rehousing Services

| | |
|--|--|
| Purpose/ Outcome | The special Emergency Solutions Grant COVID (ESG CV2) program, as authorized by the Coronavirus Aid, Relief, and Economic Securities Act (CARE Act). Special funding is to be used as a direct response to the COVID pandemic and its impacts on individuals and families. |
| Dollar Amount and Fiscal Impact | Emergency Solutions Grant (ESG CV2) funds budget increase of \$150,000 for a new total of \$243,500 as a grant. |
| Funding Source | U.S. Department of Housing and Urban Development ESG CARES Act funds No County General Funds are included in this Agreement |
| Duration | Upon signature to June 30, 2022 |
| Previous Board Action/ Review | Previous Board Action on February 9, 2021. Agenda item 021821 A5. |
| Strategic Plan Alignment | Increase self-sufficiency for our clients. Ensure safe, healthy and secure communities. |
| County Review | The Subrecipient Agreement was reviewed and approved by County Counsel AN on July 29, 2021. |
| Procurement Review | 1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Item is a Subrecipient Agreement that was processed through Finance Grant Management |
| Contact Person | Mark Sirois, Manager - Community Development: 503-655-8359 |
| Contract No. | Subrecipient Agreement 21-014.A2 (H3S #10031_02) |

BACKGROUND: The Community Development Division of the Health, Housing and Human Services Department requests the approval of Amendment #2 to the Subrecipient Agreement with Clackamas County Children’s Commission (CCCC) for rent assistance through the Rapid Rehousing (RRH) program to prevent, prepare for, and respond to the coronavirus pandemic (COVID 19) in Clackamas County. In October of 2020 CCCC applied for special Emergency Solutions Grant (ESG CV2) funding to provide eligible Rapid Rehousing assistance as needed.

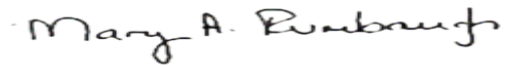
PROJECT OVERVIEW: CCCC will provide staffing, safety planning, crisis intervention, counseling, and referral services as requested to families for the purpose of additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19. CCCC will provide RRH services to individuals and families who are receiving homelessness assistance.

It is expected that the funding under this ESG CV2 contract will assist approximately 25 homeless families with RRH services during the program year. With this amendment, CCCC has added approximately 15 clients to their existing caseload to ensure active participants in the Rapid Rehousing program can successfully transition from hotel room shelter beds to apartments.

Healthy Families. Strong Communities.

RECOMMENDATION: We recommend the approval of this amendment to the Subrecipient Agreement.

Respectfully submitted,

A handwritten signature in black ink that reads "Mary A. Rumbaugh". The signature is written in a cursive style with a large, looped initial "M".

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

Contract Amendment

Health, Housing and Human Services Department

H3S Contract Number 21-014 Board Agenda Number _____

and Date 7/26/2021

Division Community Development Amendment No. 2

Contractor Clackamas County Children's Commission

Amendment Requested By Amy Council & Mark Sirois

Changes: Scope of Services Contract Budget
 Contract Time Other _____

Justification for Amendment:

This Amendment #2 updates the budget with additional funding. Clackamas County Children's Commission has taken on some of the clients from Greater Good Northwest when that agreement was terminated on June 14, 2021. The additional funding is transferring from the terminated agreement. These services are needed as a direct response to COVID and it is necessary to increase Subrecipient's budget in order to continue to provide services and to pick up remaining program recipients from Greater Good Northwest's canceled agreement. The funding is by reimbursement through a COVID CARES Act grant.

This Amendment #2 increases the grant amount by \$150,000 for a new total of \$243,500 and extends the Agreement by six (6) months.

This Amendment #2 is effective **upon signature** and continues through **June 30, 2022**.

Except as amended hereby, all other terms and conditions of the Agreement remain in full force and effect. Changes are identified with "***bold/italic***" font for easy reference.

AMEND:

1. Term and Effective Date. This Agreement becomes effective when it is signed by both Parties. Eligible expenses for this Agreement may be charged during the period beginning January 1, 2021 and expiring December 31, 2021, a total of twelve (12) months.

TO READ:

1. Term and Effective Date. This Agreement becomes effective when it is signed by both Parties. Eligible expenses for this Agreement may be charged during the period beginning January 1, 2021 **and expiring June 30, 2022, a total of eighteen (18) months.**

AMEND:

4. Grant Funds. COUNTY's funding for this Agreement is the Emergency Solutions Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 14.231) issued to COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification # E20-UW-41-0001). The maximum, not to exceed, grant amount COUNTY will pay is \$93,500. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.

TO READ:

4. Grant Funds. COUNTY's funding for this Agreement is the Emergency Solutions Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 14.231) issued to COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification # E20-UW-41-0001). The maximum, not to exceed, grant amount COUNTY will pay is \$243,500. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.

REPLACE:

EXHIBIT B
SUBRECIPIENT PROGRAM BUDGET

- A. The total compensation under this contract shall not exceed \$93,500 with payments to be made as outlined in the body of the contract.
- B. Adjustments to the budget may only be made with the approval of both Parties.

Rapid Rehousing

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|---|---------------------|------------------|-----------------|
| RRH Staffing Costs (.25 FTE FA and .25 FTE MH) | | 32,000 | ESG |
| Transportation | | 1,000 | ESG |
| Rent Assistance | | 52,000 | ESG |
| Administration | | 8,500 | ESG |
| Total Expenses | | | |
| Total ESG CV2: | | 93,500 | |

WITH:

EXHIBIT B
SUBRECIPIENT PROGRAM BUDGET

- A. The total compensation under this contract shall not exceed \$ 243,500 with payments to be made as outlined in the body of the contract.
- B. Adjustments to the budget may only be made with the approval of both Parties.
- C. Rapid Rehousing**

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|-----------------------------|----------------------------|-------------------------|------------------------|
| RRH Staffing Costs | | 82,000 | |
| (.25 FTE FA and .25 FTE MH) | | | ESG & Other |
| Transportation | | 1,000 | ESG & Other |
| Rent Assistance | | 136,150 | ESG & Other |
| | | | ESG & Other |
| Administration | | 24,350 | Other |
| | | | |
| Total Expenses | | | |
| | | | |
| Total ESG CV2: | | 243,500 | |

[Signature page follows]

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

CLACKAMAS COUNTY CHILDREN'S COMMISSION

By: *Darcee Kilsdonk*
Darcee Kilsdonk, Executive Director

Date
16518 SE River Road
Street Address
Milwaukie, Oregon 97267
City/State/Zip
darceek@cccchs.org
Email

CLACKAMAS COUNTY

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

Signing for the Board:

Tootie Smith, Chair

Date

September 16, 2021

Board of County of Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #1 to the Subrecipient Agreement with
Northwest Family Services (NWFS)

| | |
|--|--|
| Purpose/ Outcome | The special Emergency Solutions Grant COVID (ESG CV2) program, as authorized by the Coronavirus Aid, Relief, and Economic Securities Act (CARE Act). Special funding is to be used as a direct response to the COVID pandemic and its impacts on individuals and families. |
| Dollar Amount and Fiscal Impact | Emergency Solutions Grant (ESG CV2) funds budget increase of \$300,000 for a new total of \$657,500 as a grant. |
| Funding Source | U.S. Department of Housing and Urban Development ESG CARES Act funds No County General Funds are included in this Agreement |
| Duration | July 1, 2021 to November 30, 2021 |
| Previous Board Action/ Review | Previous Board Action on July 16, 2020. Agenda item 07162020 A7. |
| Strategic Plan Alignment | Increase self-sufficiency for our clients. Ensure safe, healthy and secure communities. |
| County Review | The Subrecipient Agreement was reviewed and approved by County Counsel AN on July 27, 2021. |
| Procurement Review | 1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Item is a Subrecipient Agreement that was processed through Finance Grant Management |
| Contact Person | Mark Sirois, Manager - Community Development: 503-655-8359 |
| Contract No. | Subrecipient Agreement 21-015.A1 (H3S #10011_01) |

BACKGROUND: The Community Development Division of the Health, Housing and Human Services Department requests the approval of Amendment #1 to the Subrecipient Agreement with Northwest Family Services (NWFS) for homeless shelter services and rent assistance to prevent, prepare for, and respond to the coronavirus pandemic (COVID 19) in Clackamas County. In October of 2020 NWFS applied for special Emergency Solutions Grant (ESG CV2) funding to provide eligible operating and shelter services and Rapid Rehousing assistance as needed.


PROJECT OVERVIEW: NWFS will provide staffing, operation, food, rent assistance and transportation services as requested for the purpose of providing homeless shelter services to individuals and families to prevent exposure and to mitigate the impacts of COVID-19.

It is expected that the funding under this ESG CV2 agreement will assist approximately 60 homeless families with shelter services and Rapid Rehousing during the program year. With this amendment, NWFS has added approximately 45 more clients to their existing caseload to ensure active participants in the Rapid Rehousing program can successfully transition from hotel room shelter beds to apartments.

Healthy Families. Strong Communities.

RECOMMENDATION: We recommend the approval of this amendment to the Subrecipient Agreement.

Respectfully submitted,

A handwritten signature in black ink that reads "Mary A. Rumbaugh". The signature is written in a cursive style with a horizontal line through the middle of the letters.

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

**Contract Amendment
Health, Housing and Human Services Department**

H3S Contract Number 21-015 Board Agenda Number _____

and Date 7/22/2021

Division Community Development Amendment No. 1

Contractor Northwest Family Services

Amendment Requested By Amy Counsil & Mark Sirois

Changes: Scope of Services Contract Budget
 Contract Time Other _____

Justification for Amendment:

This Amendment #1 updates the budget with additional funding. Northwest Family Services ("Subrecipient") has taken on the bulk of the clients from Greater Good Northwest when that agreement (20-018) was terminated on June 14, 2021. The additional funding is transferring from the terminated contract. These services are needed as a direct response to COVID and it is necessary to increase Subrecipient's budget in order to continue to provide services and to pick up remaining program recipients from Greater Good Northwest's canceled agreement. The funding is by reimbursement through a COVID CARES Act grant.

This Amendment #1 increases the Agreement amount by \$300,000 for a new total of \$657,500.

This Amendment #1 is effective **upon signature** and continues through **November 30, 2021**.

Except as amended hereby, all other terms and conditions of the Agreement remain in full force and effect. Changes are identified with "***bold/italic***" font for easy reference.

AMEND:

AGREEMENT

4. Grant Funds. COUNTY's funding for this Agreement is the Emergency Solutions Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 14.231) issued to COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification # E20-UW-41-0001). The maximum, not to exceed, grant amount COUNTY will pay is \$357,500. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.

TO READ:

AGREEMENT

4. Grant Funds. COUNTY's funding for this Agreement is the Emergency Solutions Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 14.231) issued to COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification # E20-UW-41-0001). The maximum, not to exceed, grant amount COUNTY will pay is \$657,500. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.

AMEND:

EXHIBIT B
 SUBRECIPIENT PROGRAM BUDGET

- A. The total compensation under this contract shall not exceed \$ 357,500 with payments to be made as outlined in the body of the contract.
- B. Adjustments to the budget may only be made with the approval of both Parties.

Shelters

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|-------------------------|---------------------|------------------|-----------------|
| Shelter Staffing Costs | | 81,761 | |
| Shelter utilities | | 10,000 | ESG & Other |
| Shelter rent | | | ESG & Other |
| Shelter supplies | | 5,000 | ESG & Other |
| Transportation | | 3,239 | ESG & Other |
| Administration | | 10,000 | Other |
| | | | |
| Total Expenses | | | |
| | | | |
| Shelters Total ESG CV2: | | 110,000 | |

Rapid Rehousing

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|--------------------------|---------------------|------------------|-----------------|
| RRH Staffing Costs | | 91,503 | |
| Program supplies, phones | | 1,200 | ESG & Other |
| Transportation | | 2,297 | ESG & Other |
| Rent Assistance | | 140,000 | ESG & Other |
| | | | |
| Administration | | 22,500 | Other |
| | | | |
| Total Expenses | | | |
| Total ESG CV2: | | 247,500 | |

TO READ:

**EXHIBIT B
 SUBRECIPIENT PROGRAM BUDGET**

- A. The total compensation under this contract shall not exceed \$ 657,500 with payments to be made as outlined in the body of the contract.
- B. Adjustments to the budget may only be made with the approval of both Parties.

Shelters

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|-------------------------|---------------------|------------------|-----------------|
| Shelter Staffing Costs | | 81,761 | |
| Shelter utilities | | 10,000 | ESG & Other |
| Shelter rent | | | ESG & Other |
| Shelter supplies | | 5,000 | ESG & Other |
| Transportation | | 3,239 | ESG & Other |
| Administration | | 10,000 | Other |
| | | | |
| Total Expenses | | | |
| | | | |
| Shelters Total ESG CV2: | | 110,000 | |

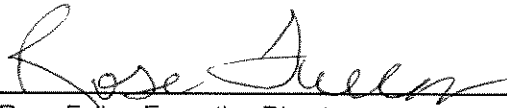
Rapid Rehousing

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|--------------------------|---------------------|------------------|-----------------|
| RRH Staffing Costs | | 160,000 | |
| Program supplies, phones | | 1,800 | ESG & Other |
| Transportation | | 8,123 | ESG & Other |
| Rent Assistance | | 417,577 | ESG & Other |
| | | | |
| Administration | | 60,000 | Other |
| | | | |
| Total Expenses | | | |
| Total ESG CV2: | | 647,500 | |

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment #1 to be executed by their duly authorized officers.

NORTHWEST FAMILY SERVICES

By: 
Rose Fuller, Executive Director

7/28 (2021)
Date
6200 SE King Road
Street Address
Portland, Oregon 97222
City/State/Zip
rfuller@nwfs.org
Email

CLACKAMAS COUNTY

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

Signing for the Board:

Tootie Smith, Chair

Date

September 16, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Change Order #5 between Clackamas County and
Ankrom Moisan Associated Architect, Inc. for the Sandy Health Clinic Project

| | |
|--|---|
| Purpose/ Outcome | Change Order #5 will allow for continued services with Ankrom Moisan Associated Architects, Inc. to design medical and dental space for a new health center in Sandy. |
| Dollar Amount and Fiscal Impact | Original Ankrom Moisan Contract Amount:.....\$190,700 Change Order No.1-H3S Approved for Zoning Change:.....\$ 18,113 (9.5%) Change Order No.2-BCC Approved Land Use Issues:.....\$ 43,955 (32%) Change Order No.3-BCC Approved Design Review Costs:.....\$ 23,483 (44.9%) Change Order No.4-BCC Approved Geotech and Design Work.\$ 6,350 (48.2%) <u>Change Order No.5-BCC Pending Geotech Design Coord.....\$ 10,650 (53.8%)</u> New Ankrom Moisan Contract Total:.....\$293,251 No County General Funds will be used for this project. |
| Funding Source | Health Centers - Fund Balance |
| Duration | August 15, 2019 through March 15, 2022. |
| Previous Board Action/ Review | The BCC approved Ankrom Moisan Architects Contract on August 15, 2019. The BCC approved Change Order #4 on February 25, 2021. |
| Strategic Plan Alignment | 1. Ensure safe, healthy and sustainable communities. 2. Improved community safety and health. |
| Counsel Review | The Professional Services Contract was reviewed and approved by County Counsel 1. August 5, 2019 2. AN |
| Procurement Review | 1. Was the item processed through Procurement? No 2. RFP and Professional Services Contract was obtained from Procurement. |
| Contact Person(s) | Deborah Cockrell – Health Centers: 503-756-9674 |
| Contract No. | H3S 9429 |

BACKGROUND: The Health Centers Division of the Health, Housing and Human Services Department requests the approval of this Change Order #5 regarding the Professional Services Contract with Ankrom Moisan Architects, Inc. Their contract to include: redevelopment of the existing building (6,700 sf) work with the City of Sandy to redesign the site with a new building (8,500 sf) that is larger for County services, start and complete zoning and planning requirements of Sandy, and respond to construction questions for the County and General Contractor. The new address is 39740 Pleasant Street, Sandy, Oregon 97055. The building will be used for Primary Care, Dental Care, Behavioral Health Clinic and provide Pharmacy Services.

Change Order #5 was generated by three factors. 1) Banlin Construction requested review of the existing soil that would surround the new building, before starting the structural footings, so Redmond Geotechnical Services evaluated the site and determined 18 inches of unusable soil needed to be removed. 2) Banlin

September 19, 2021

Construction requested updated drawings and elevations for the site drainage and trash enclosure be provided by AAI Structural Engineers. 3) Ankrom Moisan had to coordinate each factor of Change Order #5 for the County and Banlin Construction. The County will need to extend the Professional Services Contract with Ankrom Moisan Architects until March 15, 2022 to completion of the Sandy Health Center Project. Therefore, County Staff has reviewed the additional costs and support this Change Order for \$10,650 dollars. This Change Order is an increase of (5.6%) to the total Ankrom Moisan Professional Services Contract.

PROJECT OVERVIEW: The Board of County Commissioners (BCC) approved the purchase of this building at the April 16, 2019 business meeting. The County closed on the property on August 22, 2019. Ankrom Moisan was selected through a competitive RFP process and the BCC approved their Professional Services Contract August 15, 2019. Their services are to redesign the existing structure, contract administration, project management, supervise the structural engineer and construction oversight. County Staff will work closely with Ankrom Moisan on all issue of the project. This project was publicly bid until May 6, 2021, and Banlin Construction, LLC was the lowest responsive bidder. Site work began June 29, 2021.

RECOMMENDATION: We recommend the approval of this Amendment to the Professional Service Contract via Change Order #5 with Ankrom Moisan. Staff recommends the Board approval of this agreement and authorizes Tootie Smith, Board Chair; or her designee, to sign on behalf of Clackamas County.

Respectfully submitted,



For Rodney A. Cook

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

CHANGE ORDER FORM

Ankrom Moisan, LLC
38 NW Davis Street, Suite 300
Portland, OR 97209

Com. Dev. / Health Ctrs.
 Ankrom Moisan
 H3S Admin Office

Project Name: Design of Sandy Health Clinic
Project Address: 39740 Pleasant Street (*New Address*)
Sandy, OR 97055

Change Order No.: **5**
Contract Date: **8/19/2019**
Change Order Date: **8/3/21**
End of Contract: **3/15/2022**

To: Clackamas County Com. Dev. / Health Ctrs.
2051 Kaen Road, Suite #245
Oregon City, Oregon 97045

H3S Database Contract No.:
9429

The following change(s) have been authorized by Clackamas County Health Centers. *See the attached letter provided by Ankrom Moisan Architects showing the schedule of fees associated with increceases to their existing Professional Services Contract with Clackamas County H3S-Health Centers. These items 1, 2 and 3 are deemed as necessary and vital for the Sandy Clinic Project, known as Change Order No. 5.*

| | |
|---|---------------------|
| 1. Ankrom Moisan Architects/ Redmond Getech. Eng. Topsoil Evaluation..... | \$ 2,000.00 |
| 2. Ankrom Moisan Architects/ AAI Structural Engineering of Evaluations..... | \$ 5,650.00 |
| 3. Ankrom Moisan Architects/ Design Document Coordination with AAI Engs... | \$ 3,000.00 |
| Total Additional Fees to the Ankrom Moisan Architects Contract..... | \$ 10,650.00 |

Attached supporting documentation (letters and email).

| | |
|---|---------------------|
| Original Contract Price | \$190,700.00 |
| Net Change by Previous Change Order(s) No.1, 2, 3 & 4..... | \$ 91,901.00 |
| Contract Price prior to this Change Order | \$282,601.00 |
| Contract Price will be (increased) (unchanged) by Change Order No. 5 | \$ 10,650.00 |
| The new Contract Price including this Change Order will be | \$293,251.00 |

The Contract Time will be increased by this Change Order (0) months. The date of Final Completion of this Contract is (**March 15, 2022**), set by Change Order No.4.

[Signature Page Follows]


Approved:

by:  08.03.2021
Lori Kellow, Project Architect (date)
Ankrom Moisan Architects

Approved:

by:  8.4.2021
Deborah Cockrell, FQHC (date)
Clackamas County Health Centers

Approved:

by:  8/5/2021
Steve Kelly, Project Coordinator (date)
Clackamas County Com. Dev. &
Health Centers

Approved:

by: _____
Tootie Smith, Chair (date)
Board of County Commissioners



July 22, 2021

Mr. Steve Kelly, Project Coordinator
Clackamas County Community Development Division
2051 Kaen Rd. Suite 245
Oregon City, OR 97045

**RE: CLACKAMAS COUNTY - SANDY HEALTH CLINIC
ADD SERVICES FEE PROPOSAL**

Dear Steve:

Thank you for this opportunity to submit a proposal for additional services for the Sandy Health Clinic. This request is to cover the additional services for:

- Geotechnical Monitoring services and engineering for onsite observation
- Structural engineering for Trash enclosure, sign monument and ADA ramp
- Architectural detail revisions for Trash enclosure, monument, and ramp and revision to the permit coordination with the City of Sandy

| | |
|--|-----------------|
| Redmond Geotechnical Engineering | \$ 2,000 |
| AAI Structural Engineering | \$ 5,650 |
| <u>AM Design Document Coordination</u> | <u>\$ 3,000</u> |

Total Add Fees \$ 10,650

Let us know if you have any questions regarding this request for additional fees.

Sincerely,
ANKROM MOISAN ARCHITECTS

Lori Kellow, AIA | Architect
Principal

ARCHITECTURE
INTERIORS
URBAN DESIGN
BRANDING

Ankrom Moisan Architects

PORTLAND
55 NW Davis Street
Suite 300
Portland, OR 97209
503.253.1100

SEATTLE
505 9th Avenue
Suite 300
Seattle, WA 98101
206.375.6000

SAN FRANCISCO
1014 Howard Street
San Francisco, CA 94103
415.774.1000

ankrommoisan.com

Kelly, Steve

From: Cockrell, Deborah
Sent: Monday, July 26, 2021 2:50 PM
To: Kelly, Steve
Subject: RE: Sandy Clinic Add Services Proposal #5

Approved

Thanks Steve

From: Kelly, Steve <SteveKel@clackamas.us>
Sent: Monday, July 26, 2021 2:27 PM
To: Cockrell, Deborah <DCockrell@clackamas.us>
Subject: FW: Sandy Clinic Add Services Proposal #5
Importance: High

Deborah,

I have called Lori Kellow back to make sure she could explain these 3 expenditures (costs) to be added to their Ankrom Moisan Architects Contract.

Thanks for coming to CD to talk face to face about these costs.

ITEM #1: (Redmond Geo-tech.) \$2,000/ I know this add is legitimate. That was to determine the unusable soil issue recently (July 2021). AMA is carrying their contract for us. It is saving us time. I actually spoke to Dan Redmond about this cost about 8-10 days ago. He didn't care who carried this cost, and said over the phone it would be \$1,700-\$2,000 dollars when all said and done.

ITEM #2 HAS TWO PARTS: (AAI Structural Engineering) \$5,650/ PART ONE: I will ask Lori about why the Trash Enclosure is an issue now. The drawing and detail was very basic. Banlin is requesting more information, because this Trash Enclosure is more robust than normal. So, the Trash Enclosure needs improved drawings for safe to make sure it is built right. The original design was not helpful. The City approved the drawings as submitted. A bit strange. PART TWO: On-Site Drainage redesign to lower Pipe at least 1 foot...at NW Corner of Ten Eyck and Pleasant Street to the Right-Of-Way, is the issue from my email to AMA about them working with AAI Engineers.

ITEM #3 (Ankrom Moisan Design Doc. Coordination) \$3,000/ AM Design Documents Coordination is directly related to Item #2 above.

Please approve these three items as for I did receive clarification from Lori Kellow, thanks for your valuable time.

Steve Kelly, Project Coordinator

(Pronouns: He/Him/His)

[Why pronouns matter](#)

Clackamas County Community Development Division
2051 Kaen Road, Suite 245

September 16, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Intergovernmental Agreement with Oregon Health and Sciences University for
Emergency Medical Services

| | |
|--|--|
| Purpose/Outcomes | To provide Medical Online Direction; Trauma Communication Coordination; Central Data Collection |
| Dollar Amount and Fiscal Impact | The maximum Agreement value is \$111,213. |
| Funding Source | Ambulance Service Franchise Fees |
| Duration | Effective upon execution of contract #10130 and terminates on June 30, 2024. |
| Previous Board Action | No Previous Board Actions have been taken. |
| Strategic Plan Alignment | 1. Improved Community Safety and Health 2. Ensure safe, healthy and secure communities |
| Counsel Review | <i>Date of County Counsel Review: June 24, 2021</i> <i>Initials of County Counsel performing Review: KR</i> |
| Procurement Review | 1. Was the item processed through Procurement? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If no, explain: This item is an IGA |
| Contact Person | Philip Mason-Joyner, Public Health Director – 503-742-5956 |
| Contract No. | 10130 |

BACKGROUND:

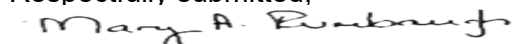
Clackamas County Emergency Medical Services (EMS) Program contracts with OHSU in order for local first responders to access clinical expertise on complex 911 medical calls 24/7. OHSU serves as the “regional” hospital for this area and provides these services across multiple counties in coordination with hospitals and health systems. OHSU helps with communicating and preparing hospitals when a significant medical trauma occurs requiring rapid response AND collects this data for all parties in order to inform quality improvement activities across these systems. This contract is funded through the use of the ambulance franchise fee. No general funds involved.

This Agreement has a maximum value of \$111,213. This Agreement is effective upon signature and continues through June 30, 2024.

RECOMMENDATION:

Staff recommends the Board of County Commissioners approve this Agreement.

Respectfully submitted,



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

Contract Transmittal Form

Health, Housing & Human Services Department

| | | |
|------------------------------|-----------------------------|---|
| H3S Contract #: 10130 | Division: PH | <input type="checkbox"/> Subrecipient |
| Board Order #: | Contact: Webb, Karen | <input type="checkbox"/> Revenue |
| | Program Contact: | <input type="checkbox"/> Amend # \$ |
| | Mason, Philip | <input type="checkbox"/> Procurement Verified |
| | | <input type="checkbox"/> Aggregate Total Verified |

Non BCC Item BCC Agenda **Date:** Thursday, July 29, 2021

CONTRACT WITH: Oregon Health & Science University

CONTRACT AMOUNT: \$111,213.00

TYPE OF CONTRACT

| | |
|---|--|
| <input type="checkbox"/> Agency Service Contract | <input type="checkbox"/> Memo of Understanding/Agreement |
| <input type="checkbox"/> Construction Agreement | <input type="checkbox"/> Professional, Technical & Personal Services |
| <input checked="" type="checkbox"/> Intergovernmental Agreement | <input type="checkbox"/> Property/Rental/Lease |
| <input type="checkbox"/> Interagency Services Agreement | <input type="checkbox"/> One Off |

DATE RANGE

| | |
|---|--|
| <input type="checkbox"/> Full Fiscal Year _____ - _____ | <input type="checkbox"/> 4 or 5 Year _____ - _____ |
| <input type="checkbox"/> Upon Signature _____ - _____ | <input type="checkbox"/> Biennium _____ - _____ |
| <input type="checkbox"/> Other _____ - _____ | <input checked="" type="checkbox"/> Retroactive Request? 07/01/2021 - 06/30/2024 |

INSURANCE What insurance language is required?

Checked Off N/A

Commercial General Liability: Yes No, not applicable No, waived
If no, explain why:

Business Automobile Liability: Yes No, not applicable No, waived
If no, explain why:

Professional Liability: Yes No, not applicable No, waived
If no, explain why:

Approved by Risk Mgr _____
Risk Mgr's Initials and Date

BOILER PLATE CHANGE

Has contract boilerplate language been altered, added, or deleted?

No Yes (must have CC approval-next box) N/A (Not a County boilerplate - must have CC approval)

If yes, what language has been altered, added, or deleted and why: _____

COUNTY COUNSEL

Yes by: Rastetter, Kathleen Date Approved: Thursday, June 24, 2021
OR
 This contract is in the format approved by County Counsel.

SIGNATURE OF DIVISION REPRESENTATIVE: Sherry L. Olson Digitally signed by Sherry L. Olson
Date: 2021.07.06 08:21:25 -07'00'

Date: _____

| | |
|----------------|----------------------|
| H3S Admin Only | Date Received: _____ |
| | Date Signed: _____ |
| | Date Sent: _____ |

AGREEMENTS/CONTRACTS

| | |
|---|--|
| X | New Agreement/Contract |
| | Amendment/Change Order Original Number _____ |

ORIGINATING COUNTY

DEPARTMENT: **Health, Housing Human Services**
Public Health

PURCHASING FOR: **Contracted Services** _____

OTHER PARTY TO

CONTRACT/AGREEMENT: **Oregon Health & Science University** _____

BOARD AGENDA ITEM

NUMBER/DATE: _____ DATE: **07/29/2021** _____

PURPOSE OF

CONTRACT/AGREEMENT: **Emergency Medical Services.**

H3S CONTRACT NUMBER: **10130** _____

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY
AND
OREGON HEALTH AND SCIENCES UNIVERSITY
Contract # 10130**

THIS AGREEMENT (this "Agreement") is entered into and between Clackamas County, a political subdivision of the State of Oregon, and Oregon Health and Sciences University ("OHSU"), 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.

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

TERMS

1. **Term.** This Agreement shall be effective upon execution, and shall expire upon the completion of each and every obligation of the Parties set forth herein, or December 31, 2024, whichever is sooner.
2. **Scope of Work.** OHSU agrees to provide the services further identified in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").
3. **Consideration.** Clackamas County Public Health agrees to pay OHSU, from available and authorized funds, a sum not to exceed thirty five thousand, nine hundred and eighty one dollars (\$35,981) for the first year, with 3 % increase per year, for accomplishing the Work required by this Agreement.
4. **Payment.**

A. Payment for services will be as follows:

The parties agree to increase the payment provided to OHSU for services provided under this agreement by three percent per year beginning June 30, 2021. The compensation rate for this agreement shall be as follows:

July 1, 2021-June 30th 2022: \$35,981 per year
July 1, 2022-June 30th 2023: \$37,060 per year
July 1, 2023-June 30th 2024: \$38,172 per year

- B. OHSU will send invoices within 180 days of the date of service to:
Clackamas County
Public Services Building
Attn: Jenyfer Smith
2051 Kaen Road
Oregon City, OR 97045
(503) 742-5945
- C. COUNTY will reimburse OHSU quarterly upon receipt of an invoice and make checks payable to "OHSU" and mail to:
Oregon Health & Science University Attn: Cashier's
Office
Mail Code: L002
3181 SW Sam Jackson Park Road Portland, OR
97201-3098

5. Representations and Warranties.

- A. *Agency Representations and Warranties*: OHSU represents and warrants to County that OHSU 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 OHSU enforceable in accordance with its terms.
- B. *County Representations and Warranties*: County represents and warrants to OHSU 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 OHSU may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- B. Either the County or OHSU 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 OHSU 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 County may terminate this Agreement in the event the County fails to receive expenditure authority sufficient to allow the County, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Project under this Agreement is prohibited or the County 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. OHSU 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 OHSU, its subcontractors, agents, or employees. OHSU agrees to indemnify, hold harmless and defend Clackamas County, and their 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 OHSU or the employees, subcontractors, or agents of OHSU.

However, neither OHSU nor any attorney engaged by OHSU shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall Agency settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.

- 8. **Insurance.** OHSU 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, OHSU shall provide documentation to the County of its self-insured status by completing the Self-Insurance Certification form provided by the County.

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

Oregon Health and Sciences University
Intergovernmental Agreement # 10130
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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. Public Health Division or their designee will act as liaison for the County.

County Contact Information:

Karen Webb
Contract Specialist
2051 Kaen Rd Ste 367
Oregon City, OR 97045
PHONE 503-742-5329
FAX 503-742-5352
Email: kwebb@clackamas.us

OHSU or their designee will act as liaison for OHSU, the Agency.

Contact Information:

OHSU DEPARTMENT

Mirjana Kasap Trifunovic, JD
Oregon Health & Science University Department Administrator
Department of Emergency Medicine
745 SW Gaines Road, Mail Code: CDWEM Portland, OR 97239
Phone: 503-494-4322
Email: kasaptri@ohsu.edu

OHSU CONTRACTING & NOTICES ADDRESS

Kelli Riggsbee, MHA
Managed Care Contracting
3181 SW Sam Jackson Park Road, Mail Code L326
Portland, OR 97239
Phone: 503-494-4147
Fax: 503-494-1293
Email: riggsbek@ohsu.edu

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 OHSU 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. OHSU, 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.** OHSU 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. OHSU 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, OHSU 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 County. The County 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, OHSU shall promptly deliver these materials to Clackamas County Public Health.

- F. **Hazard Communication.** OHSU 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, OHSU 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.** OHSU 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.** OHSU 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 OHSU 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.** OHSU 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 OHSU nor County shall be held responsible for delay or default caused by events outside of OHSU or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, OHSU 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.** OHSU 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 OHSU or its employees or agents in the performance of this Agreement shall be

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deemed confidential information of the County (“Confidential Information”). OHSU agrees to hold Confidential Information in strict confidence, using at least the same degree of care that OHSU 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
Commissioner, Tootie Smith, Chair
Commissioner, Sonya Fischer
Commissioner, Paul Savas
Commissioner, Martha Schrader
Commissioner, Mark Shull

Oregon Health and Sciences University

Chair, Board of County Commissioners

Anthony R. Masciotra, Jr.

Anthony R Masciotra Jr. CEO
OHSU

Date

7/1/2021 | 7:10:21 PM PDT

Date

\\lion\CommunityHealthShare\Admin\CONTRACTS\PUBLIC HEALTH\Expense\Oregon Health & Science University (OHSU)\Emergency Medical Services\FY 21-22\Contract\H3SPHOregonHealthSciencesUniversity10130.docx

EXHIBIT A

SCOPE OF WORK

A. CONSULTANT Responsibilities:

- i. **ONLINE MEDICAL DIRECTION.** OHSU shall furnish on-line medical direction and comply with the following performance indicators:
 1. Calls requesting on-line medical direction shall be answered by a physician within sixty (60) seconds at least ninety percent (90%) of the time.
 2. OHSU shall provide a process to assure that physicians are knowledgeable of the protocols. This process may include but not be limited to educational sessions, tests, and in-service training for protocol updates.
 3. OHSU shall develop a process for adoption of Standard Operating Procedures (SOPs) which govern online medical direction. OHSU shall adhere to the SOPs at all times.
 4. OHSU shall provide a plan, which details a problem-solving process for any complaint or issue presented to OHSU's Medical Resource Hospital (MRH) medical director or communications coordinator. This plan shall assure a compliant resolution which must be furnished to COUNTY no more than thirty (30) days from date of complaint filing.
 5. OHSU shall implement a quality assurance/quality improvement process, which reviews standards, operations, and performance, identifying problems and their solutions.
 6. OHSU shall participate in COUNTY's quality assurance process by providing a staff member, when requested, and by providing medical resource hospital data and information on a timely basis as requested by the Quality Assurance Subcommittee.
 7. OHSU will, through COUNTY, provide real-time EMS patient disposition management assistance in the setting of a mass-casualty incident (MCI). Management protocols will be compliant with County and ATAB I MSCI protocols.

- ii. **TRAUMA COMMUNICATIONS COORDINATION.** OHSU shall provide trauma communications coordination and comply with the following performance indicators. The trauma communications coordination function is being provided at the request of the Area Trauma Advisory Board (ATAB).
 1. Trauma communication coordination requests shall be answered within ten
 2. (10) seconds ninety percent (90%) of the time.
 3. OHSU shall develop a process for adoption of Standard Operating Procedures (SOPs) which govern trauma communications coordination. OHSU shall adhere to the SOPs at all times.
 4. OHSU shall provide a plan, which details a problem-solving process for any complaint. This plan shall assure a compliant resolution which must be furnished to COUNTY no more than thirty (30) days from date of complaint filing.

- iii. **CENTRAL DATA COLLECTION.** OHSU shall be responsible for central data

collection for on-line medical direction and trauma communication coordination activities. OHSU shall comply with the following performance indicators:

1. OHSU shall collect this data from emergency medical technicians when they contact OHSU for on-line medical direction or trauma communication coordination functions.
2. MRH calls shall be tape-recorded.
3. Voice tapes shall be retained for a period of not less than twelve (12) months.
4. OHSU shall also provide COUNTY with proof of accreditation by DNV GL Healthcare USA, Inc. on NIAHO Hospital Accreditation Program and proof that it meets or exceeds all requirements of MCC 6.31.060 (A-6) and rules adopted pursuant thereto.

B. COUNTY Responsibilities:

- i. COUNTY shall pay OHSU according to Section 3 of this agreement. This compensation is guaranteed through June 30, 2024. OHSU shall retain the right, upon sixty (60) days prior written notice to COUNTY, to adjust the compensation for each year thereafter. If the parties cannot mutually agree on a new compensation schedule, the Agreement may be terminated under the provisions hereof.

September 16, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement with the State of Oregon, acting by and through its Department of Human Services for Operation of Community Developmental Disability Services for Clackamas County

| | |
|--|---|
| Purpose/Outcomes | This agreement provides the base funding for services to intellectual/developmental disabled children and adults residing in Clackamas County. |
| Dollar Amount and Fiscal Impact | The total agreement is \$22,225,085. |
| Funding Source | Federal Medicaid and State General Fund. |
| Duration | Effective July 1, 2021 and terminates on June 30, 2023 |
| Previous Board Action | Previous biennium agreement was approved on July 11, 2019. |
| Strategic Plan Alignment | 1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community. |
| County Counsel | 1. Date of Counsel review: 8/12/21 2. Initials of County Counsel performing review: KR |
| Procurement Review | 1. Was this time processed through Procurement? No 2. If no, provide brief explanation: This is a IGA Grant agreement. Not subject to Procurement Review. |
| Contact Person | Brenda Durbin, Director, Social Services Division 503-655-8641 |
| Contract No. | H3S #10287 |

BACKGROUND:

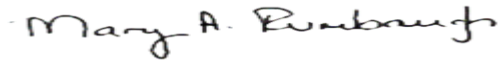
The Clackamas County Social Service Division of the Department of Health, Housing & Human Services requests the approval of an Intergovernmental Agreement with State of Oregon, Department of Human Services for operation of the Community Developmental Disability Services Program. Through this agreement, Clackamas County Developmental Disabilities Services Program will provide local administration services, case management services and abuse investigation services to Clackamas County residents.

This contract is effective July 1, 2021 and continues through June 30, 2023. This contract was reviewed and approved by County Counsel on August 12, 2021.

RECOMMENDATION:

Staff recommends the Board approval of this agreement and that Tootie Smith, Board Chair; or her designee, be authorized to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary A. Rumbaugh".

For Rodney A. Cook
Rodney A. Cook, Interim Director
Health Housing & Human Services



Agreement Number 169179

**STATE OF OREGON
INTERGOVERNMENTAL GRANT AGREEMENT
FOR THE FINANCING OF
COMMUNITY DEVELOPMENTAL DISABILITIES PROGRAM SERVICES**

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

This Intergovernmental Grant Agreement for the financing of Community Developmental Disabilities Services (the “Agreement”) is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “ODHS,” and Clackamas County, hereinafter referred to as “County” or “CDDP”.

The program to be supported under this Agreement relates principally to ODHS’

**Office of Developmental Disabilities Services (ODDS)
Administration
500 Summer Street NE E-09
Salem, Oregon 97301
Agreement Administrator: Lea Ann Stutheit or delegate
Telephone: (503) 945-6675
E-mail address: leaann.stutheit@dhsaha.state.or.us**

1. Effective Date and Duration.

This Agreement, when fully executed by every party, regardless of date of execution by every party, shall become effective on the date this Agreement has been approved by the Department of Justice, or **July 1, 2021**, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2023**. Agreement termination shall not extinguish or prejudice ODHS’ right to enforce this Agreement with respect to any default by County that has not been cured.

2. Agreement Documents, Order of Precedence.

a. This Agreement includes the following listed exhibits and attachments which are incorporated into this Agreement:

- Exhibit A: Definitions
- Exhibit B Part 1: Operations and Administration Terms and Conditions;
- Exhibit B Part 2: Service Element Standards and Procedures;
- Exhibit B Part 3: Financial Terms and Conditions;
- Exhibit C: Special Terms and Conditions;
- Exhibit D: General Terms and Conditions;
- Exhibit E: Standard Terms and Conditions;
- Exhibit F: Federal Terms and Conditions;
- Exhibit G Part 1: Required Subcontractor Provisions;
- Exhibit G Part 2: Subcontractor Insurance Requirements;
- Exhibit H Part 1: Privacy and Security Agreement;
- Exhibit H Part 2: Third Party Information System Access Request;
- Attachment #1: Days and Hours of Operation;
- Attachment #2: Subcontractor Disclosures Report.

This Agreement constitutes the entire agreement between the parties on the subject matter in it. There are no understandings, agreements, or representations, oral or written, regarding this Agreement that are not specified herein.

b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of the documents comprising this Agreement is as follows, the documents being listed from highest precedence to lowest precedence.

- (1) This Agreement without exhibits;
- (2) Exhibit F: Federal Terms and Conditions;
- (3) Exhibit H Part 1: Privacy and Security Agreement;
- (4) Exhibit H Part 2: Third Party Information System Access Request;
- (5) Exhibit E: Standard Terms and Conditions;
- (6) Exhibit A: Definitions;
- (7) Exhibit B Part 1: Operations and Administration Terms and Conditions;
- (8) Exhibit B Part 2: Service Element Standards and Procedures;
- (9) Exhibit B Part 3: Financial Terms and Conditions;
- (10) Exhibit C: Special Terms and Conditions;
- (11) Exhibit D: General Terms and Conditions;

- (12) Exhibit G Part 1: Required Subcontractor Provisions;
- (13) Exhibit G Part 2: Subcontractor Insurance Requirements;
- (14) Attachment #1: Days and Hours of Operation;
- (15) Attachment #2: Subcontractor Disclosures Report.

c. For purposes of this Agreement, “Work” means specific work to be performed or services to be delivered by County as set forth in Exhibit B Part 2.

EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

3. Signatures.

Clackamas County

By:

Authorized Signature

Printed Name

Title

Date

State of Oregon acting by and through its Oregon Department of Human Services

By:

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Approved via e-mail by Wendy J Johnson
Department of Justice

June 30, 2021
Date

EXHIBIT A

Definitions

As used in this Agreement, the following words and phrases shall have the indicated meanings. Certain additional words and phrases are defined in the Service Element Standards and Procedures, in the special conditions of the Service Element Prior Authorization (SEPA), and in the Exhibit H Part 1 “Privacy and Security Agreement”. When a word or phrase is defined in a particular Service Element Standards and Procedures, or special condition in the Service Element Prior Authorization, the word or phrase shall not necessarily have the ascribed meaning in any part of the Agreement other than the particular Service Element Standards and Procedures, or special condition in which it is defined.

1. **“Access”** means the ability or the means necessary to read, communicate, or otherwise use ODHS or State Data, Network and Information Systems, and Information Assets.
2. **“Allowable Costs”** means the costs determined in accordance with the provisions of 2 C.F.R. Subtitle B, with guidance at 2 C.F.R. part 200, except to the extent such costs are limited or excluded by other provisions of this Agreement, whether in the applicable Service Element Standards and Procedures, or special conditions identified in the Service Element Prior Authorization.
3. **“Career Development Plan” or “CDP”** has the meaning set forth in OAR 411-317-0000.
4. **“Case Management Entity” or “CME”** has the meaning set forth in OAR 411-317-0000.
5. **“Case Management Services”** has the meaning as set forth in OAR 411-317-0000.
6. **“CDDP Administrator”** has the meaning set forth in Exhibit C, Section 3 of this Agreement.
7. **“Claim”** has the meaning set forth in OAR 411-370-0010.
8. **“Client”** has the same meaning as Individual or Recipient, for purposes of this Agreement.
9. **“Client Prior Authorization” or “CPA”** means an authorization for a specific Individual to receive a particular Service, by an identified Provider, at a rate approved by ODHS. The CPA is submitted by County for the Provider once an Individual and the Provider have agreed to a Service. The CPA specifies:
 - a. the Service,
 - b. the Individual or Recipient,
 - c. the effective date and end date for the Services authorized in the CPA, and
 - d. the rate for the Service.
10. **“Client Record(s)”** means any Client, applicant, or participant information regardless of the media or source, collected by County in the course of completing the Work, provided through the Network and Information Systems to County, or otherwise exchanged between the parties.

11. **“CMS”** means Centers for Medicare and Medicaid Services.
12. **“Common Law Employer”** or **“CLE”** means the employer referred to in OAR 411-375-0010.
13. **“Community Developmental Disabilities Program”** or **“CDDP”** has the meaning as set forth in OAR 411-317-0000.
14. **“Community First Choice K Plan”** or **“K Plan”** has the meaning as set forth in OAR 411-317-0000.
15. **“Developmental Disability”** or **“DD”** has the meaning as set forth in OAR 411-320-0020.
16. **“Developmental Disabilities Services”** or **“DD Services”** has the meaning as set forth in OAR 411-317-0000.
17. **“Disbursement Claim”** means a document executed and delivered to ODHS by a Provider or County, either electronically in eXPRS or in hard copy, with respect to a DD Service authorized in a CPA and PPA, or POC, certifying that a unit of that DD Service was delivered by a Provider identified in the CPA and PPA, or POC, to the Individual identified in the CPA or POC, during the period specified in the CPA or POC; and requesting disbursement of funds for that unit of DD Service.
18. **“Employer”** has the meaning as set forth in OAR 411-317-0000.
19. **“Employer Resource Connections”** or **“ERC”** means the voluntary training program provided by the Oregon Home Care Commission and offered to all Individuals receiving in-home Services. ERC meets the K Plan requirement for voluntary training on how to select, manage, and dismiss attendants, and provides activities to empower and inform Individuals receiving in-home Services regarding their rights, roles, and responsibilities as employers of Personal Support Workers.
20. **“Express Payment and Reporting System”** or **“eXPRS”** means an information system for managing the disbursement and tracking of ODHS payments for the Developmental Disabilities Programs.
21. **“Federal Funds”** means all funds paid to CDDP under this Agreement that ODHS receives from an agency, instrumentality, or program of the federal government of the United States.
22. **“Full-time Equivalent”** or **“FTE”** means a unit of measure equivalent to one person working full-time. An FTE is calculated based on the CME’s work hours of a regular work week. Employees who work fewer hours than a regular work week have their hours divided by the regular full-time work week hours. An FTE of 1.0 is equivalent to full-time; an FTE of 0.5 is half of a full-time equivalent.
23. **“Functional Needs Assessment”** or **“FNA”** has the meaning as set forth in OAR 411-317-0000.
24. **“Individual”** has the meaning as set forth in OAR 411-317-0000.
25. **“Individual Support Plan”** or **“ISP”** has the meaning as set forth in OAR 411-317-0000.

26. **“Individual Support Plan Team”** or **“ISP Team”** means a group of people that include the Individual, the Services Coordinator or Personal Agent, when applicable the Individual’s designated representative, or others chosen by the Individual to participate in Service planning, as described in OAR 411-415-0070.
27. **“Information Asset(s)”** refers to all information provided through ODHS, regardless of the source, which requires measures for security and privacy.
28. **“Intellectual Disability”** or **“ID”** has the meaning as set forth in OAR 411-320-0020.
29. **“Intellectual or Developmental Disability”** or **“I/DD”** has the meanings as described in OAR 411-320-0020.
30. **“Level of Care”** or **“LOC”** has the meaning as described in OAR 411-317-0000.
31. **“Local Match”** means the opportunity for Local Government Entities, including Transit Districts, to request additional Federal Funds to recoup costs for Intellectual and Developmental Disabilities program expenditures, *exceeding allotted state funds*, in the following services: Local Match Transportation and Case Management Operations. The Local Government Entity is responsible for the local fund portion and providing the necessary documentation to ODHS for approval. If approved, the local funds will be submitted for federal match.
32. **“Medicaid”** means Federal Funds received by ODHS under Title XIX of the Social Security Act and Children’s Health Insurance Program (CHIP) Funds administered jointly with Title XIX funds as part of state medical assistance programs by ODHS.
33. **“Medicaid Fraud”** means the providing of false information to claim reimbursement for Medicaid funded services. Medicaid Fraud includes, but is not limited to, the following activities: billing for services not actually performed; billing for more expensive services than actually rendered; billing for several services that should be combined into one billing; and billing twice for the same service.
34. **“Misexpenditure”** means money, other than Overexpenditure, disbursed to County by ODHS under this Agreement and expended by County or a Subcontractor that:
 - a. Is identified by the federal government as expended contrary to applicable statutes, rules, the provisions of 2 C.F.R. Subtitle B, with guidance at 2 C.F.R. part 200, or any other authority that governs the permissible expenditure of such money, 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. Is expended in a manner not permitted by this Agreement, including without limitation, any money expended by County, contrary to applicable statutes, rules, OMB Circulars, or any other authority that governs the permissible expenditure of such money; or
 - c. Is expended on the delivery of a DD Service in violation of the Service Element Standards and Procedures of this Agreement with respect to that DD Service.

35. **“Network and Information System(s)”** means the ODHS and State of Oregon’s computer infrastructure which provides personal communications, Data such as Client Records; Access to other Information Assets, regional, wide area and local networks, and the internetworking of various types of networks.
36. **“ODDS”** has the meaning set forth in OAR 411-317-0000.
37. **“Office of Training, Investigation and Safety”** or **“OTIS”** means the ODHS office that investigates reports of suspected abuse or neglect.
38. **“Oregon Needs Assessment”** or **“ONA”** has the meaning set forth in OAR 411-317-0000.
39. **“Overexpenditure”** means money disbursed by ODHS under this Agreement and expended by County that is in excess of the amount County is entitled to expend as determined in accordance with the funding calculation methodologies set forth in the applicable Service Element Standards and Procedures.
40. **“Personal Agent”** shall have the meaning set forth in OAR 411-317-0000.
41. **“Personal Support Worker”** or **“PSW”** has the meaning as set forth in OAR 411-317-0000.
42. **“Plan of Care”** or **“POC”** means a service authorization feature in eXPRS that is a collection of individual Provider service authorizations for an Individual with I/DD. These Service Authorizations in accepted status are required to enable the Provider of the authorized Service to successfully submit Claims for payment.
43. **“Program Area”** means the geographic area within the State of Oregon where County is contracted to provide DD Services.
44. **“Provider”** has the meaning as set forth in OAR 411-317-0000.
45. **“Provider Enrollment Application and Agreement”** or **“PEAA”** has the meaning set forth in OAR 411-370-0030.
46. **“Provider Prior Authorization”** or **“PPA”** means an authorization, either through eXPRS or by submission to ODHS of a document acceptable to ODHS, for funding awarded in the SEPA for delivery of a particular DD Service by a particular Provider, and for Provider submission of Disbursement Claims for the DD Service, that specifies:
 - a. the DD Service,
 - b. the Provider,
 - c. a period, during which the authorization may be used to support delivery of the DD Service by the Provider,
 - d. whether the PPA is an “Opt Out” PPA for those Providers that are paid through a CPA and have fluctuating amounts in a specific month; or the PPA is for a specific amount authorized to the Provider for a specified time frame. If the PPA is for an amount for a specific Provider, the total amounts authorized in the PPAs cannot exceed the total SEPA amount for that time frame for that DD Service.
47. **“Rationed Fee for Services”** or **“RFFS”** means the Case Management Entity billings paid up to the maximum monthly amount of the PPA. All Case Management Entity

billings entered that meet the criteria for a successful Claim, yet exceed the maximum monthly amount of the PPA, will suspend to be utilized for future payments up to the amount outlined in the Biennial Legislatively Approved Budget.

48. **“Recipient”** has the meaning as set forth in OAR 411-370-0010.
49. **“SEPA Adjustment”** means a document, acceptable to ODHS, presented electronically in eXPRS by County, that amends the SEPA, with respect to one or more DD Services, to reflect the new maximum amount of funding that ODHS will provide under this Agreement through eXPRS for the specified Service Element(s), as well as any new or modified special performance or other requirements.
50. **“SEPA Pass Phrase or Pass Code”** or **“SEPA Pass Phrase”** means a code used by eXPRS to verify the identity of the individual accepting the SEPA Adjustment on behalf of County.
51. **“Service”** means any one of the DD Services for Individuals listed in Exhibit B Part 2 of this Agreement provided directly by CDDP, and authorized by CDDP or Subcontractor, pursuant to this Agreement.
52. **“Service Authorization”** means an authorization by CDDP of the DD Services that CDDP is responsible to authorize according to Exhibit B Part 2, as identified in an Individual’s ISP, and entered for billing purposes into eXPRS via POC or a CPA.
53. **“Services Coordinator”** has the meaning as set forth in OAR 411-317-0000.
54. **“Service Element”** has the meaning as set forth in OAR 411-317-0000.
55. **“Service Element Prior Authorization”** or **“SEPA”** means the maximum amount of Service Element funding that ODHS will provide to County under this Agreement through eXPRS, and any Service Element associated special performance or other requirement. The SEPA is broken down by Service Element and may be amended from time to time by a SEPA Adjustment.
56. **“Service Element Standards and Procedures”** has the meaning set forth in OAR 411-370-0010.
57. **“Service Equity”** means promoting health, safety, and independence for all Individuals by adapting services and policy to eliminate discrimination and disparities in the delivery of human services.
58. **“Settlement”** means the process through which ODDS determines Underexpenditures and Overexpenditures and resolves Misexpenditures at the end of each Agreement period, upon Agreement termination or on an interim basis, if necessary, during the term of this Agreement.
59. **“Subcontract”** means a contract between the County and a third party to perform one or more of the direct Service(s) required under this Agreement. Subcontract does not include contracts for County ancillary services.
60. **“Subcontractor”** means a third party contractor that contracts with the County to perform one or more Service(s) under this Agreement and may include all CDDP functions that the County is required to perform under this Agreement.

61. **“Transmittals”** means communications that request action from, or provide policy, program, training, and other information to County. Transmittals take the form of Action Requests (AR), Information Memoranda (IM), or Policy Transmittals (PT).
62. **“Underexpenditure”** means money disbursed by ODHS under this Agreement and not expended by County that is less than the amount County is entitled to expend as determined in accordance with the funding calculation methodologies set forth in the applicable Service Element Standards and Procedures.
63. **“User”** means any individual authorized by ODHS to access Network and Information Systems and who has an assigned unique log-on identifier.
64. **“Written Materials”** means documents and forms created by CDDP or ODDS, in connection with Services being provided to the Individual.
65. **“Workload Model”** or **“WLM”** means the computation of FTE based on the Random Moment Sampling Survey (RMSS) and fixed percentages based on caseloads.

EXHIBIT B PART 1

Operations and Administration Terms and Conditions

1. CDDP Administrative Responsibilities.

In performing the Work under this Agreement:

- a. CDDP shall adhere to all Oregon Administrative Rules (OAR), Oregon Revised Statutes (ORS) and the Code of Federal Regulations (CFR) pursuant to this Agreement. CDDP shall comply with all language and requirements outlined in the Community First K Plan and waiver, including updates and amendments, or as instructed by ODDS through Transmittals. In general, Transmittals are written to provide clarification or guidance of an existing rule, statute, or CFR.

Outside of natural disasters, pandemics or circumstances that would put Individuals in service at risk, any policy and Transmittal that is written by ODDS that requires new work for a Case Management Entity (CME) will necessitate ODDS to give the CME an opportunity to provide input within specified timelines. ODDS will analyze the input for impact to workloads, making adjustments where appropriate, prior to issuing the Action Request (AR) or Policy Transmittal (PT). This excludes policies resulting from a rule change that is required by a federal or state directive, as rules and rule amendments require a fiscal analysis and are provided to the Rule Advisory Committee.

- b. CDDP shall participate in person, by phone, or video conference, in monthly CDDP program manager meetings as designated by ODDS. Meetings will be scheduled by ODHS with representatives designated by ODHS to review, clarify, and further plan the Work performed under this Agreement. These ODHS and CDDP meetings shall be scheduled at a time mutually acceptable to both parties. CDDP will ensure a representative will participate in 80% of CDDP program manager meetings for the term of this Agreement.
- c. CDDP shall participate in person, by phone, or video conference in other required, scheduled meetings. ODDS shall make reasonable efforts to schedule meetings at a time and place conducive to the greatest number of participants.
- d. CDDP management is responsible for ensuring all information provided by ODHS, during the monthly Case Management Leadership Team (manager or director) meetings, is communicated effectively and timely with all applicable CDDP staff.
- e. CDDPs must comply with ODHS requirements for the use of ODHS electronic systems utilized for information related to Individuals and Providers upon implementation and training.
- f. **Emergency Plan.** CDDP must maintain an emergency plan, policies, and procedures in accordance with OAR 411-320-0040(10) at all times that address responses to any natural disasters, pandemics, or other times when the CDDP may have to react to reducing office hours and or building closures; and that ensure

continuity of care to Individuals. CDDP must submit their emergency plan upon request for review by the ODDS Case Management Support Services Unit.

- g. Service Equity Plan.** CDDP will complete a self-assessment related to identified Service Equity priorities for Services directly provided by CDDP no later than June 30, 2022. Between July 1, 2022 and June 30, 2023, CDDP will use the results of the self-assessment to create a Service Equity Action Plan in partnership with ODDS. The identified Service Equity priority areas include, but are not limited to:

- (1) Systemic racism,
- (2) Language access,
- (3) Workforce diversity,
- (4) Data analysis and collection,
- (5) Service Access,
- (6) Community engagement, and
- (7) Identification and development of staff skills, awareness and or practices using an equity lens when providing Services.

- h.** CDDP's Service Equity self-assessment and plan may be developed in any format. ODDS will not require a specific format.

- i.** If requested, ODDS will provide technical assistance to CDDP for Service Equity assessment and plan that may include:

- (1) Self-assessment tools,
- (2) Limited trainings for CME staff, and
- (3) Providing data.

- j. Workload Model; Random Moment Sampling Survey.**

- (1) CDDP will assist ODDS in completing the Random Moment Sampling Survey (RMSS) for the computation of FTE and the fixed percentages for caseloads. ODDS will submit the FTE survey with the first RMSS in December following Agreement execution. Failure of the CDDP to complete the survey may result in a reduction of funding.
- (2) ODDS will report the maximum number of eligible Individuals the CDDP will serve at the biennium start, and as changes are made, based on the biennial Workload Model. The most recent Workload Model is attached to the SEPA for the period for the Services. Funding for CDDP FTEs is allocated within the Workload Model.

2. CDDP Assistance with Provider and Employer Enrollment, Credentials, and Payments.

- a.** CDDP shall assist any Individual who wishes to hire a Personal Support Worker (PSW) with the following:

- (1) Assist the Individual in becoming a Common Law Employer (CLE) or identifying a designated CLE and provide resources to prospective CLEs on their role. For each CLE CDDP will:

- (a) Initiate enrollment of the CLE into the Fiscal Management Agent Services (FMAS) vendor’s web portal (currently referred to as “BetterOnline”).
 - (b) Refer Individuals to the Employer Resource Connection contractor serving in the Program Area. If the CDDP identifies a need for ERC program services and resources, the CDDP shall refer the CLE to the ERC contractor.
 - (2) Contacts for information from Oregon Home Care Commission (OHCC).
CDDPs must comply with requests from the OHCC and its Customer Relations and Workers’ Compensation Units for information regarding workers’ compensation claims, PSW safety complaints, ADA accommodation requests, unemployment claims related to an individual who is the employer of PSWs, PSW late payment complaints, and PSW complaints and grievances.
 - (3) Assist the Individual in the enrollment process for PSWs by:
 - (a) Providing PSWs with a Provider Enrollment Application and Agreement (PEAA) and initiating a Criminal History Check (CHC).
 - (b) Initiating the PSW enrollment in the FMAS vendor’s web portal. For each new PSW, CDDP will provide the required information to successfully enroll the PSW.
 - b. CDDP shall assist Individuals by verifying that certifications, licenses, CHCs, driver’s licenses, and auto insurance are valid prior to Services being authorized for PSW Providers.
 - c. CDDP must review and approve or reject the PSW time sheet, progress note, and mileage log. CDDP must review and approve or reject PSW submitted Services Delivered billing entries accordingly. CDDPs will work with PSWs or direct PSWs to work with their CLE for suspended payment claims that are unrelated to an eligibility issue.
- 3.** CDDP is required to submit an Out of Cycle (OOC) request for payment for PSWs, if the PSW turned in a properly completed timesheet within the dates as outlined on the approved PSW payment calendar, and the timesheet was not approved due to an administrative error on the part of the CDDP. The OOC request for payment must be submitted within one business day of the CDDP verifying that an error occurred and that it was due to an administrative error. CDDP will be invoiced for all fees incurred for OOC requests due to administrative error, including but not limited to, no more than a \$125 fee per day for initiating an OOC. ODDS will calculate the \$125 fee per day based on number of requests received for the day and invoice CDDP quarterly.
- CDDP will also be invoiced for any approved PSW Late Fees generated due to CDDP error at a rate of \$20 per day as determined through the payment complaint process. The number of days for PSW Late Fee will be calculated as follows: actual date processing occurred minus scheduled processing date equals number of late days. PSW Late Fees

will only match, and not exceed, the overall gross payment that is delayed. This cap on PSW Late Fees will not apply when a PSW experiences an additional payment occurrence within one calendar year.

In the event that a CDDP has reasonable cause to believe that a CLE or PSW is committing Medicaid Fraud, CDDP will notify ODDS Provider Administration Manager and Medicaid Fraud Unit immediately.

4. CDDP Responsibilities: Lane v. Brown et al Settlement Agreement.

CDDP shall develop a Career Development Plan (CDP), consistent with ODDS policy and administrative rules, as well as Executive Order 15-01, as part of the ISP for all Individuals of working age, including transition age Individuals, prior to their expected exit from school or within one year of an unexpected exit from school.

- a. CDDP shall submit copies of the CDP documents to ODHS upon request or cooperate with ODDS field review to verify compliance with timely development of CDPs.
- b. In the event the CDDP fails to develop a CDP for any Individual, the CDDP shall take corrective action and develop the CDP within 90 calendar days of the date the CDDP is notified by ODHS, or the CDDP self identifies the absence of a required CDP. The CDP development must meet the requirements as outlined in ODDS policy and administrative rule. These newly developed CDPs must be submitted to ODDS for a quality assurance review.
- c. If CDDP fails to respond or follow the directives as lined out in a. and b. above, a financial penalty not to exceed \$150 per identified CDP may be assessed.

5. Days and Hours of Operation; Notifications to ODDS.

- a. CDDP must provide the days and hours it will be open to the public by submitting a completed Attachment #1 to ODDS when the Agreement is signed by the CDDP. Failure by CDDP to provide this information will prevent Agreement execution by ODHS and distribution of the signed Agreement. CDDP must report any changes to the days and hours of operation to ODDS.Contracts@dhsosha.state.or.us within 24 hours of the decision.
- b. If CDDP must close or reduce its hours of operation as described in Attachment #1 for any reason, including but not limited to a loss of utilities, a pandemic or a natural disaster, CDDP must notify ODDS' Agreement Administrator by email or telephone within 24 hours of the reduction or closure. If CDDP cannot meet the deadlines to approve PSW timesheets, CDDP will notify ODDS' Provider Administration Manager immediately by email or telephone.
- c. ODDS reserves the right to reduce funding if CDDP's days or hours of operation are reduced from those identified in Attachment #1 unless the reduction in operations is the result of an overall statewide fiscal reduction due to a legislative action.

6. ODDS Administrative Responsibilities.

- a. ODDS will publish Action Requests and Policy Transmittals that have an impact on the day-to-day processes and operation of a CDDP to the Innovation and Engagement website prior to publication. Website comments will be reviewed and responses to those comments posted at the time of publication of the Transmittal. ODDS reserves the right to not respond to all individual website comments.
- b. ODDS will publish Transmittals prior to the effective date of the Transmittal when possible. There may be times due to states of emergency, pandemics, or natural disasters that Transmittals may not be published timely and may be retroactive.
- c. ODDS will provide training to the CDDP staff prior to implementing new systems. Training may be in multiple formats including, but not limited to, in person, webinars, the ODHS approved learning management system, and other media sources. In person trainings will be conducted, at a minimum, in four areas of the State.
- d. ODDS will respond to fiscal inquiries from the CDDP within five business days of receipt of a written inquiry. Fiscal inquiries must be submitted to cau.invoice@dhsosha.state.or.us.
- e. ODDS will only post results from final quality assurance reports on the ODHS website. For strategic messaging, ODDS will analyze widespread findings that lower the results for a large number of CMEs and will bring forward those findings to the Case Management Leadership Team prior to posting on the website.
- f. If a CDDP refuses to follow the rules identified in CFRs, OARs or ORSs that require the CDDP to take action necessary to assure the health and safety of Individuals enrolled in DD Services, ODDS will notify the CDDP in writing that ODDS intends to perform the functions necessary for the health and safety of the Individuals. ODHS may reduce the funding received by the CDDP to cover the costs of ODDS fulfilling the roles necessary for the needed actions.

7. Quality Assurance.

- a. ODHS's quality assurance activities include:
 - (1) Review of Case Management Services;
 - (2) Review of assessments, ISPs, and LOCs;
 - (3) Review of CDDP's Provider monitoring, complaints, and other contracted obligations; and
 - (4) Review of approved Case Management claims.

- b.** CDDP shall:
- (1) Comply with all ODHS quality assurance reviews, plans, and processes designed to monitor and ensure CDDP's timely and accurate CMS compliance.
 - (2) Follow all undisputed remediation instructions, including timelines, resulting from the quality assurance review findings.
 - (3) Make available to ODHS' quality assurance staff, upon request, Access, including a login and password, to any electronic systems or physical documentation that contains intellectual or developmental disabilities information about Individuals enrolled in Case Management Services, if allowed under federal and state law.
- c.** ODHS shall:
- (1) Notify CDDP in advance of a ODHS quality assurance review.
 - (2) Provide timely feedback to CDDP of quality assurance review findings and an opportunity for CDDP to dispute those findings prior to the final report.
 - (3) Provide technical assistance and training to CDDP in the areas identified as needing improvement by the quality assurance review. Technical assistance and training provided by ODHS will not negate necessary remediation activities by CDDP.

EXHIBIT B PART 2

Service Element Standards and Procedures

1. Provision of Services.

- a. The DD Services listed in this Section 1 and described in this Exhibit B Part 2 must be provided as described in the appropriate federal regulations, Oregon Revised Statutes, Oregon Administrative Rules, most current ODDS expenditure guidelines, and Service Element Standards and Procedures for the DD Services. Requirements for Service Elements may be found in the OARs listed below. Any additional requirements may be found in this Exhibit B Part 2. Only the DD Services listed are subject to this Agreement.
- b. Upon acceptance of the Service Element Prior Authorization (SEPA) in eXPRS, CDDP agrees to directly provide or subcontract for the DD Services. The DD Services provided by CDDPs whose costs are covered in whole or in part with the SEPA are:

| | Service Name | References |
|-----|------------------------------|--|
| (1) | Eligibility and Licensing | Chapter 411, Division 320, Service Element Standards and Procedures |
| (2) | Case Management Operations | Chapter 411, Divisions 415 and 320; Service Element Standards and Procedures |
| (3) | Abuse Investigation Services | Chapter 411, Division 320; Service Element Standards and Procedures |

2. CFDA Number(s) for all Services in Exhibit B Part 2.

In accordance with the State Controller’s Oregon Accounting Manual, policy 30.40.00.102, and ODHS procedure “Contractual Governance,” ODHS’ determination is that County is a Contractor.

The Catalog of Federal Domestic Assistance (CFDA) #(s) of Federal Funds to be paid through the Agreement: 93-778.

3. Service Element Standards and Procedures Review Process.

ODHS shall update this Exhibit B Part 2 as follows:

- a. ODDS will engage with a standing group of stakeholders to review and, if needed, modify this Exhibit B Part 2. Stakeholders shall include CDDP staff and designated representatives, ODDS staff, and other parties identified by ODDS.
- b. Upon determining that an update is necessary, a draft of the document changes will be sent to the stakeholder group via e-mail for review and comment. The ODDS e-mail shall include a time, date, and conference line number or virtual meeting information for a discussion between ODHS and CDDPs regarding the draft Service Element Standards and Procedures being reviewed. ODHS will

accept comments via e-mail for 15 business days after the date of the ODDS e-mail notification of the changes.

- c. After the discussion and the deadline for receipt of any e-mail review and comments from the CDDPs, ODHS will consider any information from CDDPs when determining the final changes to this Exhibit B Part 2.
- d. Upon completion of the review process, ODHS shall follow the amendment process as outlined in Exhibit E Section 27 “Amendments; Waiver; Consent” of this Agreement to update Exhibit B Part 2.

4. Service Authorization.

CDDP must authorize Services as outlined below:

- a. All Services, regardless of service setting or unless otherwise noted, must be authorized in eXPRS or MMIS for Long-Term Community Care Nursing (LTCCN), in a manner consistent with rule, by the CDDP in which the Individual is enrolled and is receiving Case Management Services and found eligible for I/DD Services as outlined in OAR Chapter 411, Division 320. This authorization must be obtained and documented in accordance with OARs and ODHS policies and procedures.
- b. All Services must be authorized at the appropriate rate for the service setting. All Services included in the expenditure guidelines must be entered using the rates detailed in the expenditure guidelines. Rates are subject to change upon notice from ODHS.

5. Ancillary Services.

Rates are set using the most recent ODDS expenditure guidelines. Exceptions to the published rate(s) may be allowed with prior approval by ODHS. ODDS will issue a final funding memo to CDDP when the payment of invoice is approved. ODDS will process payment within 45 days in accordance with ORS 293.462.

6. Employment Services; Other Non-Residential Day Services.

- a. CDDP will assist ODHS in monitoring compliance with the following Provider special reporting requirements:
 - (1) Provider must complete such Provider assessments as requested by ODHS in a timely and accurate manner.
 - (2) Provider will report to ODHS any employment outcome related information, including but not limited to wages, earnings, and turnover data, to ODHS using forms and procedures designated by ODHS.
 - (3) Providers must at all times comply with all other legal requirements and maintain documentation evidencing compliance such as subminimum wage certificates including the US Department of Labor Section 14(c) certificate.

- b. The Individual will receive the hours of Services per week as agreed to by the Individual, his or her ISP team, and the Provider. Service hours provided to the Individual may not be lowered to accommodate any ODHS reductions in the Provider rate.

7. Supported Living.

Upon implementation of the rate table, the ODHS budget tool will no longer be needed for Individuals receiving Supported Living Services.

8. Transportation Services.

- a. Transportation Service rates are set using the expenditure guidelines or the transit providers published rate.
- b. Individuals enrolled in Transportation Local Match Services for going to or from employment services, including day support activities, are not eligible for other Transportation Services for transportation to or from employment services, including day support activities without an exception.
- c. CDDP must maintain Transportation Local Match rosters and report changes regarding Individuals eligible for Transportation Local Match to transit districts as outlined in transportation worker's guide. CDDP's failure to report these changes to the transit district will result in CDDP paying for rides provided to Individuals ineligible for Transportation Local Match.

9. Special Projects.

- a. Special Projects are a mechanism for special payments as a pass-through payment to the CDDP.
- b. All requests must be submitted to ODDS.FundingReview@dhsosha.state.or.us prior to authorization.
- c. Performance requirements for Special Projects not otherwise defined in this Agreement are described below:
 - (1) A Special Project must be authorized in advance by ODDS, and the Special Project must be performed prior to ODDS releasing funding. Funding for Special Projects will be paid to the CDDP through eXPRS or direct payment.
 - (2) Terms and conditions of each Special Project will be defined in cooperation with the CDDP.
- d. All Special Project funds are subject to Settlement to confirm and reconcile any discrepancies that may have occurred between actual ODHS disbursements of funding and the amount actually delivered and invoiced at the end of the Agreement period or biennium in which they are authorized, whichever comes first.

10. Room and Board General Fund (R&B GF).

- a. Services for R&B GF are limited to those Individuals with I/DD who are not Medicaid eligible due to the Individual being undocumented but are working

towards United States citizenship. R&B GF Services assist these Individuals with room and board (R&B), personal incidental items, and as necessary, allowable medical expenditures.

b. Authorizing R&B GF Services.

- (1) Individuals must be 18 or older and concurrently receiving Residential Services or Adult Foster Home Services.
- (2) Services must be approved in advance by ODHS. CDDP must submit the following documentation when requesting R&B GF Services:
 - (a) Individual's name;
 - (b) Individual's prime number;
 - (c) Effective date of requested R&B GF Services;
 - (d) Amount of monthly funds requested;
 - (e) Information regarding Individual's citizenship status;
 - (f) Steps Individual has taken to date in obtaining citizenship;
 - (g) Steps to be taken by the Individual to obtain citizenship during the time frame requested for R&B GF Services;
 - (h) A copy of the Individual's most current Individual Support Plan (ISP), if funding for medical expenditures is requested;
 - (i) A methodology for calculating the funds for medical expenditures, if applicable;
 - (j) Documentation that the Individual has been denied Citizen Alien Waived Emergent Medical (CAWEM) and Oregon Health Plan (OHP) insurance coverage.
- (3) An Individual cannot receive R&B GF medical expenditure funding if the Individual is receiving OHP or CAWEM benefits unless the ISP team determines that the Individual's medical needs exceed what is covered CAWEM benefits and requests an exception.
- (4) If the Individual has been approved to receive R&B GF medical expenditure funding and has been approved for CAWEM, CAWEM must be used for any medical expenditure covered by CAWEM. CAWEM coverage is limited to emergency medical services only.
- (5) R&B GF funds may be used for an Individual in a medical emergency even though the emergency situation is not included in the ISP. For purposes of this Exhibit B Part 2, an emergency situation is defined as a sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the Individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.
- (6) The following medical services are not authorized under R&B GF Services:
 - (a) Routine dental care and diagnostic testing such as annual or semi-annual cleanings, fillings, root canals and routine x-rays.

- (b) Routine eye exams, diagnostic testing, contacts, glasses, and lenses.
- (7) R&B GF authorizations may not exceed 12 months. If requesting a renewal, CDDP must submit:
 - (a) Updated information about the status of the Individual's citizenship;
 - (b) Steps the Individual has taken towards citizenship since the last update;
 - (c) Steps to be taken by the Individual to obtain citizenship during the requested timeframe for renewed R&B GF Services; and
 - (d) Updated documentation on CAWEM and OHP eligibility.

c. Rate Setting for R&B GF Services.

- (1) The funds awarded for R&B GF Services for R&B and personal incidentals are equivalent to the anticipated federal Supplemental Security Income (SSI) as defined in Code of Federal Regulations (CFR) Part 416.101 – 416.121, 416.401 – 416.435 and 416.501 - 416.665, and the Oregon Supplemental Income Program (OSIP) Manual under “Room and Board and Personal Needs Standards”. Monthly rates are subject to change to reflect federal cost-of-living or other ODHS approved adjustments. These monthly rate changes do not require a request by CDDP and approval from ODHS. Any monthly rate adjustments resulting from these changes will be added by ODHS to awards ODHS authorized for Individuals receiving R&B GF Services.
- (2) R&B GF funds must be used for “current maintenance” costs incurred by an Individual receiving R&B GF Services, as defined in the above-referenced CFRs, the OSIP Manual, and as outlined in this Exhibit B Part 2. Current maintenance includes the room and board fees charged by the Provider to the Individual and costs incurred for clothing, medical care authorized by ODHS, and personal comfort care for the Individual, whether provided directly by, or facilitated by, the Provider of the R&B GF Services.
- (3) R&B GF funds used for an Individual's medical expenses must only be for necessary medical expenditures for the Individual up to the amount authorized by ODHS.

d. Disbursement of R&B GF Service Funds.

- (1) A SEPA will be created for the total amount of the R&B GF Service allowed for the Individual prior to Services being rendered.
- (2) R&B GF funds are disbursed through a PPA in eXPRS to the CDDP.
- (3) R&B and personal incidental funds are disbursed at the beginning of each Service month through a ODHS created 12-month PPA. CDDP must remit payment to the Provider after receiving disbursement.

- (4) Medical Expenditures are disbursed at the beginning of a service period through an ODHS created three-month PPA. CDDP must remit payment to the Provider after receiving disbursement. If ODHS has paid to CDDP, through the release of the PPA funding, more R&B GF medical expenditure funds than reported by the Provider and submitted by CDDP, ODHS will stop releasing funds for R&B GF medical expenditures until the balance due CDDP for R&B GF medical expenditures is no less than one month of the allocated PPA funding. If a Provider's monthly medical expenditure report shows the Provider needs additional medical expenditure funds to cover future medical costs for an Individual, and the additional funds and medical expenditures are within the Individual's ODHS authorized funding, then ODHS will release the additional funding up to, but not to exceed, the SEPA amount.

e. Special Provisions of R&B GF Services.

- (1) Medical expenditure funding for an Individual for R&B GF Services paid to a Provider via CDDP may only be carried over into future months within the same biennium. When medical expenditure funding carry-over occurs, the next monthly payment to CDDP for the Individual will be reduced by ODHS by the amount carried over from the previous months. CDDP may not carry over funding of R&B GF Services for medical expenditures into the next biennium. The medical expenditure funding must be returned to ODHS immediately upon request by ODHS, or within 45 calendar days of the end of the biennium in which the funds were paid, whichever date is sooner.
- (2) CDDP shall notify ODHS within 14 calendar days if the Individual's circumstances change and the Individual is no longer eligible for R&B GF Services.
- (3) ODHS may request at any time other information regarding the use of R&B GF Services or the justification of such Services. CDDP must respond to any request within 10 business days.
- (4) CDDP must submit to ODHS quarterly, paid Provider invoices for R&B and personal incidental expenditures. Provider invoices must reflect that the Individual received the R&B GF Services during the time period covered by the invoices. If paid Provider invoices are not received by ODHS, the R&B and personal incidental funds paid to Provider, and not supported by paid Provider invoices, must be recovered by CDDP and CDDP must then return this R&B GF funding to ODHS.
- (5) For Medical Expenditures:
 - (a) Providers shall report to CDDP the allowable medical expenditures each month on a ODHS prescribed form. This monthly report will serve as the Provider invoice for medical expenditures for R&B GF Services. This monthly medical expenditure report must include the following, at minimum:

- i. Individual's name;
 - ii. Individual's prime number;
 - iii. Month or timeframe for the reported R&B GF Services;
 - iv. Provider's name and eXPRS Provider number;
 - v. Description of each medical expenditure listed separately;
 - vi. Amount of each medical expenditure;
 - vii. Name of entity providing the R&B GF Service, such as the name of pharmacy, doctor, or therapist; and
 - viii. Actual date of R&B GF Service, not the date the Service was paid for by the Provider.
- (b) Provider must submit a monthly medical expenditure report to the CDDP within 14 calendar days of the end of each month R&B GF Services were provided. The Provider medical expenditure report for the last month in the biennium must be submitted to CDDP within 14 calendar days of the end of each biennium.
- (c) CDDP shall submit for payment the Provider's monthly medical expenditure report on a form prescribed by ODHS no later than 45 calendar days from the end of the month in which R&B GF Services were provided. ODHS will review this report for accuracy and adherence to this Exhibit B Part 2. CDDP will be notified of any non-allowable expense and will be required to recoup the funding from the Provider. CDDP will remit to ODHS the recouped funding within 45 calendar days of recoupment.
- f. ODHS reserves the right to end R&B GF Services with proper notice to the Individual, Provider and CDDP.
- g. All R&B GF funds are subject to Settlement to confirm and reconcile any discrepancies that may have occurred between actual ODHS disbursements of funding and the amount actually delivered and invoiced at the end of the Agreement period or biennium in which they are authorized, whichever comes first.
- h. All invoices must be submitted to cau.invoice@dhsoha.state.or.us.

11. Eligibility and Licensing.

- a. Eligibility and Licensing encompasses the activities related to determination of Eligibility of Individuals under OAR Chapter 411, Division 320 and assisting in the licensing of Adult Foster Homes under OAR Chapter 411, Division 360; and assistance in certifying Child Foster Homes under OAR Chapter 411, Division 346, unless otherwise exempt under Oregon law.
- b. Standards and Procedures not identified in rule.**
 - (1) Special Reporting Requirements
 - (a) Upon ODHS' written request, CDDP will provide data and information relative to the implementation of Eligibility and

Licensing Services within the time specified by ODHS in its request to CDDP.

- (b) CDDP must ensure applications, determinations and reason for decision is documented in eXPRS as outlined in OAR 411-320-0080. Upon request from ODHS, the CDDP must complete the eligibility tracking document and provide a response within 30 calendar days of request.
- (2) Billing and Payment Procedures
- (a) ODHS will provide CDDP with funding for Eligibility and Licensing Services by entering a Service Element Prior Authorization (SEPA) and Provider Prior Authorization (PPA) based on the approved CDDP Workload Model or its funding level for FTE staff.
 - (b) ODHS will disburse funding for Eligibility and Licensing Services for a specified period of time equal to the monthly amount set forth in the accepted SEPA and approved in the PPA, as such amounts may be updated from time to time. Any recovery of funding will be done as outlined in Exhibit B Part 3 of this Agreement.
- (3) CDDP, as a Provider of Eligibility and Licensing Services that are funded by ODHS, must:
- (a) Employ an identified individual as an Eligibility Specialist, as defined in OAR 411-320-0020 (14), and meet qualifications outlined in OAR 411-320-0030 (5)(d), to perform the duties outlined in OAR 411-320-0030 (9)(b) and OAR 411-415-0050; or have an agreement with another CDDP to perform eligibility determination for the CDDP receiving the Eligibility and Licensing funding. If there is an agreement with another CDDP to perform eligibility determinations, the agreement must include the provision of Eligibility and Licensing Services in that CDDP's Program Area.
 - (b) Employ an identified individual as a Licensor who meets qualifications indicated in OAR 411-320-0030 (5)(g) and performs the duties outlined in OAR 411-320-0030 (9)(e); or have an agreement with another CDDP to perform foster care licensing and certification for the CDDP receiving the Eligibility and Licensing funding. If there is an agreement with another CDDP to perform foster care licensing and certification, the agreement must include the provision of Eligibility and Licensing Services in that CDDP's Program Area.
 - (c) Employ sufficient staff to perform the eligibility determinations and licensing duties within required timelines for its own CDDP and the CDDP with whom it is subcontracting if performing these duties for another county.

- (d) Use ODHS approved systems, forms, and procedures for eligibility determination services.
- (e) Inform ODHS' Office of Developmental Disabilities Services (ODDS) of the name(s) of the CDDP's designated Eligibility Specialist(s) and notify ODDS if the CDDP assigns a new Eligibility Specialist.
- (f) Will determine an Individual's eligibility for Services within the time frames identified by ODHS in OAR 411-415-0030 and OAR 411-320-0080.
- (g) Ensure that an Eligibility Specialist (ES), or the ES processor with the appropriate training and eXPRS user role, completes the appropriate eligibility paperwork and intake screens in eXPRS.
- (h) Complete the eXPRS eligibility within ten business days of any eligibility determination or change.
- (i) Complete the supplemental LOC assessment through the Oregon Needs Assessment, in compliance with OAR 411-415-0060.

12. Case Management Operations.

- a.** Case Management Operations encompass the activities related to the general administration and management of a Community Developmental Disabilities Program (CDDP). These activities include, but are not limited to, ensuring that all CDDP staff receive necessary training, that all services offered by the CDDP are understood by staff, as well as the rules that govern those services, and that all staff comply with OAR Chapter 411, Division 320 as it describes the requirements of CDDP staff.
- b.** Case Management Services are delivered to Individuals who are eligible for Intellectual and or Developmental Disabilities Services (I/DD Services) funded by ODHS in an identified Program Area.
- c. General Performance Requirements.**
 - (1) For each eligible Individual receiving Case Management Services, the CDDP shall create and submit a Client Prior Authorization (CPA) in eXPRS for Case Management Services within five business days of the CDDP's determination that the Individual is eligible for Case Management Services. Updates or changes to an Individual's eligibility or service period for Case Management Services must be reflected in the Individual's CPA within five business days of the CDDP's receipt of notification of change. The Case Management CPAs that are submitted successfully by the CDDP and are accepted through eXPRS will serve as the CDDP enrollment roster for Case Management Services.
 - (2) Providers of Case Management Services funded by ODHS shall:
 - (a) Comply with the requirements of OAR Chapter 411 Division 320 "Community Developmental Disabilities Program" and Division

415 “Case Management Services for Individuals with Intellectual or Developmental Disabilities”, as such rules may be revised from time to time.

- (b) Complete annual plan entry into eXPRS for any Plan of Care Services under the guidelines identified in OAR 411-415-0070 “Service Planning”. Failure to follow the guidelines identified may result in payment withholding for services rendered or other actions as deemed appropriate by ODHS.
- (c) Develop, maintain, and effectively implement systems and procedures for the timely and accurate documentation of Case Management Services.
- (d) Comply with all ODHS requirements designed to assure the timely and accurate enrollment, Service Authorization, and service payment for Individuals receiving Case Management Services.
- (e) Ensure that all Claims billed are for activities that meet ODHS guidelines for Case Management.
- (f) Ensure each Individual receiving Case Management Services is eligible for DD Services, with eligibility determined in accordance with OAR Chapter 411, Division 320, as such rules may be revised from time to time.
- (g) Complete and submit Case Management Service eligibility or enrollment information via established methods, and update forms following instructions and using forms(s) or method(s) designated by ODHS. Failure to submit the Case Management Service eligibility or enrollment form may delay the approval of the service authorization for Case Management Services.
- (h) Ensure that all Oregon Administrative Rules and ODHS policies, procedures, and Transmittals are complied with and that CDDP staff provide Case Management Operations in compliance with Exhibit B Part 2 of this Agreement.

d. Special Reporting Requirements.

- (1) Upon the written request of ODHS, the CDDP shall supply data and information relative to the implementation of Case Management Services within 14 business days of request, unless otherwise mutually agreed upon.
- (2) CDDP shall respond to ODHS staff inquiries or written requests for additional information within five business days of a request pertaining to a complaint or administrative hearing to include, but not be limited to, eligibility or service complaints and hearings.

- (3) Upon reasonable notice, CDDP staff shall cooperate in any administrative hearing as a witness at any stage of the hearing or any other legal matters arising from their role including, but not limited to, eligibility or service complaints.

e. Funding for Case Management Services.

- (1) Case Management funding is based upon the amount of qualified billable RFFS Claims submitted by the Provider of Case Management Services, up to the monthly amount authorized by the CDDP's Case Management service authorization.
- (2) Case Management funding is paid to the CDDP after the Claims processing cycle on the 15th of the month based on Title XIX eligible Claims cleared since the first of the month. Title XIX eligible Claims made for the previous month(s) that have cleared but have not previously been paid, will also be processed for payment at this time up to the monthly authorized amount. General fund Claims submitted for the time period between the 1st of the month and the 15th of the month will be held until the next monthly Claims processing cycle described in 12.e.(3) of this Exhibit B Part 2.
- (3) Case Management funding is paid to CDDP after the Claims processing cycle on the last day of the month based on:
 - (a) If any funds remain or are available in the monthly authorized amount;
 - (b) Title XIX eligible Claims cleared since the 15th will be processed and paid first;
 - (c) Title XIX eligible Claims cleared but not yet paid for the previous month(s) will be processed and paid second up to the maximum monthly authorized amount;
 - (d) If any funds remain or are available for the month after payment of the Title XIX eligible Claims, general fund Claims that have cleared that month will be processed and paid third; and
 - (e) General fund Claims cleared but not yet paid for the previous month(s) will be processed and paid fourth until the monthly authorized amount is exhausted.
- (4) ODHS is not obligated to provide funding for any Case Management Services that are not properly documented in Individual case files, or are not properly reported through eXPRS within 12 months of the Case Management Service, and by the date 60 calendar days after the earlier of expiration or termination of the Agreement; termination of ODHS' obligation to provide funding for Case Management Services; or termination of CDDP's obligation to include the Program Area in which the Case Management Services are provided.

- (5) Provider of Case Management Services shall resolve all Provider Liability Accounts (PLA) as shown in eXPRS relating to Case Management Services, by ensuring the PLA ending balance is zero, within 60 calendar days after the earlier of expiration or termination of the Agreement with ODHS; termination of ODHS' obligation to provide funding for Case Management Services; or termination of CDDPs obligation to include the Program Area in which the Case Management Services are provided.
- (6) Each Individual receiving Case Management Services must have an active, accepted CPA within eXPRS for the period the Case Management Services are provided to the Individual in order for Provider to submit a qualifying Claim.
- (7) For each unit of Case Management Services reported in eXPRS as delivered to an Individual, a qualifying billable Case Management Service must have been delivered to the Individual and sufficiently documented in progress notes within the Individual's file. ODHS will not provide funding for more than one billable Case Management Service or unit per Individual per day. CDDP will void or back out any submitted claims that are determined not to meet Case Management Services.

13. Abuse Investigation Services.

- a. Abuse Investigation Services for adults include responding to abuse allegations, accessing protective services in coordination with Case Management Entities, and assuring that the abuse allegations are appropriately investigated and reported. CDDP must operate a Community Developmental Disabilities Program, or have a service agreement with another CDDP, to perform abuse investigation activities. The abuse investigator specialist serves as the "designee" of ODHS under ORS 430.731, 430.735 to 430.765.
- b. **General Performance Requirements.**
 - (1) When providing Abuse Investigation Services for ODHS, CDDP will:
 - (a) Comply with OAR Chapter 411, Division 320 "Community Developmental Disabilities Program", as such rules may be revised from time to time.
 - (b) Comply with ORS 430 and OAR Chapter 407, Division 045 "Office of Training, Investigations and Safety "(OTIS), as such statutes and rules may be revised from time to time.
 - (c) Comply with ODHS policies and procedures and ODHS Transmittals requesting action or providing policy information.
 - (2) CDDP must employ individuals as abuse investigators or have an agreement with an identified CDDP or Subcontractor, to perform abuse investigation activities which include the provision of Abuse Investigation Services in a Program Area and who will be referred to as the "Abuse Investigator".

- (3) CDDP or Subcontractor shall employ, provide training, and require attendance to mandatory training for Abuse Investigators indicated in the Workload Model for Abuse Investigation Services within the funding allotted.
- (4) Abuse Investigators must use a State approved information system, forms, and procedures for acting on mandatory abuse reports, assessing protective services, and conducting investigations for documentation of findings regarding abuse allegations.
- (5) Abuse Investigators must complete the abuse investigation duties within the timelines outlined in rule. Any variance to the investigation rules in OAR Chapter 407, Division 45 “Office of Training, Investigations and Safety” must be reviewed and approved by OTIS.
- (6) Abuse Investigators must participate in quarterly meetings held by OTIS.
- (7) Upon reasonable notice, Abuse Investigators must participate in a contested case matter, including as a witness, at any stage of the hearing or any other legal matters arising from their role.
- (8) Abuse Investigators must participate in the county multidisciplinary team relative to ORS 430.739 “County multidisciplinary teams; protocols; reports” and provide any requested data and information needed to comply with ORS 403.739 and OAR Chapter 407, Division 45.
- (9) Per ORS 430.731(3) a person employed by a CDDP as a case manager may not serve as the lead investigator of an allegation of abuse of a person with a developmental disability.
- (10) A CDDP may identify a back-up Abuse Investigator who is also a case manager or Services Coordinator. Back-up Abuse Investigators must complete the Investigator Core Competencies training as delivered by OTIS. A back-up Abuse Investigator may be used in a situation where the primary Abuse Investigator is absent or temporarily unavailable. If a case manager is the back-up Abuse Investigator, the case manager cannot serve as the investigator for an allegation involving an adult they case manage.
- (11) In circumstances where a CDDP may have a potential conflict of interest, OTIS should be consulted as prescribed in OAR Chapter 407, Division 45. A conflict of interest is limited to cases where a CDDP employee is the accused person, there is a familial relationship to the investigator, or the allegation is a highly sensitive issue requiring outside investigation.
 - (a) The Abuse Investigator must consult with OTIS to confirm the conflict of interest and then coordinate the out of CDDP investigation with the assigned OTIS special investigator.
 - (b) OTIS, in consultation with the Abuse Investigator, will determine if there is an actual or potential conflict of interest that cannot be remedied through assignment to another abuse investigation provider.

- (c) OTIS will provide a written response regarding the outcome of the formal request to the original investigator within 24 hours.

c. Special Reporting Requirements.

Upon ODHS’ written request, a CDDP will provide data and information relative to the implementation of Abuse Investigation Services within the time specified by ODHS in its request to CDDP.

d. Billing and Payment Procedures.

- (1) ODHS will provide CDDP with funding for Abuse Investigation Services by entering a Service Element Prior Authorization (SEPA) and Provider Prior Authorization (PPA) based on the approved CDDP Workload Model or its funding level for FTE staff.
- (2) ODHS will disburse funding for Abuse Investigation Services, for a specified period of time, in an amount equal to the monthly amount set forth in the accepted SEPA and approved in the PPA, as such amounts may be updated from time to time, subject to the following:
 - (a) If CDDP fails to deliver Abuse Investigation Services for part of a month, the funding for Abuse Investigation Services for that month will be prorated and ODHS may reduce future disbursements of Abuse Investigation funds accordingly.
 - (b) If requested by ODHS, CDDP shall also accept an appropriate SEPA Adjustment to amend funding for Abuse Investigation Services as a result of a CDDP’s failure to deliver the Abuse Investigation Services for a full month.

14. Centralized Abuse Management System Procedures.

- a. CDDP must record all serious incidents, complaints of abuse, death reviews, and abuse investigations in the ODHS approved Centralized Abuse Management (CAM) System.
- b. **Abuse Data Measures.**

| # | Metric | Metric Explanation |
|-----|-----------------------------|---|
| (1) | Timeliness of First Contact | Abuse investigations meeting applicable response times according to OAR. |
| (2) | Investigation Cycle Time | Number of days from opening an investigation to the date the investigation is closed. |
| (4) | Screening Timelines | Allegations screened in compliance with OAR timelines. |
| (5) | Caseload Ratio | Number of investigations opened per abuse investigator. |

| | | |
|-----|--------------------------------------|--|
| (6) | Re-abuse Rates | Number of victims with multiple substantiations of abuse. |
| (7) | Core Competency Training | Number of new investigators who complete Core Competency Training within 6 months of hire. |
| (8) | Annual Training Hours | Number of abuse investigators who complete 20 hours of annual training. |
| (9) | Serious Incidents and Investigations | Number of investigations with related serious incidents. |

c. Serious Incident Measures.

| # | Metric | Metric Explanation |
|-----|--------------------------------------|--|
| (1) | Serious Incidents Entered | Number of serious incidents meeting applicable entry timelines. |
| (2) | Serious Incidents Closed | Number of serious incidents meeting closure timelines. |
| (3) | Serious Incident Recommended Actions | Number of serious incidents recommended actions with documented outcome. |
| (4) | Serious Incident Types | Number of serious incidents reported. |

d. ODHS in coordination with CDDP will gather baseline data and establish appropriate compliance targets for the identified measures.

e. CDDP will be responsible for gathering data, outlining patterns and trends, and reporting on compliance within the agreed upon measures.

f. At a minimum, CDDP will submit quarterly data reports on an approved ODHS template.

g. The quarterly data reports and the trend reports described below will be provided to IncidentMgmt.TechAssistance@dhsosha.state.or.us .

h. ODDS will outline the reporting timelines for the CDDP:

i. Quarterly Trend Reports.

- (1) A comparison of actual trend results versus trend targets for the current period and at least the two previous periods.
- (2) A proposed action plan for each measure not in compliance with the agreed upon compliance targets.
- (3) An action plan will include:
 - (a) An analysis/statement of the root causes/reasons for not meeting the compliance targets.

- (b) A description of solutions identified and recommended by the CDDP in order to meet the agreed measures.
- (c) A timeframe for implementing the solutions.

EXHIBIT B PART 3

Financial Terms and Conditions

1. Disbursement of Payments.

- a. Disbursement Generally.** Subject to the conditions precedent to disbursement set forth in subsection c. below, ODHS shall disburse the payments described in the SEPA to CDDP and or Subcontractors in accordance with the procedures set forth in this Section 1 and, as applicable, in Exhibit B Part 2 “Service Element Standards and Procedures”. Disbursement procedures may vary by DD Service.
- If County subcontracts any or all Service(s) covered under this Agreement, County must forward all funds related to the Services subcontracted to Subcontractor within ten business days of receipt from ODDS. If the entire CDDP program is subcontracted County cannot retain any of the funding.
- b. Disbursements Remain Subject to Recovery.** All disbursements of funds to CDDP and or Subcontractors under this Agreement remain subject to recovery from CDDP, in accordance with Section 7 below, as a Misexpenditure.
- c. Conditions Precedent to Disbursement.** ODHS’ obligation to disburse payments to CDDP and or Subcontractors under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
- (1) No CDDP default as described in Exhibit E “Standard Terms and Conditions” has occurred.
 - (2) CDDP’s representations and warranties set forth in Section 4 “Representations and Warranties” of Exhibit E “Standard Terms and Conditions” are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

2. Use of Funding.

- a.** CDDP shall use all funds disbursed to CDDP under this Agreement solely to cover actual Allowable Costs reasonably and necessarily incurred to deliver DD Services during the term of this Agreement. Depositing these contracted funds into a single pool, making one dollar indistinguishable from another, is prohibited and subject to audit. However, CDDP may deposit funds from different sources, including the funds from ODHS, into a single account if the different funding streams are accounted for and trackable, sometimes referred to as “braiding.”
- b.** CDDP may use funds for costs that are incurred for common or joint purposes that benefit more than one cost objective (i.e. for the community developmental disabilities program services provided by this agreement and one or more other programs) and that cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. Funds may be used for such costs (commonly referred to as indirect costs or overhead costs) subject to the following requirements:

- (1) ODHS will allow indirect charges at the County's federally-approved Negotiated Indirect Cost Rate if the county provides proof of such a rate.
- (2) If the County does not have a federally-approved rate, CDDP may provide cost documentation for the community developmental disabilities program services and ODHS will negotiate a cost rate with the CDDP not to exceed the ODHS' rate provided on the budget models.
- (3) If CDDP does not have a federally approved Negotiated Indirect Cost Rate and does not choose to negotiate a rate with ODHS, CDDP may use a 10% de minimis rate for costs as described in this Section 2.b. No documentation is required to justify the 10% de minimis cost rate.

Costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both.

3. Effect of Amendments Reducing Funding.

- a. If CDDP and ODHS amend the SEPA to reduce the amount of funding awarded for a particular DD Service, CDDP is not required by this Agreement to utilize other CDDP funds to replace the funds no longer received under this Agreement as a result of the amendment and CDDP may, from and after the date of the SEPA, reduce the quantity of that DD Service included in its CDDP commensurate with the amount of the reduction in funds awarded for that DD Service.
- b. If a CDDP receives Local Match funding to recoup the reduced funding, DD Services may not be reduced. Nothing in the preceding sentence shall affect CDDP's obligations under this Agreement with respect to payments disbursed by ODHS under this Agreement or with respect to DD Services delivered.

4. Audit Requirements.

- a. CDDP operated by a non-county Subcontractor, is required to submit to ODHS an Audit within 120 calendar days of the end of the previous fiscal or biennial period. Audits must:
 - (1) Cover the entire previous fiscal or biennial period and include all federal and state funds provided to CDDP as part of this Agreement.
 - (2) Must be submitted directly to ODDS.Contracts@dhsosha.state.or.us by the auditing agency or a Certified Public Accountant (CPA).
- b. Failure to submit a proper Audit within 120 calendar days of the end of the previous fiscal or biennial period may result with ODHS withholding further funding to CDDP until Audit is submitted to ODHS. ODHS may allow for one 60-calendar day extension to this if the CDDP can document due diligence in attempting to meet the requirements of this subsection prior to the end of the 120-calendar day period.

5. Carryover.

- a. Funds received by CDDP for the Service Elements Eligibility and Licensing and Abuse Investigations that remain available at the close of a State fiscal year or a

biennium, may be retained by CDDP upon ODHS review and approval (“Carryover”). The amount or percentage of funding to be retained by CDDP shall be determined by ODHS. Any amount of Carryover funds authorized by ODHS is to be used by CDDP in support of DD Services provided to Individuals as approved by ODHS and may not be co-mingled with other County programs or departments.

- b.** Carryover funds retained from a previous biennium must be reported to ODHS to the cau.invoice@dhsosha.state.or.us email using the form provided by ODHS. The report must include the following:
 - (1) Amount of awarded funds or other compensation paid directly to the CDDP under this Agreement.
 - (2) A written description of how the Carryover funds will be used by CDDP to increase DD Services or cover costs of DD Services under the same Service Element for which the funds were awarded to CDDP in the previous biennium.

6. Process for Settlement.

CDDP shall cooperate with ODHS during the biennial, or any interim, Settlement process for those DD Services where funds are paid directly to CDDP or as defined in Exhibit B Part 2 of this Agreement.

- a.** ODHS will analyze the ODHS paid versus CDDP expended funds, for each DD Service funded under this Agreement directly to CDDP, for the timeframe of the Settlement process. Upon completion of the ODHS analysis, ODHS will notify CDDP via an e-mail addressed to the CDDP Administrator of the results of its Settlement process (“Settlement Notification”). The Settlement Notification will include the following:
 - (1) Settlement Cover Letter, and
 - (2) Initial Settlement Report.
- b.** CDDP shall have 90 calendar days from the date of the Settlement Notification to respond with corrections, additional information, or acceptance of the Settlement amount as presented by ODHS.
- c.** CDDP shall submit any additional information or corrections on the spreadsheet provided in the Initial Settlement Report per the instructions in the Settlement packet, as well as any documentation needed to support a disputed amount (the “Response File”).
- d.** ODHS shall review and respond to CDDP’s Response File within 120 calendar days of receipt of the Response File. ODHS shall clearly identify in a revised Settlement Notification, emailed to the CDDP Administrator, which items ODHS has accepted or denied.

- e. Any additional backup documentation provided by CDDP is subject to 42 CFR §447.45 Medicaid Claims which allows Medicaid match for new Claims if paid within 12 months from date of Service and seven quarters plus current quarter for corrections to existing Claims.
- f. If ODHS and CDDP continue to disagree as to the Settlement amount, the parties may agree to further appropriate dispute resolution processes, subject to Exhibit E Section 20 “Resolution of Disputes” of this Agreement.
- g. The final Settlement Notification sent by ODHS to CDDP shall indicate the amount and the expected date of payment to ODHS by way of a check from CDDP or recovery through future payments in the manner described in this Exhibit B Part 3. If funds are to be paid to CDDP, the final Settlement Notification shall indicate the amount and the expected date of payment by check from ODHS. Any disputes to the final Settlement Notification shall be resolved through the appeals processes as outlined in this Exhibit B Part 3.

7. Recovery of Funding for Misexpenditure.

- a. If ODHS identifies a Misexpenditure of moneys disbursed to CDDP under this Agreement, ODHS shall provide CDDP by e-mail with written notice thereof and ODHS and CDDP shall engage in the process described in subsection 7.b. below.
- b. From the date of the notice of Misexpenditure, CDDP shall have the lesser of (1) 60 calendar days, or (2) if a Misexpenditure relates to a federal government request for reimbursement, 30 calendar days fewer than the number of days (if any) that ODHS has to appeal a final written decision from the federal government, to either:
 - (1) Make a payment to ODHS of the full amount of the noticed Misexpenditure identified by ODHS; or
 - (2) Notify ODHS that CDDP wants to repay the amount of the noticed Misexpenditure from future payments pursuant to subsection 7.d. below; or
 - (3) Notify ODHS that it wants to engage in the applicable appeal process set forth in subsection 7.c. below.

c. Appeal Process for Misexpenditure.

If CDDP notifies ODHS that it wants to engage in an appeal process with respect to a noticed Misexpenditure, the parties shall comply with the following procedures, as applicable.

- (1) Appeal from ODHS-Identified Misexpenditure.

If ODHS’ notice of Misexpenditure is based on a Misexpenditure solely of the type described in Section 34 b. or c. of Exhibit A “Definitions”, CDDP and ODHS shall engage in the process described in this subsection to resolve a dispute regarding the noticed Misexpenditure.

 - (a) CDDP and ODHS shall engage in non-binding discussions to give CDDP an opportunity to present reasons why it claims that there is

no Misexpenditure or that the amount of the Misexpenditure is different than the amount identified by ODHS; and to give ODHS the opportunity to reconsider its notice of recovery.

- (b) CDDP and ODHS may negotiate an appropriate apportionment of responsibility for the recovery of a Misexpenditure. At CDDP's request, ODHS will meet and negotiate with the CDDP in good faith concerning appropriate apportionment of responsibility for recovery of a Misexpenditure. In determining an appropriate apportionment of responsibility, CDDP and ODHS may consider any relevant factors. An example of a relevant factor is the extent to which either party contributed to an interpretation of a statute, regulation or rule prior to the expenditure that was officially reinterpreted after the expenditure.
 - (c) If ODHS and CDDP reach agreement on an amount owed to ODHS, CDDP shall, promptly repay that amount to ODHS by issuing payment to ODHS or direct ODHS to withhold future payments pursuant to subsection 7 d. below.
 - (d) If ODHS and CDDP continue to disagree as to whether there has been a Misexpenditure or as to the amount owed, the parties may agree to further appropriate dispute resolution processes, including, subject to Department of Justice and CDDP Counsel approval, binding arbitration.
- (2) Appeal from Federal-Identified Misexpenditure.
- (a) If ODHS' notice of Misexpenditure is based on a Misexpenditure of the type described in Section 34 a. of Exhibit A "Definitions" and the relevant federal agency provides a process either by statute or administrative rule to appeal the determination of improper use of Federal Funds, the notice of disallowance or other federal identification of improper use of funds, and if the disallowance is not based on a federal or state court judgment founded in allegations of Medicaid Fraud or abuse, then CDDP may, prior to 30 calendar days prior to the applicable federal appeals deadline, request that ODHS appeal the determination of improper use, notice of disallowance, or other federal identification of improper use of funds, in accordance with the process established or adopted by the federal agency.
 - (b) If CDDP so requests that ODHS appeal the determination of improper use of Federal Funds, federal notice of disallowance, or other federal identification of improper use of funds, the amount in controversy shall, at the option of CDDP, be retained by CDDP or returned to ODHS pending the final federal decision resulting from the initial appeal.

- (c) If CDDP does request, prior to the deadline set forth in (2) (a) above, that ODHS appeal, ODHS shall appeal the determination of improper use, notice of disallowance or other federal identification of improper use of funds in accordance with the established process and shall pursue the appeal until a decision is issued by the Departmental Grant Appeals Board of the Department of Health and Human Services (the “Grant Appeals Board”) pursuant to the process for appeal set forth in 45 C.F.R. Subtitle A, Part 16, or an equivalent decision is issued under the appeal process established or adopted by the federal agency. CDDP and ODHS shall cooperate with each other in pursuing the appeal.
- (d) If the Grant Appeals Board or its equivalent denies the appeal, then either CDDP, ODHS, or both may, in their discretion, pursue further appeals. Regardless of any further appeals, within 90 calendar days of the date the federal decision resulting from the initial appeal is final, CDDP shall repay to ODHS the amount of the noticed Misexpenditure (reduced, if at all, as a result of the appeal) by issuing payment to ODHS or by directing ODHS to withhold future payments pursuant to subsection 7 d. below. To the extent that CDDP retained any of the amounts in controversy while the appeal was pending, CDDP shall pay to ODHS the interest, if any, charged by the federal government on such amount.
- (e) If the relevant federal agency does not provide a process either by statute or administrative rule to appeal the determination of improper use of Federal Funds, the notice of disallowance or other federal identification of improper use of funds or CDDP does not request that ODHS pursue an appeal 30 calendar days prior to the applicable federal appeals deadline, and if ODHS does not appeal, then within 90 calendar days of the date the federal determination of improper use of Federal Funds, the federal notice of disallowance, or other federal identification of improper use of funds is final, CDDP shall repay to ODHS the amount of the noticed Misexpenditure by issuing a payment to ODHS or by directing ODHS to withhold future payments pursuant to subsection 7 d. below.
- (f) If CDDP does not request that ODHS pursue an appeal of the determination of improper use of Federal Funds, the notice of disallowance, or other federal identification of improper use of funds, prior to 30 calendar days prior to the applicable federal appeals deadline, but ODHS nevertheless appeals, CDDP shall repay to ODHS the amount of the noticed Misexpenditure (reduced, if at all, as a result of the appeal), within 90 calendar days of the date the federal decision resulting from the appeal is

final, by issuing payment to ODHS or by directing ODHS to withhold future payments pursuant to subsection 7 d. below.

(g) If the Misexpenditure was expressly authorized by a ODHS rule or a ODHS writing that applied when the expenditure was made, but was prohibited by federal statutes or regulations that applied when the expenditure was made, CDDP will not be responsible for repaying the amount of the Misexpenditure to ODHS, provided that:

- i. Where post-expenditure official reinterpretation of federal statutes or regulations results in a Misexpenditure, CDDP and ODHS will meet and negotiate in good faith an appropriate apportionment of responsibility between them for repayment of the Misexpenditure.
- ii. For purposes of this section, a ODHS writing must interpret this Agreement or a ODHS rule and be signed by the Director of ODHS or by one of the following ODHS officers concerning DD Services:

Director of the Office of Developmental Disabilities Services;

Deputy Director of the Office of Developmental Disabilities Services;

Chief Operating Officer of the Office of Developmental Disabilities Services.

ODHS shall designate alternate officers in the event the offices designated in the previous sentence are abolished. Upon CDDP request, ODHS shall notify CDDP of the names of individual officers with the above titles. ODHS shall send ODHS writings described in this paragraph to CDDP by mail and e-mail and to CDDP's directors by e-mail.

- iii. The ODHS writing must be in response to a request from the CDDP for expenditure authorization, or a statement intended to provide official guidance to the CDDP or counties generally, for making expenditures under this Agreement. The ODHS writing must not be contrary to this Agreement or contrary to law or other applicable authority that is clearly established at the time of the writing.
- iv. If the ODHS writing is in response to a request from CDDP for expenditure authorization, the request must be in writing and signed by the director of a CDDP department with authority to make such a request or by CDDP Counsel. It must identify the supporting data, provisions of

this Agreement and provisions of applicable law relevant to determining if the expenditure should be authorized.

- v. A ODHS writing expires on the date stated in the writing, or if no expiration date is stated, upon expiration of this Agreement. An expired ODHS writing continues to apply to CDDP expenditures that were made in compliance with the writing and during the term of the writing.
- vi. ODHS may revoke or revise a ODHS writing at any time if it determines in its sole discretion that the writing allowed expenditure in violation of this Agreement or law or any other applicable authority. However, ODHS is not responsible for a Misexpenditure that was based on a ODHS writing that was effective at the time of the Misexpenditure.
- vii. The ODHS rule or the ODHS writing does not authorize an expenditure that this Agreement prohibits.

d. Recovery of Misexpenditure from Future Payments.

- (1) To the extent that ODHS is entitled to recover a Misexpenditure pursuant to subsection 7 b. above, ODHS may recover the Misexpenditure by offsetting the amount thereof against future amounts owed to County by ODHS, including, but not limited to, any amount owed to CDDP by ODHS under this Agreement, or any amount owed to County by ODHS under any other contract or agreement between County and ODHS, present or future.
- (2) ODHS shall provide the CDDP with written notice of its intent to recover the amount of the Misexpenditure as set forth in this section from amounts owed CDDP by ODHS, and ODHS shall identify the amounts owed by ODHS to CDDP which ODHS intends to offset to recover the Misexpenditure amount, including the contracts or agreements, if any, under which the amounts owed arose and those other contracts or agreements from which ODHS wishes to deduct payments.
- (3) CDDP shall then have 14 calendar days from the date of ODHS' notice in which to request the deduction be made from other amounts owed to County by ODHS and identified by CDDP. ODHS shall comply with CDDP's request for alternate offset.
- (4) In the event that ODHS and the CDDP are unable to agree on which specific amounts, owed to CDDP by ODHS, ODHS may offset in order to recover the amount of the Misexpenditure, then ODHS may select the particular contracts or agreements between ODHS and CDDP and amounts from which it will recover the amount of the Misexpenditure, after providing notice to CDDP, and within the following limitations:
 - (a) ODHS shall first look to amounts owed to CDDP (but unpaid) under this Agreement.

- (b) If that amount is insufficient, then ODHS may look to any other amounts currently owing or owed in the future to County by ODHS.
- (c) In no case, without the prior consent of County, shall ODHS deduct from any one payment due County under the contract or agreement from which ODHS is offsetting funds an amount in excess of twenty-five percent (25%) of that payment.
- (d) ODHS may look to as many future payments as necessary in order to fully recover the amount of the Misexpenditure.

8. Additional Settlement and Misexpenditure Provisions.

- a. CDDP shall cooperate with ODHS in the Settlement process throughout the Agreement term and with the Agreement Settlement process upon termination or expiration of the Agreement.
- b. ODHS' right to recover through Settlement and the Misexpenditure process from CDDP under this Agreement is not subject to or conditioned on CDDP's recovery of any money from any other entity.
- c. If the exercise of ODHS' right to offset under this provision requires CDDP to complete a re-budgeting process, nothing in this provision shall be construed to prevent CDDP from fully complying with its budgeting procedures and obligations, or from implementing decisions resulting from those procedures and obligations.
- d. Nothing in this provision shall be construed as a requirement or agreement by CDDP to negotiate and execute any future contract with ODHS.
- e. Nothing in this Section 8 shall be construed as a waiver by either party of any process or remedy that might otherwise be available.

9. Resolution of Disputes over Additional Funds Owed CDDP After Termination or Expiration.

If, after termination or expiration of this Agreement, CDDP believes that ODHS disbursements of funds under this Agreement for a particular DD Service are less than the amount of funds that ODHS is obligated to provide to CDDP under this Agreement for that DD Service, as determined by the Agreement Settlement, and in accordance with the applicable funding calculation methodology, CDDP shall provide ODHS with written notice thereof. ODHS shall have 90 calendar days from the effective date of CDDP's notice to pay CDDP in full or notify CDDP that it wishes to engage in a dispute resolution process. If ODHS notifies CDDP that it wishes to engage in a dispute resolution process, CDDP and ODHS' Agreement Administrator shall engage in non-binding discussion to give ODHS an opportunity to present reasons why it believes that it does not owe CDDP any additional funds or that the amount owed is different than the amount identified by CDDP in its notices, and to give CDDP the opportunity to reconsider its notice. If ODHS and CDDP reach agreement on the additional amount owed to CDDP, ODHS shall promptly pay that amount to CDDP. If ODHS and CDDP continue to disagree as to the amount owed, the parties may agree to further appropriate

dispute resolution processes, including, subject to Department of Justice and CDDP Counsel approval, binding arbitration. Nothing in this Section 9 shall preclude CDDP from raising underpayment concerns at any time prior to termination or expiration of this Agreement.

EXHIBIT C
Special Terms and Conditions

1. CDDP Authorization of Client Services.

- a. CDDP shall submit a service authorization for the DD Services CDDP is responsible to authorize that are identified in Exhibit B Part 2 Section 1 “Provision of Services” of this Agreement.
- b. CDDP shall upload all applicable documentation supporting the service authorization and rates within eXPRS. Supporting documentation does not include the ISP.
- c. CDDP shall follow current Service Element Standards and Procedures as identified in Exhibit B Part 2 of this Agreement in establishing a service authorization.
- d. CDDP shall end all applicable service authorizations within 10 business days of the date the Individual exits a DD Service or Services.
- e. CDDP shall not authorize a Provider to begin or continue delivery of Services if the Provider’s enrollment in eXPRS and any required credentials for the Service are incomplete or have lapsed.

2. ODHS Approval of CDDP Authorized Services.

- a. ODHS may randomly review CDDP authorizations and associated documentation for DD Services. If ODHS has questions or finds errors in CDDP submitted documentation, ODHS shall work with CDDP and any other lawful parties to remedy the outstanding issues.
- b. ODHS reserves the option, in its sole discretion, to require CDDP to terminate a plan or any element of a plan entered into POC upon determining that the DD Services were authorized outside of the requirements for the Service; or the plan procedure code was affected by statute, rules, or ODHS policies or procedures; or the Services were not authorized under this Agreement.

3. Appointment of CDDP Administrator.

The CDDP employee, identified by the CDDP via e-mail to ODHS as the “CDDP Administrator”, is authorized to:

- a. Amend the Service Element Prior Authorization (SEPA), on behalf of CDDP, and amend this Agreement by execution and delivery of amendments in the name of CDDP in hard copy, electronically, or, with respect to the SEPA only, through electronic acceptance of SEPA Adjustments in eXPRS.
- b. Enable, on behalf of CDDP, the disbursement of funds under this Agreement that is described in the SEPA, through submission and modification of service authorizations, either electronically through eXPRS or by submission of hard copy documents to ODHS; and to authorize Providers, to submit Disbursement

Claims on behalf of CDDP, either electronically through eXPRS or by submission of hard copy documents to ODHS.

- c.** Authorize others, including but not limited to CDDPs subcontracting with a County, to take one or more of the foregoing actions on behalf of CDDP except for authorizing amendments to this Agreement and SEPAs.

EXHIBIT D

General Terms and Conditions

1. **Operation of CDDP.** County shall operate or subcontract for the operation of a CDDP during the term of this Agreement. If County wishes to subcontract the operation of a CDDP, the Subcontract must comply with the terms of this Agreement, including but not limited to, Exhibit E, Section 21. If County subcontracts the entire CDDP duties, County will be obligated to pass all funds received for the CDDP to the Subcontractor.
2. **Usage of Funds.** County must hire as many FTEs as possible per the funding allocated within the Workload Model. County shall employ and provide training for all employees and meet the requirements documented in this Agreement, Oregon Revised Statutes, and Oregon Administrative Rules. County shall operate their CDDP within the applicable federal and state rules, regulations, and the terms of this Agreement. All funds received by the County must be used exclusively for the purposes of conducting DD Services.
3. **Reporting Requirements.**

County shall report the FTEs utilized for the Service Elements Eligibility and Licensing, Case Management including Local Match, and Abuse Investigations, if applicable, to ODHS semi-annually or when requested by ODHS. In addition to the FTEs, this report shall include how the FTE's are calculated. ODHS may prescribe the format to be used for this reporting. In addition, County shall provide the days and hours of operation of the CDDP in Attachment #1 as described in Section 5 of Exhibit B Part 1.
4. **Subcontracts.**
 - a. If County chooses to subcontract any or all CDDP Services under this Agreement County must submit a Notice of Intent to Subcontract to odds.contract@dhsosha.state.or.us for review prior to subcontracting. The notice must include, but is not limited to, the name of proposed Subcontractor, qualifications, and services to be subcontracted.
 - b. County shall not permit any person or entity to be a Subcontractor unless the person or entity holds all certificates, authorizations and other approvals as identified in the applicable Service Element Standards and Procedures and OARs.
 - c. If County subcontracts a CDDP Service, or portion thereof, from a Subcontractor, the Subcontract with County must be in writing and contain each of the provisions set forth in Exhibit G Part 1, "Required Subcontractor Provisions" in substantially the form set forth therein, in addition to any other provisions that must be included to comply with applicable law, that must be included in a Subcontract with County under the terms of this Agreement, or that are necessary to implement DD Service delivery in accordance with the applicable Service Element Standards and Procedures and any special conditions.
 - d. County shall maintain an originally executed copy of each Subcontract at its office and shall furnish a copy of any Subcontract to DHS within 90 days of the execution of this Agreement, 90 days of any Amendment to this Agreement, or

upon request. Subcontracts must be submitted to odds.contracts@dhsosha.state.or.us.

- e. In accordance with ORS § 430.670 (3), any private corporation that contracts with a county or the Department of Human Services to operate a developmental disabilities program shall provide an opportunity for competition among private care providers when awarding Subcontracts for provision of services described in ORS 430.630 (1) to (3) and 430.664.
5. **ODHS Reports.** To the extent resources are available to ODHS to prepare and deliver the information, ODHS shall, during the term of this Agreement, provide County with summary reports from data and other Individual data reported to ODHS under this Agreement.
6. **Technical Assistance.** During the term of this Agreement, ODHS shall provide technical assistance to County in the delivery of DD Services to the extent that funding is allocated to ODHS for this purpose. If the provision of technical assistance to County concerns a Provider or Subcontractor, ODHS may require, as a condition to providing the assistance, that County take all reasonably necessary action with the Provider or Subcontractor to facilitate the technical assistance.
7. **Amendments Proposed by ODHS.** Subject to Exhibit E Section 27 “Amendments; Waiver; Consent”, County shall review all pending Agreement amendments prepared and presented to County by ODHS by e-mail and act within 60 calendar days of County’s receipt of pending amendment. If County chooses to accept an amendment, County shall follow ODHS’ procedures for signing and returning the amendment to ODHS. If County chooses to reject an amendment, County must submit an e-mail detailing the reason for the rejection to County’s assigned ODHS Agreement Administrator.
8. **eXPRS Administration.**
 - a. The County’s contract number in eXPRS is 157818.
 - b. **Designation of Direct Contract Chief Security Officer.**
 - (1) The Case Management Entity Administrator may request in writing to designate to ODHS any individual(s) authorized to perform the duties of the security role, in compliance with Exhibit H Part 1 “Privacy and Security Agreement”, currently titled Direct Contract Chief Security Officer (DCCSO), or as such role may be renamed by ODHS.
 - (2) Upon approval of the request, ODHS will send the DCCSO a UserID for accessing eXPRS. If County wishes to designate a substitute DCCSO, the CME Administrator may do so by subsequent written notice to ODHS.
 - (3) The individual designated as the DCCSO is responsible to ensure that County is in compliance with the Privacy and Security Agreement requirements described in Exhibit H Part 1 of this Agreement.
 - (4) If the CME Administrator does not designate another County employee as the DCCSO, the CME Administrator will be designated as the DCCSO and will act as the DCCSO on behalf of the County.

c. Responsibilities of Direct Contract Chief Security Officer.

- (1) The DCCSO shall assign, maintain, and revoke all eXPRS user account securities for County staff.
 - (a) The DCCSO may only assign, maintain, or revoke user account securities upon receipt of the ODHS eXPRS User Enrollment Form signed by the ODHS manager.
 - (b) ODHS eXPRS User Enrollment Form must be maintained by the County.
- (2) The DCCSO shall ensure County staff are in compliance with all eXPRS policies and procedures.

d. Revocation of UserIDs and SEPA Pass Phrase by ODHS or County.

- (1) ODHS may revoke a UserID or SEPA Pass Phrase if ODHS determines that revocation is reasonably necessary for technical or security reasons.
- (2) A UserID or SEPA Pass Phrase may be revoked if ODHS or the County determines:
 - (a) The UserID or SEPA Pass Phrase was not properly issued or created or was obtained by fraud.
 - (b) The UserID or SEPA Pass Phrase has or may have been lost, disclosed, compromised, or subjected to unauthorized use.
 - (c) The County has revoked or modified the authorization of the CME Administrator.
 - (d) County is in default under this Agreement.
- (3) If ODHS revokes a UserID or SEPA Pass Phrase under this Section 8, ODHS will notify the County promptly thereafter.
- (4) ODHS may, without notice to the County, revoke all UserIDs and SEPA Pass Phrases upon termination or expiration of this Agreement.

9. Alternative Formats and Translation of Written Materials, Interpreter Services.

- a.** In connection with the delivery of Service Element services, County shall make available to Client, without charge, upon the Client's reasonable request:
- (1) All Written Materials related to the Services provided to the Individual in alternate formats.
 - (2) All Written Materials related to the Services provided to the Individual in the Individual's preferred format and or language.
 - (3) Oral interpretation services related to the Services provided to the Individual in the Individual's preferred format and or language.
 - (4) Sign language interpretation services and telephone communications access services related to the Services provided to the Individual.

- b. For purposes of the foregoing, “written materials” means materials created by County, in connection with the all Services being provided to the Individual. 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 an Individual, without charge to the Individual, in the prevalent non-English language(s), including braille, within the County’s Program Area.
- c. ODHS shall be responsible for making its forms and materials available, without charge to the Individual or County, in the prevalent non-English language(s), including braille, within the County’s Program Area. ODHS will provide translation of written materials and oral interpretation, including American Sign Language (ASL) for specific Services outlined in the expenditure guidelines.
- d. Nothing in this Agreement shall cause or require County or ODHS to act in violation of state or federal constitutions, statutes, regulations, or rules. The parties intend this limitation to apply in addition to any other limitation in this Agreement, including limitations in this Agreement.
- e. If County’s staff provides oral interpretation and or translation to Individuals, County will have policies and procedures that address identifying language proficiency of County’s staff.
- f. ODDS reserves the right to review County’s Written Materials.

10. Confidentiality of Information.

a. Client Information.

- (1) All information as to personal facts and circumstances obtained by the County on the Client (“Client Information”) shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the Client, his or her guardian, or the responsible parent when the Client is a minor child, or except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other forms which does not identify particular individuals.
- (2) The use or disclosure of Client Information shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- (3) If County, or any of its officers, directors, employees, agents, or subcontractors receives or has access to confidential Social Security Administration (SSA), or Federal Tax Information (FTI), or Criminal Justice Information Services (CJIS) records, in the performance of Work under this Agreement, County shall comply, and ensure that all of County’s officers, directors, employees, agents, and subcontractors comply, with the following provisions:

- (a) With respect to SSA records:
 - i. Provide a current list of employees and employees of any agent or subcontractor with access to SSA records;
 - ii. Adhere to the same security requirements as employees of ODHS;
 - iii. Abide by all relevant Federal laws, restrictions on access, use, disclosure, and the security requirements contained within ODHS' agreement with SSA;
 - iv. Provide its employees and agents the same security awareness training as ODHS employees; and
 - v. Include the provisions of this Section 9.a.(3)(a) in any subcontract.

- (b) With respect to Federal Tax Information (FTI), as defined in IRS Publication 1075:
 - i. County and its officers, directors, and employees with access to, or who use FTI provided by ODHS must meet the background check requirements defined in IRS Publication 1075;
 - ii. Any FTI made available to County shall be used only for the purpose of carrying out the provisions of this Agreement. County shall treat all information contained in FTI as confidential and that information shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone other than an officer or employee of the County is prohibited;
 - iii. County shall account for all FTI upon receipt and shall properly store all FTI before, during, and after processing. In addition, all FTI related output and products will be given the same level of protection as required for the source material;
 - iv. No work involving FTI furnished under this Agreement will be subcontracted without prior written approval of the IRS;
 - v. Maintain a list of employees who are authorized access to FTI. Such list will be provided to ODHS and, upon request, to the IRS reviewing office; and
 - vi. Include the provisions of this Section 9.a.(3)(b) in any subcontract.

- (c) With respect to Criminal Justice Information Services (CJIS) information, County shall:
 - i. Meet the same training and certification criteria required by governmental agencies performing a similar function, and shall be subject to the same extent of audit review as are local user agencies;
 - ii. Acknowledge, via signing of the attached CJIS Outsourcing Agreement, and abide by all aspects of the CJIS Outsourcing Standard approved by the Director of the FBI, acting for the U.S. Attorney General, as referenced in Title 28 CFR 20.33 (a)(7). Modifications to the CJIS Outsourcing Standard shall be enacted only by the FBI; and
 - iii. Include the provisions of this Section 9.a.(3)(c) in any subcontract.
- (d) Failure to abide by any of the requirements in this subsection could result in criminal or civil penalties and result in termination of this Agreement.
- (e) County may be subjected to periodic and ongoing security reviews to ensure compliance with the requirements of Section 9.a.(3).
- (4) Except as prohibited by Section 9.a.(3) above, ODHS, County and any subcontractor will share information as necessary to effectively serve ODHS Clients.

b. Non-Client Information.

- (1) Each Party acknowledges that it and any of its officers, directors, employees, and agents may, in the course of performing its responsibilities under this Agreement, be exposed to or acquire information that is confidential to the other Party. To the extent permitted by law, any and all information of any form provided to a Party or its officers, directors, employees and agents in the performance of the Agreement that reasonably could at the time of its disclosure be understood to be confidential shall be deemed to be confidential information of the originating Party (“Confidential Non-Client Information”).
- (2) Confidential Non-Client Information shall be deemed not to include information that:
 - (a) Is or becomes (other than by disclosure by the Party acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure;
 - (b) Is furnished by the originating Party to others without restrictions similar to those imposed on the receiving Party under this Agreement;

- (c) Is rightfully in the receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure by the originating Party under this Agreement;
 - (d) Is obtained from a source other than the originating Party without the obligation of confidentiality;
 - (e) Is disclosed with the written consent of the originating Party; or
 - (f) Is independently developed by the receiving Party's officers, directors, employees, and agents who can be shown to have had no access to the Confidential Non-Client Information.
- (3) Nondisclosure. The receiving Party shall hold all Confidential Non-Client Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; and shall not sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Non-Client Information to third parties; shall not use Confidential Non-Client Information for any purposes whatsoever other than as contemplated by this Agreement or reasonably related thereto; and shall advise any of its officers, directors, employees and agents that receive or have access to the Confidential Non-Client Information of their obligations to keep Confidential Non-Client Information confidential. These confidentiality obligations do not restrict disclosure of information otherwise qualifying as Confidential Non-Client Information if the receiving Party can show that either of the following conditions exists: (i) the information was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, in which case the receiving Party shall notify the originating Party of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given; or (ii) the disclosure was required to respond to a request for the information made under the Oregon Public Records Law, ORS 192.311 to 192.478. The receiving Party shall notify the originating Party of a public records request five days prior to the disclosure.
- c. Upon request and pursuant to the instructions of ODHS, County shall return or destroy all copies of Confidential Information, and County shall certify in writing the return or destruction of all Confidential Information.
 - d. "Client" means any individual, family or provider:
 - (1) For whom ODHS must provide Services and incidental or specialized Goods, in any combination thereof ("Services and Incidental Supplies"), according to state, federal law, rule, and policy. Those Services and Incidental Supplies include but are not limited to treatment, care, protection, and support without regard to the proximity of the services being provided;
 - (2) Who in fact receives and utilizes services provided by ODHS primarily for that individual's or family's benefit;

- (3) Who is under the custody, care, or both of ODHS; or
- (4) Who provides direct care or Services and is a proxy or representative of the non-provider Client.

11. Nondiscrimination.

- a. The County must provide services to ODHS Clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation, or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language, and other special needs of Clients.
- b. County certifies that County has a written policy and practice that meets the requirements described in ORS 279A.112 for preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. County agrees, as a material term of this Agreement, to maintain such policy and practice in force during the entire Agreement term.
- c. As required by ORS 279B.235, County must comply with ORS 652.220 and shall not unlawfully discriminate against any of County's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. County's compliance with this subsection constitutes a material element of this Agreement and a failure to comply constitutes a breach that entitles ODHS to terminate this Agreement for cause.
- d. County may not prohibit any of County's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. County may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

12. HIPAA Compliance. As a Business Associate of a Covered Entity, ODHS must comply with the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and ODHS must also comply with OAR 943-014-0400 through OAR 943-014-0465. County is a Business Associate of ODHS and therefore must comply with OAR 943-014-0400 through OAR 943-014-0465 and the Business Associate requirements set forth in 45 CFR 164.502 and 164.504.

County shall be liable to ODHS for any and all costs incurred by ODHS, including, but not limited to, costs of issuing any notices required by HIPAA, HITECH or any other applicable law and damages to third parties as a result of County's Breach of Unsecured Protected Health Information.

- a. **Consultation and Testing.** If County reasonably believes that the County's or ODHS' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, County shall promptly consult the ODHS Information Security Office. County or

ODHS may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the ODHS testing schedule.

- b. Data Transactions Systems.** If County intends to exchange electronic data transactions with ODHS or the Oregon Health Authority (OHA) in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, County shall execute an Electronic Data Interchange (EDI) Trading Partner Agreement and shall comply with EDI Rules set forth in OAR 943-120-0110 through 943-120-0160.

EXHIBIT E

Standard Terms and Conditions

- 1. Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this Section, neither party waives any form of defense to 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. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.

This Section shall survive expiration or termination of this Agreement.

- 2. Compliance with Law.** Both parties shall comply with laws, regulations, executive orders to which they are subject, and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of Client abuse; (c) 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 Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and ODHS, 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(2). County shall require all of its subcontractors to comply with and shall ensure that each of its subcontractors complies with, these requirements. Nothing in this Agreement shall require County or ODHS to act in violation of state or federal law or the Constitution of the State of Oregon.

This Section shall survive expiration or termination of this Agreement.

- 3. Independent Parties.**

The parties agree and acknowledge that their relationship is that of independent contracting parties and that County is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

4. Representations and Warranties.

a. County represents and warrants as follows:

- (1) **Organization and Authority.** County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
- (2) **Due Authorization.** The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery, or performance by County of this Agreement.
- (3) **Binding Obligation.** This Agreement has been duly executed and delivered by County and constitutes a legal, valid, and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession.
- (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work.
- (6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- (7) **Services.** To the extent DD Services are performed by County, the delivery of each DD Service will comply with the terms and conditions of this Agreement and meet the standards for such DD Service as set forth herein, including but not limited to, any terms, conditions, standards and requirements set forth in the Service Element Standards and Procedures.

b. ODHS represents and warrants as follows:

- (1) **Organization and Authority.** ODHS has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.

- (2) Due Authorization. The making and performance by ODHS of this Agreement (a) has been duly authorized by all necessary action by ODHS; (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency; and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which ODHS is a party or by which ODHS may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by ODHS of this Agreement, other than approval by the Department of Justice if required by law.
- (3) Binding Obligation. This Agreement has been duly executed and delivered by and constitutes a legal, valid, and binding obligation of ODHS, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. Warranties Cumulative. The warranties set forth in this Section are in addition to, and not in lieu of, any other warranties provided.
- d. This Section shall survive expiration or termination of this Agreement.

5. Funds Available and Authorized.

- a. The State of Oregon's payment obligations under this Agreement are conditioned upon ODHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than ODHS. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. ODHS represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.
- b. **Payment Method.** Payments under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County must maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all disbursements under this Agreement. County shall provide this designation and information on a form provided by ODHS. In the event that EFT information

changes or the County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, County will provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from County.

c. This Section shall survive expiration or termination of this Agreement.

6. Reserved.

7. Ownership of Intellectual Property.

a. Definitions. As used in this Section 7 and elsewhere in this Agreement, the following terms have the meanings set forth below:

(1) "County Intellectual Property" means any intellectual property owned by County and developed independently from the Work.

(2) "Third Party Intellectual Property" means any intellectual property owned by parties other than ODHS or County.

b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, ODHS will not own the right, title and interest in any intellectual property created or delivered by County or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that County owns, County grants to ODHS a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement 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 7.b.(1) on ODHS' behalf, and (3) sublicense to third parties the rights set forth in Section 7.b.(1).

c. If state or federal law requires that ODHS or County grant to the United States a license to any intellectual property, or if state or federal law requires that ODHS or the United States own the intellectual property, then County shall execute such further documents and instruments as ODHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or ODHS. To the extent that ODHS becomes the owner of any intellectual property created or delivered by County in connection with the Work, ODHS will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to County to use, copy, distribute, display, build upon and improve the intellectual property.

d. County shall include in its Subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as ODHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

e. This Section survives the expiration or termination of this Agreement.

8. County Default.

County shall be in default under this Agreement upon occurrence of any of the following events:

- a.** County fails to perform, observe, or discharge any of its covenants, agreements or obligations set forth herein;
- b.** Any representation, warranty or statement made by County herein or in any documents or reports relied upon by ODHS to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;
- c.** County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all or substantially all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect), or (8) takes any action for the purpose of effecting any of the foregoing; or
- d.** A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive calendar days, or an order for relief against County is entered in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect).

9. Reserved.

10. ODHS Default.

ODHS shall be in default under this Agreement upon the occurrence of any of the following events:

- a.** ODHS fails to perform, observe, or discharge any of its covenants, agreements, or obligations set forth herein; or
- b.** Any representation, warranty or statement made by DHS herein is untrue in any material respect when made.

11. Reserved.

12. Termination.

a. County Termination. County may terminate this Agreement:

- (1) For its convenience, upon a minimum of 90 calendar days advance written notice to ODHS for caseloads below 1,000 Individuals and 180 calendar days with caseloads 1,000 or more Individuals;
- (2) Upon a minimum of 90 calendar days advance written notice to ODHS for caseloads below 1,000 Individuals and 180 calendar days with caseloads 1,000 or more Individuals, if County does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;
- (3) Upon a minimum of 90 calendar days advance written notice to ODHS for caseloads below 1,000 Individuals and 180 calendar days with caseloads 1,000 or more Individuals, if ODHS is in default under this Agreement and such default remains uncured at the end of said period or such longer period, if any, as County may specify in the notice; or
- (4) Immediately upon written notice to ODHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

b. ODHS Termination. ODHS may terminate this Agreement:

- (1) For its convenience, upon a minimum of 90 calendar days advance written notice to County for caseloads below 1,000 Individuals and 180 calendar days with caseloads 1,000 or more Individuals;
- (2) Upon a minimum of 90 calendar days advance written notice to County for caseloads below 1,000 Individuals and 180 calendar days with caseloads of 1,000 or more Individuals, if ODHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODHS under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODHS may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces ODHS' legislative authorization for expenditure of funds to such a degree that ODHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 calendar days from the date the action is taken;

- (3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that ODHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
 - (4) Upon a minimum of 90 calendar days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said period or such longer period, if any, as ODHS may specify in the notice;
 - (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or
 - (6) Immediately upon written notice to County, if ODHS determines that County has endangered or are endangering the health or safety of a Client or others in performing work covered by this Agreement.
- c. **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.

13. Effect of Termination.

- a. Upon termination of the entire Agreement:
 - (1) ODHS shall have no further obligation to pay County under this Agreement.
 - (2) County shall have no further obligation to perform Work under this Agreement.
 - (3) County shall retain all data and records in accordance of OAR 411-320-0070.
- b. **Obligations and Liabilities.** Notwithstanding subsection (a)(2) above, any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.
- c. **Transition Services.** County shall provide original files either paper or electronic to support a responsible and secure transition of Services to another CME or ODDS.
- d. **Transition Plan.** Following a termination notice, County and ODDS will collaborate to develop a transition plan to ensure continuity of care for Individuals.

- (1) The parties will cooperate in good faith with each other in connection with their obligations under this section and will perform their obligations under the Transition Plan. If the Transition Period extends beyond the Agreement term, the provisions of this Agreement will remain in effect for the duration of the Transition Period.
- (2) County shall complete the transition of data from County to any Providers that ODDS designates while ensuring there is an uninterrupted continuity of care of Service to Individuals.

e. This Section survives the expiration or termination of this Agreement.

- 14. Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS. THIS LIMITATION OF LIABILITY IS PROVIDED TO THE EXTENT ANY RESULTING CONTINGENT REPAYMENT LIABILITY IS PERMITTED BY ARTICLE XI, SECTIONS 7 AND 10 OF THE OREGON CONSTITUTION AND THE OREGON TORT CLAIMS ACT, ORS 30.260 AND 30.300.

This Section shall survive expiration or termination of this Agreement.

- 15. Insurance.** County shall maintain, and shall require Subcontractors to maintain, insurance as set forth in Exhibit G Part 2, attached hereto. This Section shall survive expiration or termination of this Agreement.

16. Records Maintenance, Access.

- a. Client Records.** If County delivers a DD Service directly, County shall create and maintain an Individual record (“Client Record”) for each Individual who receives that DD Service, unless the Service Element Standards and Procedures precludes delivery of the DD Service on an Individual Client basis and reporting of Service commencement and termination information is not required by the Service Element Standards and Procedures. The Client Record shall contain:

- (1) Individual’s identification;
- (2) Assessments with problems;
- (3) Treatment, training, and care plan, as applicable;
- (4) Medical information when appropriate; and
- (5) Progress notes including Service termination summary and current assessment or evaluation instrument as designated by ODHS in administrative rules.

- b. Expenditure Records.** County shall document the use and expenditure of all funds paid by ODHS under this Agreement. Unless applicable federal law requires County to utilize a different accounting system, County shall create and maintain all use and expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit ODHS to verify how the funds paid by ODHS under this Agreement were used or expended.

- c. County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document County's performance.
 - d. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records."
 - e. **Access to Records and Facilities.** ODHS, the Secretary of State's Office of the State of Oregon, and the federal government and their duly authorized representatives, shall have access to all Records, paper or electronic, of County that are directly related to this Agreement, the funding provided hereunder, or any Service for the purpose of making examinations, audits, excerpts, copies and transcriptions. In addition, County shall permit authorized representatives of ODHS to perform site reviews, in person or electronically, of all Services delivered by County. Entities with electronic records must provide at minimum guest access to said records for examination by ODHS, Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives.
 - f. **Retention of Records.** County shall retain and keep accessible all Records for the longest of:
 - (1) Six years following final payment and termination of this Agreement;
 - (2) The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166;
 - (3) Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement; or
 - (4) In accordance with OAR 411-320-0070.
 - g. This Section shall survive expiration or termination of this Agreement.
- 17. Information Privacy/Security/Access.** If the Services performed under this Agreement require or allow County or, when allowed, its Provider(s) or Subcontractors, to have access to or otherwise use any ODHS' Information Asset(s) or Network and Information System(s) to which security and privacy requirements apply, and ODHS grants County or its Provider(s) or Subcontractor(s) access to such ODHS Information Asset(s) or Network and Information System(s), County shall comply and require its Provider(s) or Subcontractor(s) to which such access has been granted to comply with the terms and conditions applicable to such access or use, including OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
- 18. Force Majeure.** Neither ODHS nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, war, or other cause which is beyond the reasonable control of ODHS or County, respectively. Each party shall,

however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODHS may terminate this Agreement upon written notice to County after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.

19. Assignment of Agreement, Successors in Interest.

- a.** County shall not assign or transfer its interest in this Agreement without prior written consent of ODHS. Any assignment or transfer in violation of this Agreement shall be null and void. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by ODHS. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in this Agreement.
- b.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.

20. Resolution of Disputes. The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

This Section shall survive expiration or termination of this Agreement.

21. Subcontracts. County shall not enter into any Subcontracts for any of the Work required by this Agreement without ODHS' prior written consent. In addition to any other provisions ODHS may require, County shall include in any permitted Subcontract under this Agreement provisions to require that ODHS will receive the benefit of Subcontractor performance as if the Subcontractor were County with respect to this Agreement. ODHS' consent to any Subcontract shall not relieve County of any of its duties or obligations under this Agreement.

22. No Third Party Beneficiaries. ODHS 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 any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

This Section shall survive expiration or termination of this Agreement.

23. Severability. The parties agree that if any term or provision of this Agreement 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 Agreement did not contain the particular term or provision held to be invalid.

This Section shall survive expiration or termination of this Agreement.

24. Notice. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, e-mail, or mailing the same, postage prepaid to County or ODHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by e-mail shall be deemed received and effective five days after the date of e-mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the County, or on the next business day if transmission was outside normal business hours of the County. Notwithstanding the foregoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

ODHS: Office of Contracts & Procurement
635 Capitol Street NE, Suite 350
Salem, OR 97301
Telephone: 503-945-5818
Facsimile: 503-378-4324

County: Clackamas County
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2051 Kaen Road
P O Box 2950
Oregon City, Oregon 97045
Telephone: (503) 644-8640
Email: kcota@co.clackamas.or.us terrish@co.clackamas.or.us
kathleenras@co.clackamas.or.us brendadur@co.clackamas.or.us

This Section shall survive expiration or termination of this Agreement.

25. Headings. The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

This Section shall survive expiration or termination of this Agreement.

26. Counterparts. This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement and any amendments so executed shall constitute an original.

27. Amendments; Waiver; Consent. ODHS may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in

writing and signed by both parties and when required, approved by the Department of Justice. Such amendment, waiver, or consent 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 that party of that or any other provision.

This Section shall survive the expiration or termination of this Agreement.

28. Reserved.

29. Contribution.

- a.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third-Party Claim. Either party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third-Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third-Party Claim.
- b.** With respect to a Third Party-Claim for which the State is jointly liable with County (or would be if joined in the Third-Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- c.** With respect to a Third Party Claim for which County is jointly liable with the State (or would be if joined in the Third Party Claim), County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of County on the one hand and of the State on the other hand shall be determined by reference to,

among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

d. This Section shall survive the expiration or termination of this Agreement.

- 30. Indemnification by Subcontractors.** County shall take all reasonable steps to cause its Subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's Subcontractor or any of the officers, agents, employees or subcontractors of the Subcontractor ("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 Subcontractor from and against any and all Claims.

This Section shall survive the expiration or termination of this Agreement.

31. Stop-Work Order.

ODHS may, at any time, by written notice to County, require County to stop all, or any part of the Work required by this Agreement for a period of up to 90 calendar days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the Work affected by the stop work order notice. Within a period of 90 calendar days after issuance of the written notice, or within any extension of that period to which the parties have agreed, ODHS shall either:

- a. Cancel or modify the stop work order by a supplementary written notice; or
- b. Terminate the Work as permitted by either the Default or the Convenience provisions of Section 13 "Termination".

If the Stop Work Order is canceled, ODHS may, after receiving and evaluating a request by County, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

This Section shall survive expiration or termination of this Agreement.

32. Purchase and Disposition of Equipment.

- a. For purposes of this Section, "Equipment" means tangible, non-expendable personal property having a useful life of more than one year and a net acquisition cost of more than \$5,000 per unit. However, for purposes of information technology equipment, the monetary threshold does not apply (except as provided below for software and storage devices). Information technology equipment shall be tracked for the mandatory line categories listed below:

Network

Personal Computer

Printer/Plotter

Server

Storage devices that will contain Client information.

Storage devices that will not contain Client information when the acquisition cost is \$100 or more.

Software when the acquisition cost is \$100 or more.

- b.** For any Equipment authorized by ODHS for purchase with funds from this Agreement, ownership shall be in the name of County and County is required to accurately maintain the following Equipment inventory records:
- (1) description of the Equipment;
 - (2) serial number;
 - (3) where Equipment was purchased;
 - (4) acquisition cost and date; and
 - (5) location, use, and condition of the Equipment.
- c.** Upon termination of this Agreement, or any Service thereof, for any reason whatsoever, County shall, upon request by ODHS, immediately, or at such later date specified by ODHS, tender to ODHS any and all Equipment purchased with funds under this Agreement as ODHS may require to be returned to the State. At ODHS' direction, County may be required to deliver said Equipment to a subsequent contractor for that contractor's use in the delivery of Services formerly provided by County. Upon mutual agreement, in lieu of requiring County to tender the Equipment to ODHS or to a subsequent contractor, ODHS may require County to pay to ODHS the current value of the Equipment. Equipment value will be determined as of the date of Agreement or Service termination.
- d.** If funds from this Agreement are authorized by ODHS to be used as a portion of the purchase price of Equipment, requirements relating to title, maintenance, Equipment inventory reporting and residual value shall be negotiated, and the agreement reflected in a special condition authorizing the purchase.
- e.** Notwithstanding anything herein to the contrary, County shall comply with 45 CFR 75.352, which, generally, describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal grant funds.

EXHIBIT F

Federal Terms and Conditions

General Applicability and Compliance. Unless exempt under 45 Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, County shall comply and, as indicated, cause all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to County, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** County shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of the Work. Without limiting the generality of the foregoing, County expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (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 laws requiring reporting of ODHS Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No Federal Funds may be used to provide Work in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then County shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then County shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to ODHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. County shall include and require all subcontractors to include in all

contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this Section.

4. **Energy Efficiency.** County shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, the County certifies, to the best of the County's knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c. The County 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 Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - e. No part of any Federal Funds paid to County under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f. No part of any Federal Funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
 - 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 County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
- 6. Resource Conservation and Recovery.** County shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
- 7. Audits.**
- a. County shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
 - b. If County expends \$750,000 or more in Federal Funds (from all sources) in a federal fiscal year, County shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to ODHS within 30 days of completion. If County expends less than \$750,000 in a federal fiscal year, County is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit E, Section 16 “Records Maintenance, Access”. Audits must be submitted to odds.contracts@dhsosha.state.or.us .
- 8. Debarment and Suspension.** County shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the

General Service Administration’s “List of Parties Excluded from Federal Procurement or Nonprocurement Programs” in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension” (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

- 9. Drug-Free Workplace.** County shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace:
- a.** County certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in County's workplace or while providing services to ODHS Clients. County's notice shall specify the actions that will be taken by County against its employees for violation of such prohibitions;
 - b.** Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, County's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations;
 - c.** Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph a. above;
 - d.** Notify each employee in the statement required by paragraph a. above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
 - e.** Notify ODHS within ten calendar days after receiving notice under subparagraph d. above from an employee or otherwise receiving actual notice of such conviction;
 - f.** 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;
 - g.** Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs a. through f. above;
 - h.** Require any subcontractor to comply with subparagraphs a. through g. above;
 - i.** Neither County, or any of County's employees, officers, agents, or subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a

reasonable person to believe the County or County's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the County or County's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to ODHS 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

- j.** Violation of any provision of this subsection may result in termination of this Agreement.
- 10. Pro-Children Act.** County shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. 6081 et. seq.).
- 11. Medicaid Services.** County 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. 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. 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
 - b.** Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
 - c.** Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. 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. County shall acknowledge County's understanding that payment of the Claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e.** Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) 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, contractors 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. Agency-based Voter Registration.** If applicable, County 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.

13. Disclosures.

- a.** 42 CFR Part 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.** County shall furnish to the State Medicaid agency or to the Health and Human Services (HHS) Secretary, within 35 days of the date of the request, full and complete information about the ownership of any subcontractor with whom the County has had business transactions totaling more than \$25,000 during the previous 12 month period ending on the date of the request, and any significant business transactions between the County, and any wholly owned supplier or between the County and any subcontractor, during the five year period ending on the date of the request. See, 42 CFR 455.105.
- c.** 42 CFR Part 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.
- d.** As such, County must disclose any person with a 5% or greater direct or indirect ownership interest in the County 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 10 years.
- e.** County shall ensure its Subcontractors make the disclosures required by this Section 13 to ODHS. ODHS reserves the right to take such action required by law, or where ODHS has discretion, as it deems appropriate, based on the

information received (or the failure to receive information) from the Provider, fiscal agent, or managed care entity.

- 14. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work performed under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. The County agrees that it has been provided the following notice:
- a.** The federal funding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any Work developed under a grant, subgrant or contract under a grant or subgrant; and
 - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
 - b.** The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
 - c.** The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant.
- 15. Federal Whistleblower Protection.** County shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

EXHIBIT G PART 1
Required Subcontractor Provisions

For purposes of this Exhibit G Part 1, Subcontractor means the individual or entity that is contracting directly with County to provide CDDP Services under this Agreement.

1. County intending to subcontract the entire CDDP Operation shall engage in discussions with ODDS about its role in continuing to operate a CDDP and whether ODDS should contract directly with the vendor for operation of the CDDP. If the County intends to retain the Agreement and chooses to subcontract, the County understands that all funds allocated by the State are intended solely for the operation of a CDDP and its delivery of services.
2. County subcontracting the entire CDDP operation shall include in the Subcontract all language from Exhibit A, Exhibit B Part 1, Exhibit B Part 2, Exhibit B Part 3, Exhibit C, Exhibit D, Exhibit E, Exhibit F, Exhibit G Part 2 and Attachment #2. Amended subcontracts must be forwarded to ODDS.Contracts@dhsosha.state.or.us. All funding provided to County must be paid to Subcontractor within ten business days of receipt of payment. County may not retain any funds related to the operation of the CDDP covered under this Agreement.
3. County subcontracting a portion of the CDDP, must include in the subcontracts all language from Exhibit A, Exhibit B Part 1, Exhibit B Part 2 if applicable Service Element Standards and Procedures are listed in the Subcontract, Exhibit C, Exhibit D, Exhibit E, Exhibit F, Exhibit G Part 2, and Attachment #2. All funding provided to County for the specific CDDP Service that is subcontracted must be paid to Subcontractor within ten business days of receipt of payment. County cannot retain any funds related to the specific CDDP Service that is subcontracted.
4. County entity serving as the CDDP will be responsible for oversight of the Subcontractor.
5. Subcontractor must agree that it is an independent contractor and not an agent of the State of Oregon, ODHS, or County.

EXHIBIT G PART 2

Subcontractor Insurance Requirements

County shall require its first tier Subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance as specified under Section 1 and meeting all the requirements under Sections 2, 3, 4, 5, 6, 7, and 8 of this Exhibit G Part 2 before the Subcontractors perform under subcontracts between County and the Subcontractors, and ii) maintain the insurance in full force throughout the duration of the subcontracts. As used in this paragraph, a “first tier” Subcontractor is a contractor with whom County directly enters a Subcontract. It does not include a subcontractor with whom the Subcontractor enters a contract.

The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to ODHS. County shall not authorize Subcontractors to begin work under the subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the subcontracts permitting it to enforce Subcontractor compliance with the insurance requirements and shall 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 or terminating the subcontracts, as permitted by the subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Subcontractor to work under a Subcontract when County is aware that the Subcontractor is not in compliance with the insurance requirements.

For purposes of this Exhibit G Part 2 and the following Sections, Contractor means the individual or entity that is subcontracting directly with County for Services under this Agreement.

1. Insurance Requirements.

Contractor shall obtain at Contractor’s expense the insurance specified in this Exhibit G Part 2 prior to performing under this contract and shall maintain it in full force and at its own expense throughout the duration of this contract, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to ODHS and County. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers’ Compensation. Contractor shall pay for all deductibles, self-insured retention, and self-insurance, if any.

2. Workers’ Compensation & Employers’ Liability.

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017, and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance

coverage with limits not less than \$500,000 each accident. If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

3. Commercial General Liability Insurance.

Required **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State of Oregon. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project, or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.

4. Automobile Liability Insurance.

Required **Not required**

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

5. Professional Liability Insurance.

Required **Not required**

Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this contract by the Contractor and Contractor's subcontractors, agents, officers, or employees in an amount not less than \$2,000,000 per claim. Annual aggregate limit shall not be less than \$4,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability Insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

6. Network Security and Privacy Liability.

Required **Not required**

Contractor shall provide network security and privacy liability insurance for the duration of the contract and for the period of time in which Contractor (or its business associates or subcontractor(s)) maintains, possesses, stores or has access to ODHS or Client data, whichever is longer, with a combined single limit of no less than \$1,000,000 per claim or incident. This insurance shall include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of ODHS or Client data (which may

include, but is not limited to, Personally Identifiable Information (PII), Payment Card Data, and Protected Health Information (PHI) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of ODHS data.

7. Directors, Officers, and Organization Liability.

Required **Not required**

Directors, Officers, and Organization Insurance covering the Contractor's Organization, Directors, Officers, and Trustees actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight, including improper oversight and or use of grant funds and donor contributions which includes state or federal funds, with a combined single limit of no less than \$1,000,000 per claim.

8. Physical Abuse and Molestation Insurance Coverage.

Required **Not required**

Abuse and Molestation Insurance in a form and with coverage that are satisfactory to the State of Oregon covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, and reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not limited to Contractor and Contractor's employees and volunteers. Policy endorsement's definition of an insured shall include the Contractor, and the Contractor's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.

9. Excess/Umbrella Insurance.

A combination of primary and excess and or umbrella insurance may be used to meet the required limits of insurance.

10. Additional Insured.

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Contractor's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the

Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

11. Waiver of Subrogation.

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against ODHS or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not ODHS has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

12. Tail Coverage.

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, 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 this contract, for a minimum of 24 months following the later of (i) Contractor's completion and ODHS' acceptance of all Services required under this contract, or, (ii) ODHS' or County's termination of contract, or, iii) the expiration of all warranty periods provided under this contract.

13. Certificate(s) and Proof of Insurance.

Contractor shall provide to County Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this contract. The Certificate(s) shall list the State of Oregon, its officers, employees, and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this contract. If excess and or umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess and or umbrella insurance. As proof of insurance ODHS and County have the right to request copies of insurance policies and endorsements relating to the insurance requirements in this contract.

14. Notice of Change or Cancellation.

The Contractor or its insurer must provide at least 30 days' written notice to ODHS and County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

15. Insurance Requirement Review.

Contractor agrees to periodic review of insurance requirements by ODHS under this agreement and to provide updated requirements as mutually agreed upon by County and ODHS.

16. State Acceptance.

All insurance providers are subject to State acceptance. If requested by ODHS or County, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents, and related insurance documents to ODHS' or County's representatives responsible for verification of the insurance coverages required under this Exhibit G Part 2.

EXHIBIT H PART 1
Privacy and Security Agreement

1. **PURPOSE.** County requires the Access described in Exhibit H Part 2 “Third Party Information System Access Request” (Form MSC 0785), which is hereby incorporated into this Exhibit H Part 1 by reference, to perform the Work. The terms and conditions of this Privacy and Security Agreement govern:
 - 1.1. County’s Use of Data;
 - 1.2. County’s Access to ODHS’ Information Assets and Systems;
 - 1.3. The periodic exchange of Data between ODHS’ and County’s systems via electronic means; and
 - 1.4. The interconnection between ODHS’ and County’s respective networks and information systems.
2. **TERM.** This Privacy and Security Agreement is effective for a period coterminous with the Agreement, subject to review at least annually by ODHS, unless terminated earlier by either party in accordance with the “Suspension or Termination” section of this Privacy and Security Agreement.
3. **DEFINITIONS.** The following definitions apply to this Privacy and Security Agreement:
 - 3.1. “Access” means the ability or the means necessary to read, communicate, or otherwise use ODHS or State Data, Network and Information Systems, and Information Assets
 - 3.2. “Breach” means the acquisition, access, exposure, use, or disclosure of Data or an Information Asset in a manner not in compliance with applicable law, rule, or policy, or Data loss, misuse, or compromise.
 - 3.3. “Client Records” includes any Client, applicant, or participant information regardless of the media or source, collected by County in the course of completing the Work, provided through the Network and Information Systems to County, or otherwise exchanged between the parties.
 - 3.4. “Data” means information created, transmitted, or stored through the Network and Information Systems, including metadata, personal information, and Client Records.
 - 3.5. “Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of any Network and Information System or Information Asset. An Incident is an observable, measurable occurrence that is a deviation from expected operations or activities. An Incident may be a Breach, failure to protect a User’s identification (ID), or theft of computer equipment that uses or stores any Information Asset.

- 3.6. “Individual Access Request (IAR)” refers to the ODHS form used to authorize a User, identify the User’s job assignment, and the required access to Network and Information System(s). It generates a unique alpha/numeric code used to access the ODHS Network and Information Systems.
 - 3.7. “Information Asset(s)” refers to all information provided through ODHS, regardless of the source, which requires measures for security and privacy. Includes Data.
 - 3.8. “Network and Information System(s)” means ODHS’ and the State of Oregon’s computer infrastructure which provides personal communications; Data such as Client Records; Access to other Information Assets, regional, wide area and local networks; and the internetworking of various types of networks.
 - 3.9. “User” means any individual authorized to access Network and Information Systems and who has an been assigned a unique log-on identifier.
4. **CHANGES TO PRIVACY AND SECURITY AGREEMENT.** Other than as allowed under this section, County shall be requested to submit input to a revised “Third Party Information System Access Request” (Form MSC 0785), to request changes to Exhibit H Part 2. ODHS will review County’s request and, if approved in writing by ODHS, the parties will amend the Agreement in accordance with Exhibit E, Section 27.
- 4.1. **Point of Contact Changes.** Each party will provide notification to the other of any change of its respective point(s) of contact noted in Exhibit H Part 2, including any technical lead, and name an interim or replacement person in any such notice. Exhibit H Part 1 will be deemed amended to include the updated information.
 - 4.2. **Administrative Changes.** County may request updates to Exhibit H that are administrative in nature and do not modify the mode of Access or type of data by submitting a written request to ODHS. Upon written acceptance by ODHS, Exhibit H will be deemed amended to include the updated information.
5. **NOTIFICATIONS.**
- 5.1. **Points of Contact.** The parties have designated their respective technical leads in Exhibit H Part 2. The parties will facilitate direct contacts between technical leads. The parties will provide notification to the other of any changes in technical point of contact information.
 - 5.2. **Breach Notification.** In the event County or its Subcontractors or agents discover or are notified of an Incident or a Breach, including a failure to comply with County’s confidentiality obligations under the Agreement, County shall immediately notify ODHS’ Program Sponsor identified in Section 4 of Exhibit H Part 2 (or delegate) of the Incident or Breach. If ODHS determines that an Incident or Breach requires notification of ODHS Clients, or other notification required by law, ODHS will have sole control over the notification content, timing, and method, subject to County’s obligations under applicable law.

- 5.3. **Requests for Data.** In the event County receives a third-party request for Data, including any electronic discovery, litigation hold, or discovery searches, County shall first give ODHS notice and provide such information as may be reasonably necessary to enable ODHS to protect its interests.
- 5.4. **Changes in Law.** Each party will provide notice to the other of any change in law, or any other legal development, which may significantly affect its ability to perform its obligations.
6. **GRANT OF LICENSE.** Subject to County’s compliance with the Agreement, County is hereby granted a non-exclusive, non-transferable, and revocable authorization to Access and use Information Assets only in accordance with this Privacy and Security Agreement and applicable laws, rules, and policies. County and its employees, contractors, and agents shall not manipulate any URL or modify, publish, transmit, reverse engineer, participate in any unauthorized transfer or sale of, create derivative works of, or in any way exploit the content or software comprising this Access, or Information Assets made available through this Access.
7. **DATA PRIVACY.** In addition to County’s obligations under Exhibit D “General Terms and Conditions”, Section 9 regarding Confidentiality of Information:
- 7.1. **Generally.** County shall hold all Client Records, and other information as to personal facts and circumstances obtained by County on ODHS Clients, as confidential, using the highest standard of care applicable to the Client Records, and shall not divulge any Client Records without the written consent of the Client, the Client’s attorney, the responsible parent of a minor child, or the minor child’s guardian except as required by other terms of this Privacy and Security Agreement or applicable law.
- 7.2. **Limited Purposes.** County shall limit the use or disclosure of Data concerning Clients to persons directly connected with the administration of this Privacy and Security Agreement or the Agreement. Confidentiality policies apply to all requests from outside sources.
- 7.3. **Privacy Protections.** Data may include information, such as Client Records, subject to specified confidentiality protections under state or federal law. County shall comply with laws, regulations, and policies applicable to the information described in Exhibit H Part 2, including as specified in the Agreement.
- 7.4. **Training.** County’s employees, subcontractors, and agents who will Access Data have received training on the privacy and security obligations relating to the Data, including Client Records. County shall provide periodic privacy and security training to its employees, subcontractors, and agents.
8. **SECURITY REQUIREMENTS.**
- 8.1. **Compliance with Laws, Regulations, and Policies.** County and its employees, contractors, and agents shall comply with all applicable state and federal laws and regulations, and State of Oregon policies governing use and disclosure of Data (including Client Records) and Access to Information Assets, including as those laws, regulations, and policies may be updated from time to time. Applicable laws, regulations, and policies include but are not limited to:

- 8.1.1. ODHS and OHA Information Security and Privacy Policies:
<https://www.oregon.gov/oha/FOD/OIS-ISPO/Pages/Policies.aspx>
- 8.1.2. ODHS and OHA Privacy and Confidentiality administrative rules, OAR Chapter 407, Division 14, and OAR Chapter 943, Division 14.
- 8.1.3. The Health Insurance Portability and Accountability Act (HIPAA), including as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”), and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164. County shall comply with HIPAA Compliance included in the Agreement in Exhibit D “General Terms and Conditions”, Section 12 in connection with County’s Access.
- 8.1.4. The Oregon Consumer Identity Theft Protection Act, ORS 646A.600 through 646A.628, to the extent applicable.
- 8.1.5. Oregon’s Statewide Information Security Standards:
<https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf>
- 8.2. **Responsible for Compliance.** County is responsible for the compliance of its employees, agents, and subcontractors with this Privacy and Security Agreement and with any third-party licenses to which Access is subject.
- 8.3. **Privacy and Security Measures.** County represents and warrants it has established and will maintain privacy and security measures that meet or exceed the standards set in laws, rules, and regulations applicable to the safeguarding, security and privacy of Data, including Client Records, all Information Assets, regardless of the media, and all Network and Information Systems. County shall monitor, periodically assess, and update its security controls and risk to ensure continued effectiveness of those controls.
- 8.4. **Security Risk Management Plan.** County shall ensure the level of security and privacy protection required in accordance with this Privacy and Security Agreement is documented in a security risk management plan. County shall make its security risk management plan available to ODHS for review upon request.
- 8.5. **Audit Rights and Access.** County shall maintain records in such a manner as to clearly document its compliance with and performance under this Privacy and Security Agreement, and provide ODHS, the Oregon Secretary of State, the federal government, and their duly authorized representatives access to County’s officers, agents, contractors, subcontractors, employees, facilities and records for ODHS to:
 - 8.5.1. Determine County’s compliance with this Privacy and Security Agreement,
 - 8.5.2. Validate County’s written security risk management plan, or

- 8.5.3. Gather or verify any additional information ODHS may require to meet any state or federal laws, rules, or orders regarding Information Assets.
- 8.5.4. Access to facilities, systems, and records under this section will be granted following reasonable notice to County. Records include paper or electronic form, system security logs, and related system components and tools (including hardware and software), required to perform examinations and audits, and to make excerpts and transcripts, including for data forensics.

9. ACCESS TO ODHS SYSTEMS.

- 9.1. **ODHS Review of User Requests.** If required for Access, ODHS will review requests, including forms such as the IAR, and will:
 - 9.1.1. Notify County of the approval or denial of its request for each User for whom Access has been requested;
 - 9.1.2. Provide any unique log-on identifier required for authorized Access;
 - 9.1.3. Provide updates to approved inquiry processes and instructions to County.
- 9.2. **County's Responsibilities for User Accounts.** County shall facilitate completion of any forms (such as the IAR) for each person for whom Access is requested.
 - 9.2.1. County is responsible for all activities that occur through its Access, including for any acts related to a lost or stolen User ID or password.
 - 9.2.2. County is responsible for ensuring information provided by its Users is accurate, complete, and up to date.
 - 9.2.3. County shall immediately notify ODHS when a User, group of Users, or County, no longer requires Access whether due to changes in duties or due to changes in County's programs related to the Agreement.
- 9.3. **Security and Disposal.** County shall maintain security of equipment, and ensure the proper handling, storage and disposal of all Information Assets accessed, obtained, or reproduced by County and its Users to prevent inadvertent destruction or loss. County shall ensure proper disposal of equipment and Information Assets when authorized use ends, consistent with County's record retention obligations and obligations regarding Information Assets under the Agreement.
- 9.4. **Prevention of Unauthorized Access.** County shall prevent any Access to State of Oregon Network and Information Systems by its Users that is not authorized in accordance with the Agreement and applicable law and shall implement and maintain safeguards to prevent unauthorized access.
- 9.5. **Access from Outside the US and its Territories.** County Access to the state network from outside the US and its territories is prohibited unless approved by the ODHS|OHA Chief Information Risk Officer (CIRO). If approved, the County shall provide ODHS|OHA with the IP addresses, or IP address range, to be used to Access the network. Any changes to the provided IP addresses, or IP range, shall be immediately communicated to ODHS|OHA or Access could be affected.

- 9.5.1. County shall not allow use of any Information Asset in any country or territory in any manner prohibited by governing applicable law, rule, or policy.
- 9.6. **Authorized Access and Use Only.** No User may Access or use Data for any purpose other than those specifically authorized through the Agreement.
 - 9.6.1. Users shall not use Access to obtain or attempt to obtain any Data or Information Assets not authorized or intentionally made available.
 - 9.6.2. The use and disclosure of any Information Asset is strictly limited to the minimum information necessary to the exchange of Data between the parties described in Exhibit H Part 2.
 - 9.6.3. Except as otherwise specified or approved by ODHS, neither County nor its Users may modify, alter, delete, or destroy any Information Asset.
- 9.7. **Revocation or Termination of Access.** Breach, or wrongful use or disclosure of Information Assets by County or its Users, may cause the immediate revocation of the Access granted through this Privacy and Security Agreement, in the sole discretion of ODHS, or ODHS may specify a reasonable opportunity for County to cure the unauthorized use or disclosure and end the violation, and terminate the Access if County does not do so within the time specified by ODHS. Legal actions also may be taken for violations of applicable regulations and laws.
- 9.8. **No Unauthorized Distribution.** County shall not sell, make available, or provide Information Assets in any form to any other persons or organizations, and shall not use the Information Assets for any purposes other than as allowed under the Agreement and applicable law.
- 9.9. **No Impairment.** County shall not use this Access in any manner which could damage, disable, overburden, or impair Network and Information Systems or interfere with any other entity's use or benefit of Network and Information Systems.
- 9.10. **Prohibition on Data Mining.** County shall not capture, maintain, scan, index, share or use Data stored or transmitted by virtue of this interconnection, or otherwise use any data-mining technology, for any non-authorized activity. For purposes of this requirement, "non-authorized activity" means the data mining or processing of data, stored or transmitted through the Network and Information Systems, for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security analysis that is not explicitly authorized in this Privacy and Security Agreement.
- 9.11. **Incidents and Breaches.** County shall comply, and shall cause its subcontractors to comply, with any requirements for identifying and addressing an Incident or Breach. This requirement applies regardless of whether the Incident or Breach was accidental or otherwise.

10. **SUSPENSION OR TERMINATION.**

- 10.1. This Privacy and Security Agreement may be terminated at any time by written agreement of the parties.

- 10.2. This Privacy and Security Agreement may be terminated by either party upon thirty (30) calendar days' written notice to the other party.
 - 10.3. Access and this Privacy and Security Agreement may be terminated immediately upon written notice from County if Access is no longer needed by County.
 - 10.4. ODHS may immediately revoke the Access granted County for County's failure to comply with the requirements of this Privacy and Security Agreement. In such event, ODHS will provide subsequent written notice to County's point of contact. ODHS may, to the extent it determines it is reasonable and able to do so, provide advance notice to County to cure any deficiency or breach of this Privacy and Security Agreement.
 - 10.5. Either party may terminate this Privacy and Security Agreement, and ODHS may modify Access, upon written notice if there are changes to or revised interpretations of federal or state laws, rules, or regulations, or if either party has changes in policies that require such action.
- 11. RETURN OF INFORMATION ASSETS.** Upon expiration or termination of the Agreement or this Privacy and Security Agreement for any reason whatsoever, County shall immediately deliver to ODHS all of ODHS' Information Assets, including Data and Client Records, that are in the possession or under the control of County in whatever stage and form of recordation such property is expressed or embodied at that time.
- 11.1. Except as necessary to meet obligations under Exhibit E "Standard Terms and Conditions", Section 16 "Records Maintenance, Access", County shall not retain any copies of Information Assets. County shall notify ODHS of any conditions that make returning all ODHS Information Assets not feasible. Upon ODHS' written acknowledgement that returning all Information Assets is not feasible, County shall purge or destroy retained Data in all its forms in accordance with the most current version of NIST SP 800-88 (or other agreed-upon standard) and on request provide ODHS with written certification of sanitization.
 - 11.2. County shall maintain protections required by law or the Agreement for any retained State of Oregon Information Asset for so long as County (including through any subcontractor) retains it.
- 12. INDEMNIFICATION AND INSURANCE.** Indemnification and insurance coverages provided by County under the Agreement apply to this Privacy and Security Agreement.
- 13. COSTS.** Each party will bear its own costs related to the acquisition of all equipment, software, data lines or connections necessary for Access, unless otherwise agreed to by written agreement between the parties. Each party is responsible for securing compatible hardware, equipment, and software, and network connections. Each party is responsible for complying with the licenses for third party products, including software and services that allow Access.
- 14. SURVIVAL.** Access and rights to use Information Assets ceases upon termination of this Privacy and Security Agreement. Rights and obligations which expressly or by their nature survive termination do so survive, and include this section, provisions regarding warranties and liabilities, indemnification, and confidentiality and non-disclosure.

15. **INTERPRETATION.** Any ambiguity in this Privacy and Security Agreement will be resolved to permit ODHS to comply with applicable privacy and security laws and State of Oregon and ODHS policies interpreting those laws.
16. **SUBCONTRACTORS.** County shall ensure all Subcontractors providing services related to this Privacy and Security Agreement are held to the same requirements as County.

EXHIBIT H PART 2



SHARED SERVICES
Information Security and Privacy Office



Third Party Information System Access Request

Reset form

An DHS or OHA program completes this form to request access for a **third-party entity*** (*organization or individual*) to data within an DHS or OHA information system or network.

*Please note that each entity only needs one form.

🔍 Hover over **blue** text for more information.

| | |
|---|--------------------------|
| Request type (<i>required</i>): New request (ISPO will add agreement number) | Agreement number: TBD |
|---|--------------------------|

Section 1. Third party information

This section defines the third party needing access to DHS/OHA network and information system(s). A third party is any individual or entity that is not part of the DHS/OHA workforce. Workforce means employees, volunteers, trainees and other individuals whose DHS or OHA work is under that agency's direct control. This applies to paid and unpaid workforce members.

Third-party agreement administrator contact information

This individual signs the contracts for the third party. (This is NOT a DHS/OHA employee.)

| | |
|---|---|
| Organization/entity name: Clackamas County | |
| Contact name (<i>first, last</i>): | Kim Cota |
| Position/title: | Unsure |
| Work street address: | 2051 Kaen Rd / PO Box 2950 |
| City, State, ZIP: | Oregon City / OR / 97045 |
| Phone: | 503-644-8640 |
| Email: | kcota@co.clackamas.or.us / terrisch@co.clackamas.or.us / KathleenRas@co |
| Website address (<i>optional</i>): | |

Additional contact for third party

This individual will be the contact for setting up or terminating users for the third party. (This is not a DHS/OHA employee.)

Same contact information as above.

Section 2. Governing contract details

A DHS/OHA employee fills out this section. If a **governing contract** applies, please complete all applicable fields, below.

Does a governing contract establish a need for access? Yes No

| Governing contract type | Contract number | Expiration date: |
|-------------------------|-----------------|------------------|
| Contract: | 169179-0 | 06/30/2023 |
| Data use agreement: | | |

Agreement #: TBD Org name: Clackamas County

Page 1 of 4 MSC 0785 (7/2018)

EXHIBIT H PART 2

| | | |
|---------------------------------|--|--|
| Memorandum of understanding: | | |
| Other contract (if applicable): | | |

Background checks

Please ensure all applicable required background checks are completed. DHS and OHA systems containing or accessing regulated data may require additional background check requirements beyond the pre-employment background checks. Regulated data sets requiring additional background checks include but are not limited to:

- Criminal Justice Information (CJI) in the Criminal Justice Information Services (CJIS) policy, 5.12.1 Personnel Security Policy and Procedures
- Federal tax information (FTI) as documented in Internal Revenue Service (IRS) Publication 1075, 5.1.1 Background Investigation Minimum Requirements.

Direct questions related to the background check process to BCU.Info@state.or.us or 503-378-5470 or 1-888-272-5545.

Section 3. Access description

Reason for access

Describe in detail the [business need](#) for access:

3rd party needs to access CAM to provide information regarding serious incidents as a part of case management of I/DD clients as well as adult protective services that are required by each CDDP.

Requested access start date: 07/01/2021

Method of access

Check all methods the third party will use to access DHS/OHA information systems.

- DHS/OHA on-site Will only use DHS/OHA supplied PC, laptop or workstation: Yes No
- Remote access via [VPN](#) Will only use DHS/OHA supplied PC, laptop or workstation: Yes No
- Remote access via [Citrix](#)
- Access to folder on [Secure File Transfer Protocol \(SFTP\) server](#)
- Other (explain below): Will only use DHS/OHA supplied PC, laptop or workstation: Yes No

continued 3rd party access to CAM and other ODDS systems needed to fulfill contract requirements.

Access and information flow will occur from:

DHS/OHA to third party (i.e., third party has access to DHS/OHA's information assets and systems)

Scope of access

List all system names the third party needs to access. (This form authorizes access for the third-party organization as a whole. A partner number [P#] and a network login are needed to access the following information systems. The system-specific [individual user access request forms](#) must be used to request access for individual third-party employees using the system.)

- Email:** DHS/OHA email account authorized. This authorizes the third party to get DHS/OHA email accounts after receiving a completed individual user access request form for each individual.
- Network:** Network login authorized. This authorizes the third party to get DHS/OHA network login IDs after receiving a completed individual user access request form for each individual.

EXHIBIT H PART 2

| | |
|---|---|
| System 1 | |
| Name of system: CAM | |
| Type of access requested: Read/write (please describe): <input type="checkbox"/> | |
| Description of access: CMEs will have access to either the APS module or the SI module of CAM or both. These will be determined by using role based security within CAM. | |
| Expiration date of access: 06/30/2023 | |
| Information type | |
| Will information being shared or accessed be identifiable (<i>i.e., names, DOB, address, etc.</i>)? <input checked="" type="radio"/> Yes <input type="radio"/> No | |
| If yes, what protected information will be shared or accessed? (<i>Check all that apply.</i>) | |
| <input checked="" type="checkbox"/> Protected health information (PHI) | <input checked="" type="checkbox"/> Personally identifiable information (PII) |
| <input checked="" type="checkbox"/> Financial information | <input type="checkbox"/> Federal tax information (FTI) |
| <input checked="" type="checkbox"/> Criminal justice information (CJI) | <input type="checkbox"/> Payment card information (PCI) |
| <input type="checkbox"/> Social Security Administration (SSA data) | |
| <input type="checkbox"/> Other (<i>list below</i>): | |
| Information owner review (<i>internal use only</i>) | |
| Name of reviewer: | Review date: |
| Access determination: | |
| Role or group assigned (<i>if applicable</i>): | |
| Access is: Choose one <input type="checkbox"/> | |
| Reason for determination: | |
| Add another system | |
| Remove this system (<i>above</i>) | |

Check all methods the third party will use to access DHS/OHA information systems.

Section 4. Program sponsor

The **program sponsor** is the DHS or OHA manager who sponsors the requested access. That person must monitor and ensure the third party complies with the terms and conditions of the access agreement. (*Note that the program sponsor is usually the contract administrator of the governing contract authorizing the access.*)

| | |
|--|------------------------|
| Verification of need to know: | |
| <input checked="" type="checkbox"/> As program sponsor, I certify that sections 1 through 3 of this form note the minimum necessary access. Date: <u>02/10/2021</u> | |
| Name (<i>first, last</i>): | Lea Ann Stutheit |
| Position/title: | COO |
| Office: | DHS |
| Program: | ODDS |
| District name: | N/A |
| Work street address: | 500 Summer St NE, E-09 |

EXHIBIT H PART 2

| | |
|--------------------------------|------------------------------------|
| City, State, ZIP: | Salem, OR 97301 |
| Phone (<i>include ext.</i>): | 503-945-6675 |
| Email: | leaann.stutheit@dhsoha.state.or.us |

Section 5. Program requestor

The [program requestor](#) is the DHS or OHA staff person who works with the third party on a day-to-day basis. That person requests the access agreement for the third party. The requestor can be the same person as the program sponsor or contract administrator. However, a program can list separate requestors/contract administrators. This will ensure all relevant parties receive contract communication and expiration notices.

Check this box and skip this section if the program requestor is also the program sponsor.

Submission

Click the submit button below to submit electronically, or email this completed form to the Information Exchange (InfoEx) Program within the Information Security and Privacy Office at DHSOHA.InfoEx@dhsoha.state.or.us. You can also email this address if you need more help.

Policy reference: <https://apps.state.or.us/Forms/Served/de090-003.pdf>

Submit by email

DHS/OHA Information Security and Privacy Office use only

| | |
|--|-----------------|
| Date received: | Date completed: |
| Date approved by all information owners: | Date executed: |
| Notes: | |
| Completed by: | |

ATTACHMENT #1
Days and Hours of Operation

During the Agreement period stated on page 2, the CDDP will maintain the following days and hours of operation:

Days of Operation: _____ through _____

Hours of Operation: _____ until _____

Hours of Operation begin when the majority of CDDP staff are expected to be in the office or at their remote workstations and end when the majority of CDDP staff are expected to leave the office or their remote workstations.

Submitted by: _____

Date completed: _____

ATTACHMENT #2
Subcontractor Disclosures Report

CDDP Name: _____

As described in Section 13 “Disclosures” of Exhibit F “Federal Terms and Conditions”, CDDP reports the following:

Number of board members: _____

Number of directors: _____

Number of indirect owners with five percent or more ownership: _____

Number of direct owners with five percent or more ownership: _____

| | | | |
|--|--------|--------------------------|------|
| Name: | Title: | Percentage of Ownership: | |
| Residence Street Address: | City: | State: | Zip: |
| SSI or EIN: | DOB: | | |
| Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No | | | |
| If yes, please list all Provider names and numbers: | | | |
| Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person’s involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories: | | | |

| | | | |
|--|--------|--------------------------|------|
| Name: | Title: | Percentage of Ownership: | |
| Residence Street Address: | City: | State: | Zip: |
| SSI or EIN: | DOB: | | |
| Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No | | | |
| If yes, please list all Provider names and numbers: | | | |
| Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person’s involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories: | | | |

| | | | |
|--|--------|--------------------------|------|
| Name: | Title: | Percentage of Ownership: | |
| Residence Street Address: | City: | State: | Zip: |
| SSI or EIN: | DOB: | | |
| Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No | | | |
| If yes, please list all Provider names and numbers: | | | |
| Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories: | | | |

| | | | |
|--|--------|--------------------------|------|
| Name: | Title: | Percentage of Ownership: | |
| Residence Street Address: | City: | State: | Zip: |
| SSI or EIN: | DOB: | | |
| Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No | | | |
| If yes, please list all Provider names and numbers: | | | |
| Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories: | | | |

| | | | |
|--|--------|--------------------------|------|
| Name: | Title: | Percentage of Ownership: | |
| Residence Street Address: | City: | State: | Zip: |
| SSI or EIN: | DOB: | | |
| Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No | | | |
| If yes, please list all Provider names and numbers: | | | |
| Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories: | | | |

| | | | | |
|--|--------|-------|--------------------------|------|
| Name: | Title: | | Percentage of Ownership: | |
| Residence Street Address: | | City: | State: | Zip: |
| SSI or EIN: | | DOB: | | |
| Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No | | | | |
| If yes, please list all Provider names and numbers: | | | | |
| Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories: | | | | |

| | | | | |
|--|--------|-------|--------------------------|------|
| Name: | Title: | | Percentage of Ownership: | |
| Residence Street Address: | | City: | State: | Zip: |
| SSI or EIN: | | DOB: | | |
| Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No | | | | |
| If yes, please list all Provider names and numbers: | | | | |
| Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories: | | | | |

| | | | | |
|--|--------|-------|--------------------------|------|
| Name: | Title: | | Percentage of Ownership: | |
| Residence Street Address: | | City: | State: | Zip: |
| SSI or EIN: | | DOB: | | |
| Do you have any other ODHS Provider numbers: (e.g. Personal Support Worker, Provider Agency Foster Home Provider): Yes No | | | | |
| If yes, please list all Provider names and numbers: | | | | |
| Check if this person has ever been convicted of a criminal offense or has been suspended or debarred from participation related to that person's involvement in any program under Medicare, Medicaid or the Title XIX service program since the inception of those programs in the United States or its territories: | | | | |

If there are more individuals that need to be reported, please add additional pages.

September 16, 2021

Board of County of Commissioners
Clackamas County

Members of the Board:

Approval of Amendment #1 to the Subrecipient Agreement with
Clackamas Women's Services (CWS)

| | |
|--|--|
| Purpose/ Outcome | The special Emergency Solutions Grant COVID (ESG CV2) program, as authorized by the Coronavirus Aid, Relief, and Economic Securities Act (CARE Act). Special funding is to be used as a direct response to the COVID pandemic and its impacts on individuals and families. |
| Dollar Amount and Fiscal Impact | Emergency Solutions Grant (ESG CV2) funds budget increase of \$150,000 for a new total of \$452,500 as a grant. |
| Funding Source | U.S. Department of Housing and Urban Development ESG CARES Act funds No County General Funds are included in this Agreement |
| Duration | July 1, 2021 to December 31, 2021 |
| Previous Board Action/ Review | Previous Board Action on February 9, 2021 A3. |
| Strategic Plan Alignment | Increase self-sufficiency for our clients. Ensure safe, healthy and secure communities. |
| County Review | The Subrecipient Agreement was reviewed and approved by County Counsel AN on July 29, 2021. |
| Procurement Review | 1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Item is a Subrecipient Agreement that was processed through Finance Grant Management |
| Contact Person | Mark Sirois, Manager - Community Development: 503-655-8359 |
| Contract No. | Subrecipient Agreement 21-019.A1 (H3S #10032_01) |

BACKGROUND: The Community Development Division of the Health, Housing and Human Services Department requests the approval of Amendment #1 to the Subrecipient Agreement with Clackamas Women's Services (CWS) for homeless shelter services and rent assistance to prevent, prepare for, and respond to the coronavirus pandemic (COVID 19) in Clackamas County. In October of 2020 CWS applied for special Emergency Solutions Grant (ESG CV2) funding to provide eligible operating and shelter services and Rapid Rehousing assistance as needed.

PROJECT OVERVIEW: CWS will provide staffing, operation, food, rent assistance and transportation services as requested for the purpose of providing homeless shelter services to individuals and families to prevent exposure and to mitigate the impacts of COVID-19.

It is expected that the funding under this ESG CV2 agreement will assist approximately 60 homeless families with shelter services and Rapid Rehousing during the program year. With this amendment, CWS has added approximately 10 more clients to their existing caseload to ensure active participants in the Rapid Rehousing program can successfully transition from hotel room shelter beds to apartments.

Healthy Families. Strong Communities.

RECOMMENDATION: We recommend the approval of this amendment to the Subrecipient Agreement.

Respectfully submitted,

A handwritten signature in black ink that reads "Mary A. Benbow". The signature is written in a cursive style.

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

Contract Amendment
Health, Housing and Human Services Department

H3S Contract Number 21-019 Board Agenda Number _____
and Date 7/22/2021

Division Community Development Amendment No. 1

Contractor Clackamas Women's Services

Amendment Requested By Amy Counsil & Mark Sirois

Changes: Scope of Services Contract Budget
 Contract Time Other _____

Justification for Amendment:

This Amendment #1 updates the budget with additional funding. Clackamas Women's Services has taken on some of the clients from Greater Good Northwest when that agreement was terminated on June 14, 2021. The additional funding is transferring from the terminated contract. These services are needed as a direct response to COVID and it is necessary to increase their budget in order to continue to provide services and expend all funding in the budget. The funding is by reimbursement through ESG COVID CARES Act grant.

This Amendment #1 increases the contract amount by \$150,000 for a new total of \$452,500.

This Amendment #1 is effective **upon signature** and continues through **December 31, 2021**.

Except as amended hereby, all other terms and conditions of the Agreement remain in full force and effect. Changes are identified with "***bold/italic***" font for easy reference.

AMEND:

- 1. Term and Effective Date.** This Agreement becomes effective on execution. Eligible expenses for this Agreement may be charged during the period beginning December 1, 2020 and expiring November 30, 2021, a total of twelve (12) months.

TO READ:

- 1. Term and Effective Date.** This Agreement becomes effective on execution. Eligible expenses for this Agreement may be charged during the period beginning December 1, 2020 and expiring ***December 31, 2021***, a total of twelve (12) months.

AMEND:

- 4. Grant Funds.** COUNTY's funding for this Agreement is the Emergency Solutions Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 14.231) issued to COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification # E20-UW-41-0001). The maximum, not to exceed, grant amount COUNTY will pay is \$302,500. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.

TO READ:

4. Grant Funds. COUNTY's funding for this Agreement is the Emergency Solutions Grant (Catalogue of Federal Domestic Assistance [CFDA] #: 14.231) issued to COUNTY by the U.S. Department of Housing and Urban Development, Office of Community Planning and Development (Federal Award Identification # E20-UW-41-0001). The maximum, not to exceed, grant amount COUNTY will pay is \$452,500. This is a cost reimbursement grant and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Reimbursement Request. Failure to comply with the terms of this Agreement may result in withholding of payment.

REPLACE:

EXHIBIT B
 SUBRECIPIENT PROGRAM BUDGET

- A. The total compensation under this contract shall not exceed \$ 302,500 with payments to be made as outlined in the body of the contract.
- B. Adjustments to the budget may only be made with the approval of both Parties.

Shelters

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|--|---------------------|------------------|--|
| Shelter Staffing Costs | \$430,000 | \$0 | Family Violence Prevention Services Act, Department of Housing and Urban Development (ESG), Oregon Housing Authority-Clackamas County- EHA and SHAP, Department of Human Services MLT, Department of Justice Crime Victim Services Division, H3S_Shelter and Crisis Services |
| Shelter utilities, repair, maintenance, communications | \$80,000 | \$0 | H3S_Shelter and Crisis Services, Department of Justice Crime Victim Services Division, Private Donations |
| Program Costs (i.e. food, support group supplies, interpretation services, etc.) | \$30,000 | \$0 | H3S_Shelter and Crisis Services, Department of Justice Crime Victim Services Division, Private Donations |
| Shelter supplies | \$20,000 | \$0 | H3S_Shelter and Crisis Services, Department of Justice Crime Victim Services Division, Private Donations |

| | | | |
|---------------------------------------|--------------------|------------------|--|
| Provision of emergency shelter- hotel | \$500,000 | \$100,000 | ESG, Department of Justice CRF, Private Donations, EHA and SHAP, Clackamas County Affordable Housing Services Fund |
| Transportation | \$3,000 | \$0 | H3S_Shelter and Crisis Services, Department of Justice Crime Victim Services Division, Private Donations |
| Administration (10% allowable) | \$106,300 | \$10,000 | |
| | | | |
| Total Expenses | \$1,169,300 | | |
| | | | |
| Shelters Total ESG CV2: | | \$110,000 | |

Rapid Rehousing

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|--------------------------------|----------------------------|-------------------------|--|
| RRH Staffing Costs | \$286,00 | \$20,000 | Family Violence Prevention Services Act, Department of Housing and Urban Development (ESG), Oregon Housing Authority-Clackamas County- EHA and SHAP, Department of Human Services MLT, Department of Justice Crime Victim Services Division, H3S_Shelter and Crisis Services |
| Program supplies, phones | \$10,000 | | |
| Transportation | \$3,000 | \$0 | Department of Justice Crime Victim Services Division, Private Donations |
| Rent Assistance | \$800,000 | \$155,000 | Department of Justice Office on Violence Against Women, Department of Housing and Urban Development, Department of Justice Crime Victim Services Division, Oregon Housing Authority EHA |
| | | | |
| Administration (10% allowable) | \$109,900 | \$17,500 | |
| | | | |
| Total Expenses | \$1,208,900 | | |
| | | | |
| Total ESG CV2: | | \$192,500 | |

WITH:

**EXHIBIT B
 SUBRECIPIENT PROGRAM BUDGET**

- A. The total compensation under this contract shall not exceed \$ 452,500 with payments to be made as outlined in the body of the contract.
- B. Adjustments to the budget may only be made with the approval of both Parties.

Shelters

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|--|---------------------|------------------|--|
| Shelter Staffing Costs | \$430,000 | \$0 | Family Violence Prevention Services Act, Department of Housing and Urban Development (ESG), Oregon Housing Authority-Clackamas County- EHA and SHAP, Department of Human Services MLT, Department of Justice Crime Victim Services Division, H3S_Shelter and Crisis Services |
| Shelter utilities, repair, maintenance, communications | \$80,000 | \$0 | H3S_Shelter and Crisis Services, Department of Justice Crime Victim Services Division, Private Donations |
| Program Costs (i.e. food, support group supplies, interpretation services, etc.) | \$30,000 | \$0 | H3S_Shelter and Crisis Services, Department of Justice Crime Victim Services Division, Private Donations |
| Shelter supplies | \$20,000 | \$0 | H3S_Shelter and Crisis Services, Department of Justice Crime Victim Services Division, Private Donations |
| Provision of emergency shelter- hotel | \$500,000 | \$100,000 | ESG, Department of Justice CRF, Private Donations, EHA and SHAP, Clackamas County Affordable Housing Services Fund |
| Transportation | \$3,000 | \$0 | H3S_Shelter and Crisis Services, Department of Justice Crime Victim Services Division, Private Donations |
| Administration (10% allowable) | \$106,300 | \$10,000 | |
| | | | |


| | | | |
|-------------------------|-------------|-----------|--|
| Total Expenses | \$1,169,300 | | |
| | | | |
| Shelters Total ESG CV2: | | \$110,000 | |

Rapid Rehousing

| Program Costs | Total Budget Amount | Total ESG Amount | Source of Funds |
|--------------------------------|----------------------------|-------------------------|--|
| RRH Staffing Costs | \$388,500 | \$53,250 | Family Violence Prevention Services Act, Department of Housing and Urban Development (ESG), Oregon Housing Authority-Clackamas County- EHA and SHAP, Department of Human Services MLT, Department of Justice Crime Victim Services Division, H3S_Shelter and Crisis Services |
| Program supplies, phones | \$10,000 | | |
| Transportation | \$3,000 | \$0 | Department of Justice Crime Victim Services Division, Private Donations |
| Rent Assistance | \$900,000 | \$255,000 | Department of Justice Office on Violence Against Women, Department of Housing and Urban Development, Department of Justice Crime Victim Services Division, Oregon Housing Authority EHA |
| | | | |
| Administration (10% allowable) | \$130,150 | \$34,250 | |
| | | | |
| Total Expenses | \$1,431,650 | | |
| | | | |
| Total ESG CV2: | | \$342,500 | |

IN WITNESS WHEREOF, the parties hereto have caused this Amendment #1 to be executed by their duly authorized officers.

CLACKAMAS WOMEN'S SERVICES

DocuSigned by:

By: _____
DBCAD1860649464...
Melissa Erlbaum, Executive Director

8/12/2021

Date
250 Warner Milne Road

Street Address
Oregon City, Oregon 97045

City/State/Zip

melissae@cwsor.org

Email

CLACKAMAS COUNTY

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

Tootie Smith, Chair

Date