

EXHIBIT B

STANDARD TERMS AND CONDITIONS

1. Grant Allocation; Work Plan Approval.

There is no guarantee of funding under this Agreement. Grant funding for applicable Work Plans will be allocated to Subgrantee by OHCS through Notices of Allocation (“NOA”) issued (i) in accordance with applicable federal awards or other available funding, and (ii) pursuant to the terms of this Agreement.

Funding for applicable Work related to specific Work Plans is contingent, without limitation, upon Subgrantee’s submission to OHCS of corresponding Work Plans satisfactory to OHCS and upon OHCS’ review and approval, at its sole discretion, of such Work Plans. Approvals by OHCS of Work Plans will be provided to Subgrantee in the form of one or more NOAs to Subgrantee. Subgrantee shall be subject to, and comply with, all NOA terms and conditions regarding related approved Work Plans, as well as with other applicable Program Requirements.

Grant funds may derive from federal, state, and private sources, and are subject to the terms under which they are received from those sources, and shall be provided by OHCS only upon approved Requests for Funds for allowable costs incurred or (if allowed by OHCS) to be incurred by Subgrantee consistent with the terms and conditions of this Agreement, including applicable Program Requirements.

2. Funding Appropriation.

Funds specified in the Consideration section of this Agreement or otherwise may include funds that have not yet been appropriated, but which OHCS anticipates receiving for use in funding this Agreement and their identification herein is not a guarantee that Subgrantee will receive any or all of such funds. Any and all disbursements of funds hereunder are subject to the terms and conditions of this Agreement, including (without limitation) that such funds are lawfully and fully appropriated, allocated, and available to OHCS with authorizing limitation. Subgrantee’s obligation to perform the Work related to a particular NOA is conditioned upon OHCS receiving corresponding Grant funds or other funds available for reimbursement of such appropriate Work costs.

3. Notices of Allocation (NOA).

OHCS may issue one or more NOAs, as it deems appropriate, in form satisfactory to OHCS, detailing the funds available to Subgrantee with respect to identified Work consistent with this Agreement. OHCS may, at its option, modify any NOA to reflect changes pursuant to Section 7 of this exhibit, to correct errors in an NOA, to adjust Grant funds awarded under this Agreement, including in response to the receipt by Subgrantee of other funds or to reflect the exercise of remedies or other discretionary acts by OHCS under this Agreement, or otherwise as deemed appropriate by OHCS. The modification or termination of an NOA by OHCS does not terminate OHCS remedies with respect to Subgrantee’s performance or non-performance of obligations that were due under this Agreement with respect to Work related to the NOA or otherwise. At the option of OHCS, OHCS may issue any NOA to Subgrantee (or any modification or termination thereof) by email, fax, or first class mail at the address or number listed for Subgrantee or subsequently provided by Subgrantee pursuant to this Agreement or as otherwise permitted by law.

The Grant funds specified in an applicable NOA may be used to pay costs incurred during the specific expenditure periods and in the specific expenditure categories noted in the NOA provided, however, that all Work performance by the Subgrantee for which Grant funding is sought or provided under this Agreement must be in compliance with this Agreement, including any amendments hereof.

4. Acceptance of Notices of Allocation (NOA).

Any NOA issued by OHCS under this Agreement in response to accepted Work Plans is immediately effective, including as to the amount of Grant funds available to Subgrantee under this Agreement with respect to related Work. Subgrantee is obligated to perform Work corresponding to the NOA and any corresponding Work Plan in a timely manner as time is of

the essence in the performance of this Agreement. Any NOA issued as described in this section shall be deemed to be incorporated into and constitute a part of this Agreement.

Subgrantee accepts an NOA as issued, and agrees to be bound by same (including modifications thereto), upon undertaking any performance of related Work.

5. Rollover Funds From a Prior Grant Agreement.

Subject to funding restrictions, Subgrantee may request in writing that financial assistance allocated, but not expended under a prior Master Grant Agreement, be allocated under this Agreement as an award of “rollover” Grant funds.

Subject to funding restrictions, OHCS may, at its sole and absolute discretion, approve any award of rollover Grant funds. Any rollover Grant funds shall be subject to all terms and conditions of this Agreement - and shall be subject to such terms and conditions of the prior Master Grant Agreement as OHCS may specify in its rollover approval.

Any request for an award of rollover Grant funds by Subgrantee must be made in form and content satisfactory to OHCS.

6. Requests for Funds.

Subgrantee shall request Grant funds in such form and manner as is satisfactory to or required by OHCS. Further, in accordance with U.S. Department of Treasury Regulations, 31 CFR Part 205, implementing the Cash Management Improvement Act, Subgrantee’s receipt of federal funding shall be limited to the minimum amounts needed and be timed to be in accordance with the actual and immediate cash requirements of the Subgrantee in performing the applicable Work. The foregoing requirements apply to all Grant funds requested under this Agreement. Advance Grant fund payments are at OHCS’ sole discretion and will be made only as close as is administratively feasible to the actual use by the Subgrantee for applicable direct or indirect Work costs and only up to the proportionate share of such allowable costs as is permitted under the Agreement, including applicable Program Requirements.

7. Nonexclusive Remedies Related to Funding.

a. Withholding of Funds from Request.

OHCS may withhold any and all undisbursed Grant funds from Subgrantee if OHCS, in its sole discretion, determines that Subgrantee has failed to timely satisfy any material obligation arising under this Agreement, including Program Requirements. Subgrantee obligations include, but are not limited to providing complete, accurate, and timely reports satisfactory to OHCS about its performance under this Agreement as well as timely satisfying all Program Requirements, including timely provision of additional information or explanation of Work costs or performance as may be requested by OHCS. OHCS also may withhold any and all requested Grant funds from Subgrantee if OHCS, in its sole discretion, determines that the rate or scale of requests for funds in any expenditure category materially deviates from an applicable NOA or is unsubstantiated by related documentation.

b. Redistribution or Retention of Funds.

1. Due to non-timely use.

If Grant funds are not obligated for reimbursement by Subgrantee in a timely manner as determined by OHCS at its sole discretion, OHCS may at its sole discretion, reduce Subgrantee funding and redistribute such funds to other Subgrantees or retain such funds for other OHCS use. OHCS may implement adjustments pursuant to this subsection by modifying the applicable NOA. This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

2. Due to “substantial difference” in expenditure category from Approved Budget Submissions.

If the rate of request for any expenditure or cost category is substantially different than in approved budget submissions, including applicable NOAs, as determined by OHCS at its sole discretion, OHCS may, at its sole discretion, reduce and redistribute or retain any and all funds otherwise available to Subgrantee under this Agreement. OHCS may implement adjustments pursuant to this subsection by modifying the applicable

NOA. This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

c. Repayment of Excess Disbursed Funds.

1. Due to Modified NOA.

If Grant funds previously disbursed by OHCS to Subgrantee exceed a relevant modified NOA amount and remain unexpended by Subgrantee, Subgrantee shall not expend any such excess Grant funds. Subgrantee, instead, shall return any remaining unexpended Grant funds in excess of the modified NOA to OHCS within 30 calendar days of the modified NOA unless another use of such funds is authorized in writing by OHCS. This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

2. Due to Overpayment.

If OHCS makes an overpayment of Grant funds to Subgrantee in response to one or more funds requests, whether or not the underlying request(s) were inaccurate, Subgrantee shall repay such overpayment within 30 calendar days of its discovery by Subgrantee or upon notice by OHCS, unless OHCS in writing designates an earlier time for repayment or authorizes another use by Subgrantee of such overpayment. This remedy is in addition to any other remedies available to OHCS under this Agreement or otherwise.

8. Termination.

- a. OHCS may immediately terminate this Agreement in whole or in part upon written notice to the Subgrantee for cause related to any material misrepresentation, malfeasance, gross negligence, abandonment of performance or loss of authority to perform any of its obligations hereunder by Subgrantee, whether directly by Subgrantee or through one or more of its Subrecipients, agents, subcontractors, successors or assigns, as determined by OHCS in its sole discretion.
- b. OHCS may, upon 30 days written notice, terminate this Agreement in whole or in part for cause including, but not limited to events described above in subsection 8.a. Cause may include any event, including an event of default, as determined by OHCS in its sole discretion that renders inappropriate the continuation of this Agreement or any part hereof. An event of default constitutes an act or omission by Subgrantee, its Subrecipients, agents, representatives, contractors, or assigns by which Subgrantee, as determined by OHCS at its sole discretion, resulting in failure to timely perform one or more material obligations in a manner satisfactory to OHCS, or otherwise constitutes a breach of duty owed to OHCS under this Agreement. Such events and events of default may include, but are not limited to an occurrence of any of the following:
 1. Subgrantee fails to fulfill timely any of its obligations under this Agreement;
 2. Subgrantee fails to comply timely with directives received from OHCS or from an agency that is the original source of the grant funds;
 3. Funds provided under this Agreement are used improperly or illegally by Subgrantee or any of its Subrecipients or Vendors;
 4. Funding for any or all Community Services programs relevant to this Agreement are denied, suspended, reduced or eliminated;
 5. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that OHCS is prohibited from paying for or lacks authority to pay for any Work performance under this Agreement or to pay for any such performance from the planned funding source(s);
 6. Funding, appropriations, limitations or expenditure authorization to expend Grant funds is denied, suspended, reduced or eliminated;

7. Any certification, license or certificate required by law to be held by Subgrantee or others to perform the Work required by this Agreement is for any reason denied, revoked, suspended, limited or not renewed;
 8. Subgrantee (a) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (e) is adjudicated as bankrupt or insolvent, or (f) fails to controvert in a timely or appropriate manner, or agrees in writing to, an involuntary petition for bankruptcy;
 9. Subgrantee, its principals, officers, or agents are suspended, debarred, proposed for debarment, declared ineligible or voluntarily excluded from participating in agreements or contracts with any federal or state department or agency, including OHCS.
- c. Subgrantee may, upon 30 days written notice, terminate this Agreement in whole or in part, if:
1. OHCS unreasonably fails to provide timely funding hereunder and does not correct such failure within the 30-day notice period; or.
 2. OHCS provides one or more material directives that are contrary to federal or state laws, rules, regulations, guidelines, or original funding source requirements and does not correct such directives within the 30-day notice period.
- d. Either party may terminate this Agreement in whole or in part immediately upon written notice to the other party if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a competent court (in a final determination) in such a way that one or both parties no longer has the authority to meet its obligations under this Agreement in whole or such part.
- e. Upon issuance of any notice to terminate this Agreement and prior to the effective date of the termination, OHCS may, in its sole and absolute discretion, require that Subgrantee obtain prior OHCS approval from it for any additional expenditures that would obligate OHCS to reimburse it from Grant funds or otherwise.
- f. Notwithstanding the above, or any termination thereunder, neither Subgrantee nor OHCS shall be relieved of its liability to the other party for damages sustained by virtue of its breach of this Agreement. OHCS may withhold any reimbursement to Subgrantee in the amount of compensation for damages due OHCS from Subgrantee (as estimated by OHCS in its sole discretion) until such time as the exact amount of damages has been agreed upon or otherwise finally determined.
- g. In the event of termination of this Agreement by either party, all unexpended money, property, finished or unfinished documents, data, financial reports, audit reports, program reports, studies and reports purchased or prepared by Subgrantee under this Agreement shall be delivered to OHCS within sixty (60) days of the date of termination or upon such date as requested by OHCS.
- h. Termination of this Agreement shall not impair or invalidate any remedy available to OHCS or to Subgrantee hereunder, at law, or otherwise.

9. Compliance.

Both parties shall, and Subgrantee shall require and cause (including by contract) all Subrecipients, Vendors, contractors, agents, and assigns to comply with this Agreement, including applicable Program Requirements. Program Requirements include the Federal Funding Accountability and Transparency Act (FFATA) of 2006 (P.L. 109-282), provisions of which include, but may not be limited to a requirement for Subgrantees, Subrecipients, and Vendors to have a Data Universal Numbering System (DUNS) number and to maintain a current registration in the SAMs (System for Awards Management) database. Both parties shall, and Subgrantee shall require and cause its Subrecipients and Vendors to, comply with such Program Requirements whether or not such Program Requirements exist at the time this Agreement is executed, or arise subsequent to the execution of this Agreement. Performance by both parties of their respective

obligations hereunder must be made efficiently, effectively and within applicable program timelines.

Program Requirements expressly include, *inter alia*, all applicable federal, state and local laws, regulations, rules, orders and ordinances. In the absence of further clarification from applicable statutes, regulations, rules, ordinances, or orders, including directives from OHCS, Subgrantee will fulfill the terms and conditions of this Agreement in accordance with Federal guidance, as applicable.

Without limiting the generality of the foregoing, Subgrantee expressly agrees to comply with the following laws, regulations and executive orders 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, 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 Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. 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. Subgrantee shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(gg)), recycled PETE products (as defined in ORS 279A.010(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(ii)).

10. Governing Law; Venue; 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**") involving OHCS that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon or, if necessary, the United States District Court for the District of Oregon. Subgrantee expressly consents to the *in personam* jurisdiction of such courts.

Notwithstanding the foregoing, OHCS and the State of Oregon, as well as any other public-body party hereto, expressly reserve, and do not waive or limit 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.

11. Confidentiality.

Subgrantee shall, and shall require and cause its Subrecipients and Vendors to protect the confidentiality of all information concerning Clients and other applicants for and recipients of services funded by this Agreement. Neither it nor they shall release or disclose any such information, except as necessary for the administration of the Community Services program(s) funded under this Agreement, as authorized in writing by the Client or other applicant or recipient of such services, or as required by law. All records and files shall be appropriately secured to prevent access by unauthorized persons.

Subgrantee shall, and shall require and cause its Subrecipients and Vendors to ensure that all its and their officers, employees and agents are aware of and comply with this confidentiality requirement.

12. Monitoring Required.

a. OHCS Authorized to Monitor Subgrantee.

OHCS may monitor the activities and records of Subgrantee and its Subrecipients and Vendors as it deems necessary or appropriate, among other things, to ensure Subgrantee and its Subrecipients comply with the terms of this Agreement, including Program Requirements, and that Grant funds are used properly and only for authorized purposes hereunder. OHCS also may monitor the activities and records of Subgrantee and its Subrecipients and Vendors to ensure that performance goals are achieved as specified in this Agreement, including without limitation in the Work Plans, NOAs, and related Program Elements and that performance is to the satisfaction of OHCS. Monitoring activities may include any action deemed necessary or appropriate by OHCS including, but not limited

to the following: (1) the review (including copying) from time to time of any and all Subgrantee, Subrecipient, and Vendor files, records and other information of every type arising from or related to performance under this Agreement; (2) arranging for, performing, and evaluating general and limited scope audits; (3) conducting or arranging for on-site and field visits and inspections; (4) review of Subgrantee fiscal and Community Services program reports, and requiring appropriate Request for Funds documentation as well as such other information and clarification as it deems appropriate, prior to providing a Request for Funding approval, whether in whole, in part, or otherwise; and (5) evaluating, training, providing technical assistance and enforcing compliance of Subgrantee, Subrecipients, Vendors, and their officers, employees, agents, contractors and other staff. OHCS may utilize third parties in its monitoring and enforcement activities, including monitoring by peer agencies. OHCS monitoring and enforcement activities may be conducted in person, by telephone and by other means deemed appropriate by OHCS and may be effected through contractors, agents or other authorized representatives. Subgrantee consents to such monitoring and enforcement by OHCS and agrees to cooperate fully with same, including requiring by agreement and causing that its Subrecipients, Vendors, and contractors so cooperate.

OHCS reserves the right, at its sole and absolute discretion, to request assistance in monitoring from outside parties including, but not limited to the Oregon Secretary of State, the Attorney General, the federal government, and law enforcement agencies.

b. Subgrantee Shall Fully Cooperate.

Subgrantee shall fully and timely cooperate with OHCS in the performance of any and all monitoring and enforcement activities. Failure by Subgrantee or any of its Subrecipients or Vendors to comply with this requirement is sufficient cause for OHCS to require special conditions, take such other action (including the exercise of available remedies) as it deems appropriate, and may be deemed by OHCS as a material failure by the Subgrantee to perform its obligations under this Agreement.

c. Subgrantee Shall Monitor Its Subrecipients.

Subgrantee shall perform onsite visits to monitor the activities of its Subrecipients as is reasonable to ensure compliance with (and as necessary under) applicable Program Requirements or as otherwise directed by OHCS, but in no case less than at least once during the term of this Agreement, and not later than the third quarter of the term of this Agreement (unless otherwise approved in writing by OHCS).

The activities of any Subrecipient shall be monitored to ensure, *inter alia*, that Grant funds are used only for authorized purposes in compliance with this Agreement, including but not limited to specific Program Requirements, and that performance goals are achieved as specified in the applicable Program Elements, Work Plans, and NOAs.

Subgrantee monitoring of Subrecipients must include an evaluation of each Subrecipient's risk of non-compliance with federal statutes, regulations, and terms and conditions of any applicable subaward for purposes of determining the appropriate level and type of Subrecipient monitoring. Monitoring also must include a review of financial and performance reports, and follow-up on all deficiencies pertaining to any involved federal funding in accordance with 2 CFR 200.331 and other applicable federal regulations, if any.

13. Monitoring.

- a. OHCS generally will advise the Subgrantee as to its observations and findings generated by any on-site visit; usually through an exit interview. Within 60 days after an on-site inspection, OHCS will endeavor to provide Subgrantee with a written report as to its findings from that inspection. OHCS may advise the Subgrantee of any corrective action that it deems appropriate based upon its monitoring activities or otherwise. Subgrantee shall timely satisfy such corrective actions required by OHCS.
- b. OHCS may review (including copying) from time to time any and all Subgrantee and subrecipient(s) files, records, and other information of every type arising from or related to performance under this Agreement. Within 60 days after a review, OHCS will endeavor to communicate in writing to the Subgrantee. OHCS may advise the Subgrantee of any corrective action that it deems appropriate based upon its monitoring activities or otherwise. Subgrantee shall timely satisfy such corrective actions as reasonably required by

14. Monitoring: Major Findings Resolution.

OHCS may track and follow up with Subgrantee regarding the correction by Subgrantee of findings made or other corrective actions required in OHCS' monitoring of Subgrantee's performance under this Agreement. The tracking record developed by OHCS may include, without limitation: findings, corrective actions, deliverables, due dates, responsible parties, actions taken, and final resolution. Subgrantees shall resolve findings and other required corrective actions within the timeframes reasonably given by OHCS by written report or otherwise.

15. Remedies.

- a. If OHCS determines, in its sole discretion, that Subgrantee has failed to comply timely with any material obligation under this Agreement, including but not limited to any OHCS directive or term of a corrective action plan, OHCS may exercise any remedy available to it under this Agreement, applicable law, or otherwise. Such remedies may include, but are not limited to: (a) terminating any part or all of this Agreement; (b) modifying any NOA under this Agreement; (c) withholding and/or reducing grant funds; (d) disallowing costs; (e) suspending and/or recouping payments; (f) appointing a receiver for the receipt and administration of Grant funds under this Agreement; (g) requiring corrective action as it may determine to be appropriate; (h) bringing suit or action in an appropriate forum for the enforcement of this Agreement and any remedy, as well as the recovery of damages, including by temporary restraining order, injunction, specific performance or otherwise; (i) debarring or otherwise limiting Subgrantee's eligibility for other funding from OHCS; (j) instituting criminal action for material misstatements, fraud, misfeasance, malfeasance, or other culpable behavior; and (k) requesting investigation, audit and/or sanction by other governmental bodies.
- b. The rights and remedies of OHCS provided in this Section are not exclusive and are in addition to any other rights and remedies provided under this Agreement, by law, or otherwise. Except as expressly stated herein, this Section also does not limit Subgrantee's remedies provided under this Agreement, by law, or otherwise, but Subgrantee acknowledges and agrees that any such remedies are subject to Article XI, Section 7 of the Oregon Constitution, the Oregon Tort Claims Act, and the terms and conditions of any other applicable provision of this Agreement.
- c. No failure of or delay by OHCS to enforce any provision of this Agreement shall constitute a waiver by OHCS of that or any other provision, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.
- d. Remedies provided under this Agreement or otherwise shall survive termination of this Agreement.

16. Return of Unexpended Funds at Program Final Expenditure Period End.

All unexpended cash or income from Grant funds remaining at the end of any Community Services program final period under this Agreement must be returned by Subgrantee to OHCS within the time allowed for using Grant funds requested under a Grant Program consistent with U.S. Department of Treasury regulations or other controlling law. Where not otherwise specified or restricted, Grant funds must be returned by Subgrantee to OHCS within Sixty (60) days following the expiration of the specific programs' expenditure period or the termination of this Agreement, whichever occurs first.

17. Expenditures Properly Supported.

Expenditures and Requests for Funds shall be supported by Subgrantee with properly executed payroll and time records, invoices, contracts, vouchers, orders, canceled checks and/or any other accounting documents pertaining in whole or in part to the Agreement (or in the case of Subrecipients, under their respective contracts with Subgrantee) in accordance with generally accepted accounting principles and applicable state and federal requirements, including as specified herein. OHCS may require such other information or clarifications as it deems necessary or appropriate in its sole discretion.

18. Unallowable Costs and Lobbying Activities.

Subgrantee shall review and comply with the allowable costs and other provisions applicable to expenditures under the particular Community Services programs covered by this Agreement. Subgrantee shall, among other obligations, comply with the provisions prohibiting the expenditure of funds for lobbying and related activities, whether in 2 CFR Subtitle B with guidance at 2 CFR Part 200, or otherwise, as such provisions may be modified from time to time. If Subgrantee makes expenditures or incurs costs for purposes or amounts inconsistent with the allowable costs or any other provisions governing expenditures under this Agreement, OHCS may exercise any and all remedies under this Agreement, at law or otherwise that it deems, in its sole discretion, to be necessary or appropriate.

19. Disallowance of Costs.

OHCS neither is responsible for nor shall it pay for any costs disallowed (a Disallowance of Costs) either upon a Request for Funds or as a result of any audit, review, site visit, or other disallowance action by OHCS except for costs incurred by Subgrantee solely due to the willful misconduct or gross negligence of OHCS, its employees, officers or agents. If a cost is disallowed by OHCS after reimbursement has occurred, Subgrantee shall repay all disallowed costs to OHCS upon written notice within the time frame specified by OHCS, which in no event shall exceed thirty (30) days.

If Subgrantee is a county, such disallowed costs may be recovered by OHCS only through repayment, withholding or by other means authorized by this Agreement or otherwise allowable at law not inconsistent with the Oregon Constitution, and particularly Article XI, Section 10. If Subgrantee is other than a county, OHCS may recover such disallowed costs through repayment, withholding, offset or other means permitted under this Agreement, by law or otherwise.

Subgrantee shall cooperate and shall cause its Subrecipients to cooperate with OHCS and all appropriate investigative agencies and shall assist in recovering invalid payments.

20. Records Maintenance.

Subgrantee shall, and shall require and cause its Subrecipients to, prepare and maintain such records as necessary for performance of and compliance with the terms of this Agreement, which in no event will be less than six (6) years after the termination of this Agreement.

The Subgrantee and its Subrecipients shall retain all records pertinent to expenditures incurred under this Agreement and otherwise in a manner consistent with the requirements of state and federal law, including but not limited to those requirements listed in OHCS' Record Retention Schedule, as may be modified from time to time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other action that involves any of the records cited, then such records must be retained until final completion of such matters.

21. Records Access.

OHCS, the Oregon Secretary of State's Office, the federal government and the duly authorized representatives of such entities shall have free access to and the right to copy all or any part of the books, documents, papers, audits and records of Subgrantee and its Subrecipients which are related to this Agreement as they deem appropriate, including without limitation, for the purpose of making audit, examination, excerpts, transcripts and copies. These records are the property of OHCS who may take possession of them at any time after three (3) business days' notice to Subgrantee or subrecipient, as the case may be. Subgrantee or subrecipient may retain copies of all records taken by OHCS under this Section.

In its agreements with Subrecipients, Subgrantee shall require and cause its Subrecipients to comply with the requirements of this Section and to grant right of access to and ownership by OHCS of the Subrecipient's books and records related to this Agreement.

22. Audits.

If required by OHCS, Subgrantee shall, and shall require and cause its Subrecipients to, submit to OHCS financial and compliance audits satisfactory to OHCS for such periods and Community Services programs covered by this Agreement as OHCS may designate. This requirement is in addition to any audit requirements set forth below.

If Subgrantee expends \$500,000 or more in federal funds (from all sources) in its fiscal year beginning prior to December

26, 2014, Subgrantee shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Subgrantee expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Subgrantee 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 and other applicable federal regulations, if any. Copies of all audits must be submitted to OHCS, Finance Section within 30 days of completion. Records must be available as provided in Section 21 above.

23. Fixed Assets.

Subgrantee shall, and shall cause its Subrecipients to, maintain policies and procedures for the management of property and equipment that comply with all requirements of the applicable Code of Federal Regulations, 2 CFR Subtitle B with guidance at 2 CFR Part 200, and specific requirements of the source of funds. The following practices are in addition to those otherwise required:

a. High Risk Items.

Fixed assets with a value greater than \$5,000 will include all computer equipment, electronic equipment, photography equipment, hand tools and other items.

b. Equipment.

The title to all equipment as defined in 2 CFR Part 200, purchased in whole or in part with funds provided under this Agreement, shall rest with the Subgrantee. In its agreements with its Subrecipients, Subgrantee shall prohibit its Subrecipients from using funds provided thereunder to purchase equipment.

c. Insurance.

Subgrantee shall, at a minimum, provide the insurance coverage required by Oregon Revised Statute for automobiles and or equipment requiring registration through Oregon Department of Transportation, Department of Motor Vehicles that has been acquired in whole or in part with funds provided under this Agreement owned by Subgrantee with OHCS named as an additional insured party in all such motor vehicles and or equipment, and a copy of the insurance certificates to all such motor vehicles and or equipment shall be delivered to and remain on file at OHCS. In its agreements with its subrecipients, Subgrantee shall require and cause its Subrecipients to comply with the requirements of this Section.

d. Loaned Equipment / Property Disposition.

All fixed assets owned by OHCS and loaned to Subgrantee under a standard agreement will remain the property of OHCS, regardless of their value. The disposition of all loaned equipment shall be readily available.

e. Disposal Requiring Prior Approval.

When Subgrantee wishes to dispose of equipment having an original cost of more than \$5,000, and which has a current per-unit, fair-market value of more than \$5,000, Subgrantee shall submit a letter requesting OHCS' consent to do so addressed to Financial Services Manager with a copy to the appropriate Program Coordinator. If OHCS consents, OHCS Program Coordinator will provide instructions regarding the method of disposition. OHCS reserves the right to refuse to consent to such disposal and the right to object to the timing of such disposition. Such disposition, if permitted, shall be done in a manner consistent with the property management standards for equipment of the agency from which the original funding was received. In the case of mixed funding sources, the most restrictive standards shall apply.

Items of equipment with a current per-unit, fair-market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to OHCS. The OHCS Program Coordinator shall be notified of all title transfers, sales, and other methods of disposition. OHCS may review disposition records upon notification of Subgrantee.

24. Insurance and Workers Compensation.

Subgrantee will provide all necessary General Liability and Automotive insurance required by Oregon Law and satisfactory to OHCS to perform services under this Grant Agreement, and provide proof of coverage upon request by OHCS. In no event shall General Liability insurance coverage be less than \$500,000.00. In no event shall Automotive insurance coverage be less \$500,000.00.

All employers, including Subgrantee, 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). Subgrantee shall obtain employers' liability insurance coverage limits of not less than \$500,000.00. Subgrantee shall require and ensure that each of its subcontractors complies with these requirements.

25. Dual Payment.

Subgrantee shall not be compensated for work performed under this Agreement from any other department of the State of Oregon, nor from any other source, including the federal government, unless such funds are used solely to increase the total services provided under this Agreement. Any additional funds received through or for activities arising under this Agreement shall immediately be reported to OHCS.

26. Third Party Beneficiaries.

OHCS and Subgrantee 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.

27. Notices.

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, email, facsimile, or mailing the same, postage prepaid, or other written instrument, to Subgrantee or OHCS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section; provided however that any notice of termination hereunder shall be given by certified or registered mail, return receipt requested. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile or email shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against OHCS, such facsimile transmission must be confirmed by telephone notice to OHCS' primary contact. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

28. Subgrantee Status.

- a. Subgrantee shall perform all work under this Agreement as an independent contractor. Subgrantee is not an officer, employee or agent of OHCS or the State, as those entities are respectively defined in ORS chapter 456 and in ORS 30.265, with respect to work performed under this Agreement.
- b. Subgrantee agrees that insurance coverage, whether purchased or by self-insurance, for Subgrantee's agents, employees, officers and/or subcontractors is the sole responsibility of Subgrantee.
- c. Subgrantee certifies that it is not employed by or contracting with the federal government for the work covered by this Agreement.
- d. Subgrantee certifies to the best of its knowledge and belief that neither the Subgrantee nor any of its principals, officers, directors or employees:
 1. Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
 2. Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered

against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract related to a public transaction; violation of federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

3. Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in subsection d.(2 above);
4. Has within a three-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default; and
5. Is included on the list titled “**Specially Designated Nationals and Blocked Persons**” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:

<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>

29. OPUS System.

The OPUS system is a web-based application developed by OHCS. OPUS runs on an Oracle application server and database maintained by OHCS and accessed by OHCS and its subgrantees through the Internet (the “Site”).

Subgrantee and its Subrecipients shall enter all appropriate and/or necessary data into OPUS, ServicePoint or other OHCS approved system at the time of client intake for all Federal, State, and private grant programs awarded by OHCS through this Agreement. OHCS will enter allocations to Subgrantee on a program by program expenditure category basis unless it determines otherwise. Exceptions are only allowed with prior written approval by OHCS.

a. OPUS Use.

As a condition of use of the Site, User (Subgrantee and its Subrecipients) agrees to all OHCS terms and conditions, contained in this Agreement, placed as notices on the Site, or as otherwise directed by OHCS. User agrees to not use the Site for any unlawful purpose. OHCS reserves the right, at its discretion, to update or revise the OPUS terms of use. Use of the Site constitutes acceptance of the OPUS terms and conditions.

Use of the OPUS system for additional reported “local” program data is at the entity’s own risk. OHCS shall not modify or otherwise create any screen, report or tool in the OPUS system primarily or solely to meet needs related to this local data.

b. OPUS Data Rights.

Subgrantee hereby grants and shall require and cause any subrecipient to grant OHCS the right to reproduce, use, display, adapt, modify, distribute, and promote the content in any form and disclose, as allowed by law, any or all of the information or data furnished to or received by OHCS directly or indirectly resulting from this Agreement. Subgrantee also shall use and shall require and cause its Subrecipients to use OPUS Client Release forms and Privacy Policy forms (samples provided by OHCS) in connection with obtaining and transmitting client data.

c. OPUS Disclaimer of Warranties.

Subgrantee understands and agrees, and shall require its Subrecipients to agree, that all materials, information, software, products and services included in or available through the OPUS Site (the “content”) are provided “as is” and “as available” for use. The content is provided without warranties of any kind, either express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, or non-infringement. OHCS does not warrant that the content is accurate, reliable or correct; that this Site will be available at any particular time or location; that any defects or errors will be corrected; or that the content is free of viruses or other harmful components. Use of the OPUS Site is solely at the User’s risk. User hereby accepts the risk of its use of the Site, and of the use of the Site by its Subrecipients, and expressly waives any claims and causes of action against the State and OHCS.

d. OPUS Limitation of Liability.

The Subgrantee agrees that under no circumstances shall OHCS be liable for any direct, indirect, punitive, incidental, special, or consequential damages that result from the use of, or inability to use the OPUS Site. This limitation applies whether the alleged liability is based on contract, tort, negligence, strict liability or any other basis, even if OHCS has been informed of the possibility of such damage.

e. OPUS Indemnification.

Subject to applicable law, Subgrantee agrees, and shall require its Subrecipients to agree, to defend, indemnify (consistent with ORS Chapter 180), and hold harmless OHCS and its employees, contractors, officers and directors from all liabilities, claims, and expenses, including attorney fees that arise from use or misuse of this site. OHCS reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Subgrantee, in which event Subgrantee will cooperate with OHCS in asserting any available defenses.

30. Attorney Fees.

In the event a lawsuit of any kind is instituted on behalf of OHCS or the Subgrantee with respect to this Agreement, or any right or claim related thereto, including but not limited to the collection of any payment due under this Agreement or to obtain performance of any kind under this Agreement, the prevailing party is, to the extent permitted by law, entitled to its reasonable attorney fees incurred before and during trial, on appeal, in arbitration, in bankruptcy, and in such other forum or proceeding appropriate thereto, together with such additional sums as the court or hearings officer may adjudge for reasonable costs and disbursements incurred therein. Reasonable fees shall not exceed the rate charged to OHCS by its attorneys.

31. Captions.

The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

32. Severability.

If any term or provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

33. Execution and Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

34. Grant Funds.

Grant funds are used in conjunction with this Agreement. Subgrantee assumes sole liability for breach of the conditions of the grant (including all terms and conditions of this Agreement) by Subgrantee or by any of its Subrecipients, agents or assigns and shall, upon breach of grant conditions that require the State to return funds to the grantor, whether such breach is by Subgrantee or by any of its Subrecipients, agents or assigns, hold harmless and indemnify the State for an amount equal to the grant funds received under this Agreement together with any additional damages resulting to OHCS; or if there are legal limitations on the indemnification ability of the Subgrantee, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount of grant funds received under this Agreement.

35. Indemnity.

Subject to applicable law, Subgrantee shall, and shall require by contract that its Subrecipients shall, defend, save, hold harmless, and indemnify (consistent with ORS Chapter 180) the State of Oregon and OHCS and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Subgrantee or its officers, employees, Subrecipients, subcontractors, or agents under this Agreement.

36. Merger Clause.

This Agreement, attached Program Elements, attached exhibits, and resulting Work Plans and NOAs 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, other modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary OHCS 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.

37. Waiver.

The failure of either party to enforce any provision of this Agreement shall not constitute a waiver of that or of any other provision of this Agreement.

38. Time of the Essence.

Time is of the essence in the performance of any and all obligations under this Agreement.

39. No Limitations on Actions in Exercise of Governmental Powers.

Nothing in this Agreement is intended, nor shall it be construed, to in any way limit the actions of OHCS in the exercise of its governmental powers. It is the express intention of the parties hereto that OHCS shall retain the full right and ability to exercise its governmental powers with respect to the Subgrantee, the grant funds, and the transactions contemplated by this Agreement to the same extent as if it were not a party to this Agreement, and in no event shall OHCS have any liability in contract arising under this Agreement by virtue of any exercise of its governmental powers.

40. No Assignment by Subgrantee.

Subgrantee shall not assign its rights or obligations under this Agreement without the express written consent of OHCS. OHCS may assign its rights and obligations under this Agreement, including to a successor entity.

41. Amendments.

OHCS reserves the right to add or amend Work Plans and NOAs as indicated herein. Otherwise, the parties may not waive, supplement or amend the terms of the Agreement, in any manner whatsoever, except by written amendment signed by all parties and for which all necessary State of Oregon approvals have been obtained.

Changes to or additions of a Work Plan by the Subgrantee or by one or more of its Subrecipients shall require the prior written approval of OHCS. Requests for and justification of any change must be submitted in writing to OHCS and be approved in writing by OHCS prior to commencement of the requested change.

All federal terms and conditions included in this Agreement at time of original Agreement execution may be amended from time to time by the federal grantor or regulator of funds. These amendments to federal terms and conditions included in original Agreement will be sent to Subgrantee and will become part of the original Agreement. New federal terms and conditions not included in the original Agreement will follow the formal amendment process.

42. Oregon False Claims Act

- a. Subgrantee acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action or conduct by Subgrantee pertaining to this Agreement that constitutes a “claim” (as defined by ORS 180.750(1)).

By its execution of this Agreement, Subgrantee certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement. In addition to other liabilities that may be applicable, Subgrantee further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Subgrantee.

- b. Without limiting the generality of the foregoing, Subgrantee represents and warrants that:
 - 1. Subgrantee's representations, certifications, and other undertakings in this Agreement are not False Claims Act Violations; and
 - 2. None of Subgrantee's performance under this Agreement, including but not limited to any invoices, reports, or other deliverables in connection with its performance of this Agreement, will constitute False Claims Act Violations.
- c. For purposes of this Section 2.F., a "False Claims Act Violation" means a false claim as defined by ORS 180.750(2) or anything prohibited by ORS 180.755.
- d. Subgrantee shall immediately report in writing, to OHCS, any credible evidence that a principal, employee, agent, subcontractor, subgrantee, subrecipient, vendor or other person has made a false claim or committed a prohibited act under the Oregon False Claims Act, or has committed a criminal or civil violation of laws pertaining to fraud, bribery, gratuity, conflict of interest, or similar misconduct in connection with this Agreement or any moneys paid under this Agreement.
- e. Subgrantee understands and agrees that any remedy that may be available under the Oregon False Claims Act shall be in addition to any other remedy available to the State of Oregon or OHCS under any other provision of law, or this Agreement.

43. Required Notifications to OHCS

In addition to the requirements provided elsewhere in this Agreement, Subgrantee shall immediately report changes in Key Personnel including Fiscal, Program and Executive Level Leadership. This shall include succession planning for a change in the Executive Director of Subgrantee.

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