



Evelyn Minor-Lawrence
Director

DEPARTMENT OF HUMAN RESOURCES
PUBLIC SERVICES BUILDING
2051 Kaen Road | Oregon City, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Contract between Clackamas County, Department of Human Resources and Cascade Centers Inc.
for the Employee Assistance Program (“EAP”) Services

Purpose/Outcomes	Approval of Employee Assistance Program Contract through 12/31/2022
Dollar Amount and Fiscal Impact	Not to exceed \$215,000.00 over the life of the Contract.
Funding Source	Departments pay \$2.50 per employee per month (PEPM) EAP fee.
Duration	July 1, 2020 through December 31, 2022
Previous Board Action	No previous action
Strategic Plan Alignment	County departments and employees will benefit from increased engagement, productivity and benefit/needs alignment as evidenced by: <ul style="list-style-type: none">○ 80% of employees return to work within 90 days of initial non-occupational short-term disability○ By 2025, annual alignments of wellness programs with workforce needs The EAP is a key tool for helping employees navigate personal difficulties so they can be focused at work.
Counsel Review	Approved as to form March 11, 2020
Contact Person	Kristi Durham, Benefits Manager 503-742-5470
County Contract No.	#2557

BACKGROUND:

An EAP provides a tool for emotional well-being support for employees and families to address the inevitable issues in life. By proactively addressing issues, employees can be more engaged and productive at work.

The EAP includes 6 visits per unrelated issue per year for counseling, 24/7 unlimited phone counseling, research retrieval, financial coaching, discounts for physical well-being activities, webinars, and more.

Cascade Centers provides a strong selection of counselors. Their panel includes masters-level clinicians to help support all employees and their eligible family members, and includes clinicians with specialized training related to the needs of public safety professions and employees whose work may expose them to secondary trauma.

PROCUREMENT PROCESS:

Employee Assistance Program Services is exempt from the standard procurement process under the LCRB rule C-047-0288(10).



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RECOMMENDATION:

Staff respectfully recommends the Board of County Commissioners approve the contract with Cascade Centers Employee Assistance Program.

Respectfully submitted,

Evelyn Minor-Lawrence, Director

Placed on the Agenda of _____ by the Procurement Division

Cascade Centers Subscription Agreement

This Subscription and License Agreement (“Agreement”), effective as of **July 1, 2020** (“Effective Date”), is between Cascade Centers Inc., an Oregon corporation, located at 7180 SW Fir Loop Suite 100, Portland, Oregon, 97223 (“Cascade Centers”) and Clackamas County, a political subdivision of the State of Oregon (“Customer” or “Employer”) (each a “Party” and collectively, the “Parties”).

This Agreement governs the provision of certain Employee Assistance Program services offered by Cascade (the “Service” or “Services”) to Customer and sets forth the terms and conditions under which those Services will be delivered.

This Agreement applies to Customer and Customer’s employees’ and eligible family member’s access to, and use of, all or part of any service of Cascade Centers.

AGREEMENT

In consideration of the mutual covenants and promises contained herein, and of other good and valid consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Services

Cascade Centers shall provide the Services listed on **Exhibit A** to Customer. Customer may opt for Additional Services as described in Exhibit A by executing an additional Order Form.

2. Term of Subscription

This Agreement will commence upon the Effective Date of **July 1, 2020** and continue for the 30 month initial term through **December 31, 2022** unless this Agreement is terminated earlier in accordance with the terms of this Agreement.

3. Fees

The subscription fees for the Term shall be calculated at the rates listed in **Exhibit A**, per employee per month (the “Subscription Fees”). Customer agrees to pay Cascade, from available an authorized funds, a sum not to exceed **\$215,000.00** for the Subscription Fees during the term of this Agreement.

4. Rate Guarantee

No later than ninety (90) days prior to the Agreement anniversary date, Cascade will provide Customer with the PEPM rate and supplemental fees applicable to the next renewal term. If Customer agrees to the PEPM rate and supplemental fees, the Parties may extend this Agreement for an additional one (1) year term by execution of an amendment to this Agreement. Cascade may not increase Subscription Fees nor decrease services during the term of this agreement.

5. Renewals

Cascade reviews the contract performance annually. If at the time of evaluation, the annualized utilization fluctuates above 12% or below 3%, Cascade and Customer may enter into discussion and reach agreement on new rates for provided EAP services. If the Parties agree to new rates, the Parties will execute an amendment to this Agreement. Such rate adjustments will apply to the billing cycle following execution of an amendment detailing the new rate structure. If the Parties are unable to agree to amended rates for provided EAP services, this Agreement will terminate.

6. Payments

Cascade Centers shall bill Customer for the Subscription Fees on a monthly basis. Unless otherwise agreed to in writing by the Parties, Customer will pay all invoiced fees within sixty (60) days of receipt of the applicable invoice.

7. Customer Commitment

Customer recognizes that the success and effectiveness of the Employee Assistance Program requires high program visibility and support throughout all organizational levels. Customer agrees to coordinate with Cascade Centers to promote the EAP to Customer employees.

Customer agrees to assist Cascade Centers in the performance of services as follows:

- a. Designate employee who will act as liaison with Cascade Centers
- b. Provide Cascade Centers with a current total number of employees eligible for EAP services on a monthly basis.
- c. To give prompt notice to Cascade Centers whenever Employer observes or otherwise becomes aware of any deficiency in the proposed delivery of services.

- d. To distribute EAP promotional materials and schedule orientation sessions/supervisory training as appropriate.
- e. To provide Cascade Centers with current health plan benefit information annually or as changes occur.

8. Suspension of Services

Cascade reserves the right to suspend or terminate access to services provided by third-party vendors upon sixty (60) days' written notice if, in Cascade's judgement, such services cease to be available or commercially reasonable terms from third party vendors. If Cascade elects to suspend or terminate any such services, the remaining provisions of this Agreement will remain in full force and effect, except that Cascade will adjust its Fees prorate to reflect the suspension or termination of these services.

9. Termination

This Agreement shall continue in effect until terminated as set forth herein. This Agreement may be terminated (a) by Cascade Centers, if Customer fails to pay Subscription fees when due; or (b) by Customer, without cause, on sixty (60) days' written notice. Cascade Centers shall have the right to recover all direct damages resulting from any breach by End User of this Agreement, including, without limitation, all unpaid fees under Section 3 (Fees) and Section 4 (Payments). End Customer's payment obligations under this Agreement are non- cancellable and non-refundable.

10. User Eligibility

Eligible employees and family members are those persons eligible for EAP benefits under Customer Employment policy.

11. Limited License

Unless otherwise indicated, the Services and all content and other materials therein, including, without limitation, the Cascade Centers trademark, logo and all designs, text, graphics, pictures, information, data, software, sound files, other files and the selection and arrangement thereof (collectively, "Materials") are the proprietary property of Cascade Centers and are protected by intellectual property laws.

Upon acceptance of the Terms of Use, Privacy Policy, and compliance with all of the terms and conditions stated herein, Cascade Centers hereby grants Customer and Users a non-exclusive, non- transferable, and non-sub-licensable limited license for the term of this Agreement to use the Services and Materials. Customer will promptly discontinue

the display or use of any Materials to change the manner in which a Material is displayed or used when requested by Cascade Centers. Other than the express licenses granted by this Agreement, Cascade Centers grants no right or license to Customer, by implication, estoppel or otherwise, to the Materials or any Intellectual Property Rights of Cascade Centers.

Such license is subject to this Agreement and the Terms of Use and does not include: (a) any resale or commercial use of the Services; (b) modifying or otherwise making any derivative uses of the Services and Materials, or any portion thereof; (c) use of any data mining, robots or similar data gathering or extraction methods; (d) downloading (other than the page caching) of any portion of the Services, the Site Materials or any information contained therein, except as expressly permitted on the Services; or (e) any use of the Services or the Materials other than for its intended purpose. Any use of the Services or Materials other than as specifically authorized herein, without the prior written permission of Cascade Centers, is strictly prohibited and will terminate the license granted herein. Such unauthorized use may also violate applicable laws, including, without limitation, copyright and trademark laws and applicable communications regulations and statutes. Unless explicitly stated herein, nothing in this Agreement or the Terms of Use shall be construed as conferring in any manner, whether by implication, estoppel or otherwise, any title or ownership of, or exclusive use-rights to, any intellectual property or other right and any goodwill associated therewith.

12. Intellectual Property

Customer acknowledges that the Services and any copies that Customer and/or Users are authorized by Cascade Centers to make are the intellectual property of Cascade Centers. Cascade Centers warrants that it owns, controls, or otherwise has full rights to use all software utilized in connection with providing the Services. With regard to Cascade Centers proprietary elements of the structure, organization and code of the system used to provide the Services, such elements are the valuable intellectual property and confidential information of Cascade Centers and are protected by copyright laws, including without limitation United States Copyright Law, international treaty provisions and applicable laws in the country in which it is being used. With regard to the proprietary elements of Cascade Centers system, Customer acknowledges that Cascade Centers retains the ownership of all patent rights, copyrights, trade secrets, trademarks and other intellectual property rights to those elements as they are used in connection with the Services.

13. Trademark Information

Cascade Centers and the Cascade Centers logo are trademarks of Cascade Centers. Other product or company names referred to on the Services may be trademarks of their respective owners. Customer may not use any trademark, service mark, domain name, logo, company name, trade name or indicia of origin of Cascade Centers or any third party without permission from the owner of the applicable trademark, service mark, domain name, logo, company name, trade name or indicia of origin.

14. Confidentiality

Health Information and Protected Health Information.

Cascade Centers agrees to protect the confidentiality of participants and their individually identifiable health information ("Protected Health Information" as defined in 45 CFR §164.501) in accordance with the requirements of state and federal laws, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA). All records of participants are and will remain the property of Cascade Centers.

Both Cascade Centers and Customer shall treat individually identifiable health information as confidential and will take reasonable precautions to safeguard the privacy, security, and confidentiality of all Protected Health Information and other such individually identifiable health information.

15. WARRANTY DISCLAIMER

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THE PARTIES UNDERSTAND AND AGREE THAT THE SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. CASCADE CENTERS MAKES COMMERCIALY REASONABLE EFFORTS TO TRY TO KEEP THE SERVICE UP AND RUNNING, AND SAFE, BUT CUSTOMER USES IT AT CUSTOMER'S OWN RISK. CASCADE CENTERS PROVIDES THE SERVICE WITHOUT ANY REPRESENTATION OR GUARANTY THAT THE SERVICE WILL BE SAFE OR SECURE. CASCADE CENTERS IS NOT RESPONSIBLE FOR THE ACTIONS, CONTENT, INFORMATION, OR DATA OF THIRD PARTIES, AND CUSTOMER RELEASES CASCADE CENTERS, ITS DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS FROM ANY CLAIMS AND DAMAGES, KNOWN AND

UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY SUCH CLAIM THAT INVOLVES THIRD PARTIES.

16. Limitation of Liability

Cascade Centers and its officers, directors, employees, shareholders or agents shall not be liable for any indirect, punitive or consequential damages, or any other damages of any kind, including but not limited to loss of income, profits, goodwill, data, contracts, use of money, or loss or damage arising from or connected in any way to business interruption, whether in tort (including without limitation negligence), contract or otherwise, arising out of or in connection with the use of or inability to use the Services, the content or the materials contained in or accessed through the Services, including without limitation any damages caused by or resulting from reliance by a User on any information obtained from Cascade Centers, or that result from mistakes, omissions, interruptions, deletion of files or email, errors, defects, viruses, delays in operation or transmission or any failure of performance, whether or not resulting from acts of God, communications failure, theft, destruction or unauthorized access to Cascade Centers' records, programs or services. Except for claims arising from property damage, bodily injury, or breach of I Cascade Center's confidentiality obligations, including a data breach, the aggregate liability of Cascade Centers or Customer, whether in contract, warranty, tort (including negligence, whether active, passive or imputed), product liability, strict liability or other theory, arising out of or relating to the use of or inability to use the Services shall not exceed any compensation Customer pays to Cascade Centers for access to or use of the Services during the six (6) month period immediately preceding the events giving rise to the damages. Some jurisdictions do not allow the limitation of liability in contracts with consumers, so some or all of these limitations of liability may not apply to Customer.

17. Limited Liability and Warranties

Cascade warrants that it and its third-party vendors will make every effort to ensure the accuracy of the information or the appropriateness of any service or product provided to Customer's employees. Referrals given by Cascade to Customer's employees for elder or child care, legal or financial consultation services or other community services are not endorsements or recommendations for the referred programs or providers. The responsibility for selecting and engaging such providers lies solely

with the employee. Vendors and such other providers are not and shall not be deemed agents of Cascade or Employer.

18. Indemnification

Cascade Centers shall save, defend, indemnify, and hold harmless the Customer, and their officers, agents, employees, elected officials, members from all claims, suits, and actions of any nature resulting from or arising out of the negligent acts or omissions of Cascade Centers or its subcontractors, officers, agents, or employees acting under this Agreement. To the extent permitted by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 to 30.300), Customer shall save, defend, indemnify, and hold harmless Cascade Centers, and their officers, agents, employees, and members from all claims, suits, and actions of any nature resulting from or arising out of the negligent acts or omissions of Contractor or its subcontractors, officers, agents, or employees acting under this Agreement.

19. Publicity

Cascade Centers may identify Customer as a client of Cascade Centers in marketing materials.

20. Compliance

Customer and Cascade Centers shall comply with all applicable laws in the administration of this Agreement and the operation of the employee assistance program provided by Cascade Centers for Customer, including but not limited to the Americans with Disabilities Act, the Health Insurance Portability and Accountability Act (HIPAA), the Genetic Information Nondiscrimination Act, the Health Information Technology for Economic and Clinical Health (HITECH) Act, and any and all applicable laws.

Customer agrees to be solely responsible and financially liable for any non-compliant messages sent pursuant to this Agreement. Subject to the limits of the Oregon Constitution and the Oregon Tort Claim Act, Customer agrees to defend and indemnify Cascade Centers for any claim of an alleged violation of the regulations promulgated thereunder, or any state laws covering the same subject-matter that relates to any communication made by Customer relating to Cascade Centers or this Agreement.

21. Governing Law; Venue

Access to and use of the Services and this Agreement are governed by U.S. federal law and/or the laws of the State of Oregon, without resort to conflict of law provisions.

22. Injunctive Relief

The parties acknowledge that the Services and each party's

Confidential Information are unique property, and the unauthorized use thereof may cause the injured Party irreparable harm that may not be adequately compensated by monetary damages. Accordingly, the Parties agree that the injured Party will, in addition to other remedies available to it at law or in equity, be entitled to seek injunctive relief to enforce the terms of this Agreement, including to prevent any actual or threatened unauthorized use or sublicensing of each Party's Confidential Information, the Services, or any information or data contained therein.

23. Notices and Assignment

All notices hereunder must be in writing and sent by hand delivery; or by postal service, postage prepaid; or by expedited mail courier service; or by electronic mail (e-mail); or by facsimile transmission, to the addresses listed below. Notices are deemed received and effective as follows: If hand-delivered, upon delivery; if sent by e-mail or facsimile transmission, upon sending; if mailed, upon the earlier of (i) receipt or (ii) three days after being deposited in the mail. If the addressee provided for below rejects or otherwise refuses to accept the notice, or if the notice cannot be delivered because of a change in address for which no notice was appropriately given, then notice is effective upon the rejection, refusal or inability to deliver. Either Party may change its notice address by giving written notice to the other Party in a manner prescribed above.

The terms of this Agreement shall be binding on the Parties, and all successors to the foregoing who take their rights hereunder. Neither Party will assign, transfer or delegate its rights or obligations under this Agreement (in whole or in part) without the other Party's prior written consent except pursuant to a transfer of all or substantially all of such party's business and assets, whether by merger, sale of assets, sale of stock, or otherwise. Any attempted assignment, transfer or delegation in violation of the foregoing shall be null and void.

24. Independent Contractors

Each Party shall act at all times as an independent contractor, and the Agreement shall not establish any fiduciary relationship or other relationship of partnership, joint venture, employment, franchise or agency between them. Neither Party shall have the authority to enter into any commitments on behalf of or otherwise bind the other Party without the express written consent of the other Party.

25. All Amendments in Writing

No variation, waiver, modification or amendment of this Agreement shall be binding upon either Party unless in writing executed by the duly authorized representatives of both Parties. This Agreement may not be supplemented or modified by course of dealing or performance. The waiver or

failure of either Party to exercise any right provided for herein shall not be deemed a waiver of any further right hereunder.

26. Severability

If any provision of this Agreement shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

27. Taxes.

Each Party shall bear sole responsibility for their own tax liability including, but not limited to, sales and use taxes and all taxes, assessments, and other ad valorem levies on that Party's owned property.

28. Additional Terms.

Cascade Centers and Customer agree that the Additional Terms listed on **Exhibit A**, and **Exhibit B** (Clackamas County Governmental Addendum), shall apply to this Agreement.

29. General

This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute the Agreement when a duly authorized representative of each Party has signed the counterpart. Facsimile or electronic signatures will be deemed original signatures for all purposes under this Agreement.

By signature below, Cascade Centers and Customer have each caused this Agreement to be executed by their duly authorized representative as of the Effective Date and such execution evidences each

Party's acceptance of and agreement with the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized

CASCADE CENTERS INC.

By _____

Name Anthony Brown

Title Vice President

Date: _____

CLACKAMAS COUNTY

Chair

Recording Secretary

Date

Approved as to Form:

County Counsel

Exhibit A

Cascade EAP Services Included	Cost
<p>Diagnosis and Treatment Planning: Up to six paid sessions per unrelated incident for each employee/family unit.</p> <p>24/7/365 crisis telephone coverage: Staffed by professional counselors.</p> <p>Promotional Materials: Printed materials include brochures, wallet cards, and posters with tear offs. Electronic materials include newsletter and flyers.</p> <p>EAP services:</p> <ul style="list-style-type: none"> <input type="checkbox"/> “The Line,” 24-hour anonymous advice line <input type="checkbox"/> Tax Resolution Assistance <input type="checkbox"/> Online Legal Resource Center <input type="checkbox"/> Career Development Services <input type="checkbox"/> <i>Text Connect</i> <input type="checkbox"/> Live Instant Chat <input type="checkbox"/> Life and Parent Coaching <input type="checkbox"/> Gym Membership Discounts <input type="checkbox"/> <i>E-Support</i> – Live online virtual sessions through secure video or chat <input type="checkbox"/> Discounted Pet Insurance <p>Reporting: Online utilization reporting and annual summary.</p> <p>Unlimited telephone management consultation with an EAP representative.</p> <p>Unlimited management referrals with follow-up to employer as needed.</p> <p>Work/Family/Life Balance Services: child and eldercare, legal, financial, identity theft and concierge resource retrieval, with reporting within 72 hours of initial call.</p> <ul style="list-style-type: none"> <input type="checkbox"/> <i>Legal/Mediation:</i> Each covered member is eligible for one (1) initial 30-minute office or telephone consultation per separate legal/mediation matter (limit three per year). Discount of 25% from the attorney’s/mediators normal hourly rate thereafter. <input type="checkbox"/> <i>Financial:</i> Each employee is eligible to receive telephonic financial coaching from certified financial consultants once per year. In the event the employee continues beyond the initial free 30-day period, subsequent months are paid by the employee at a monthly fee. <input type="checkbox"/> <i>Identity Theft Services:</i> 60-minute free consultation with a highly trained <i>Fraud Resolution Specialist™ (FRS)</i>. <input type="checkbox"/> <i>Free Simple Will Kit:</i> Cascade will send a Will Kit Questionnaire directly to members, and then connects members with an attorney for review and preparation of a Simple Will. Additional estate planning services are billed with a preferred rate reduction of 25% from the attorney’s normal hourly rate. <p>Cascade Personal Advantage: Interactive <i>EAP</i> Website.</p> <p>Home Ownership Program: Assistance and discounts on services associated with selling, buying, and refinancing a home.</p>	<p>7/1/20-12/31/20 \$2.60 PEPM for Active Employees</p> <p>\$2.50 PEPM for Retired Employees and COBRA members</p> <p>1/1/21-12/31/21 \$2.66 PEPM</p> <p>1/1/22-12/31/22 \$2.66 PEPM</p>

LifeBalance Wellness Program: Access to services in areas such as fitness, weight management, and stress reduction to help employees improve their overall health.	
<p>On-site EAP Services*: Included (ten) hours can be used for</p> <ul style="list-style-type: none"> • One-Hour EAP Seminars • Benefit Fairs and Open Enrollment Meetings • Employee EAP Orientations • Supervisor EAP Orientations <p>Additional EAP Services*: as needed</p> <ul style="list-style-type: none"> • Group Critical Incident Stress Debriefing: Provided 48-72 hours following a traumatic event. Includes 24/7 consultation services to management pre, post and during. 	
Substance Abuse Professional (SAP) Evaluation	\$550.00 per case

Additional Services Available	Cost
Any additional on-site EAP services beyond the allotted annual hours will be billed at	\$250.00 per hour, \$95.00 per hour travel
On-Site Legal/Financial Seminars: Specialized training facilitated by subject matter expert.	\$450.00 per seminar
On-site Organizational Development: Teambuilding, conflict resolution, and other specialized training.	\$315.00 per hour \$95.00 per hour travel
First Responder Services: Cascade will provide on-site crisis counselors within 2 – 24 hours of notification of a traumatic event. Services include informal outreach, check-in, supportive listening, problem-solving for immediate needs, assessment of mental / emotional health, and make recommendations as needed. Cascade will also conduct phone calls as needed to ascertain mental / emotional needs for those employee(s) wishing additional EAP check-ins. Face-to-face counseling or other support services will be arranged as needed.	\$300.00 per hour \$200.00 per hour travel
On-Site Individual Counseling/Grief Support: Formal on-site counseling is available.	Mon – Fri 8:00 am to 5:00 pm \$225.00 per hour \$95.00 per hour travel All other hours \$300.00 per hour \$95.00 per hour travel
Executive Coaching: Individualized assessment, 5 one-hour sessions, access to Executive Coach between sessions via email and telephone. If travel is requested, there is an additional fee.	\$1,700.00 Additional sessions beyond the initial package are \$315.00/hour. Travel \$95.00/hour.

***Notes:**

- A minimum attendance of ten employees for Orientations and EAP Seminars are required.
- A minimum attendance of five employees for CISD are required.
- On-site hours not utilized one year may not be carried over into the following year.
- A cancelation fee will apply for on-site services canceled within 24 hours of the scheduled event.

**EXHIBIT B
CLACKAMAS COUNTY
GOVERNMENTAL CONTRACTING ADDENDUM
Contract #2557**

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon (“County”), on behalf of its Human Resources department and **Cascade Centers, Inc.** (“Contractor”). This Addendum shall be attached to, and incorporated into, the *Cascade Centers Subscription Agreement for Employee Assistance Program Services* (“Vendor Agreement”). As used below, "Contract" means this Addendum and the Vendor Agreement. To the extent there is any conflict between the Addendum and the Vendor Agreement, the terms of this Addendum shall control.

- A. Term.** This Contract shall become effective **July 1, 2020** and upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **December 31, 2022**.
- B. County Contract Administrator.** The County Contract Administrator for this Contract is **Kristi Durham**.
- C. Invoices and Payments.** Invoices shall be submitted to: Tamra Dickinson, 503-742-5486 or email: tamradic@clackamas.us.

Payment and late fees shall only be in accordance with ORS 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor.

Per **Exhibit A** of the Cascade Centers Subscription Agreement for Employee Assistance Program Services, subscription fees are outlined per year as *Per Employee Per Month* (“PEPM”), and other additional services are outlined in the schedule of services. The total Contract Compensation shall not exceed **\$215,000.00** over the life of this Contract.

- D. Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us. _

Required - Workers Compensation: Contractor shall comply with the workers’ compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Cyber Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for network security (including data breach), privacy, interruption of business, media liability, and errors and omissions.
<input type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

The insurance described in this section shall not be cancelled or materially changed without Contractor providing at least sixty (60) days written notice to the County. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- E. Debt Limitation.** The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- F. Public Contracting Requirements.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes (“ORS”) Chapter 279B.220 through 279B.235, Contractor shall:
1. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
 2. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
 3. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.

Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
 4. As applicable, Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- G. Governing Law; Venue.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- H. Termination.** This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor and, upon receipt of the written notice, Contractor shall stop performance, and County shall pay Contractor for the goods or services delivered and accepted; (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; (iii) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.
- I. Compliance.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. This includes, but is not limited to: (i) Titles VI and VII of Civil Rights Act of 1964; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990; (iv) Executive Order 11246; (v) The Age Discrimination in Employment Act of 1967; (vi) the Health Insurance Portability and Accountability Act of 1996; the Age Discrimination Acts of 1967 and 1975; (vii) The Vietnam Era Veterans’ Readjustment Assistance Act of 1974; (viii) ORS Chapter 659; (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (x) all federal and state laws governing the handling, processing, packaging, storage, labeling, and delivery of food products; (xi) all regulations and administrative rules established pursuant to the foregoing laws; and (xii) County Local Contract Review Board Rules, containing language required to be in all public contracts, which is specifically incorporated by reference as if set forth herein.
- J. Tax Compliance.** Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- K. Indemnification.** Contractor agrees to indemnify, hold harmless and defend the County, its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the

investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of Contractor or Contractor's employees or agents. Any obligation of the County to indemnify, hold harmless and defend Contractor, its officers, elected officials, agents and employees, or any other indemnitee, shall only be to the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300) from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based on damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the County or the County's employee or agents.

- L. Dispute Resolution.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel. Any requirements contained in this Contract waiving a right to a jury trial or requiring binding arbitration are void.
- M. Records.** Contractor shall maintain all accounting records relating to this Contract according to GAAP and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant County, the federal government, and their duly authorized representatives access to the Records, including reviewing, auditing, copying, and making transcripts. Any documents that are requested to be maintained as confidential by either party shall only be maintained as confidential to the extent permitted by the Oregon Public Records Law ORS 192.
- N. Subcontractors.** Contractor shall ensure that its subcontractors, if any, comply with the requirements of this Addendum.
- O. Counterparts.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- P. Waiver.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

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

Cascade Centers, Inc.

Clackamas County

Authorized Signature Date

Chair

Name/Title (Printed)

Recording Secretary

124898-11 DBC / Oregon

Oregon Business Registry

Date

Approved As To Form:

Clackamas County Counsel Date