

September 8, 2022

Board of County Commissioners
Clackamas County

Approval of revenue agreement #10774 with Oregon Primary Care Association, Inc. (OPCA) for COVID treatment pilot program. This is a revenue agreement for up to \$250,000. Funding through OPCA.

County General Funds are not involved.

Purpose/Outcomes	The purpose of this agreement is to partner with OPCA to provide equitable access to testing, assessment, and adequate access to COVID-19 therapeutics by eliminating barriers.
Dollar Amount and Fiscal Impact	This is a revenue agreement with a maximum value of \$250,000.
Funding Source	No County funds. This is a revenue agreement with Oregon Primary Care Association, Inc..
Duration	July 1, 2022 – December 31, 2022
Previous Board Action	Issues September 6, 2022
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe. 2. Ensure safe, healthy and secure communities.
Counsel Review	1. August 23, 2022 2. AN
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. Revenue contract, no procurement needed.
Contact Person	Sarah Jacobson, Health Center Interim Director – 503-201-1890
Contract No.	10774

BACKGROUND:

Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of contract #10774, a revenue agreement with Oregon Primary Care Association, Inc. (OPCA) for COVID Treatment Pilot Program.

CCHCD already provides COVID treatment, but gaps exist in the larger county population. Currently, CCHCD does not have the existing staffing or procedures to serve people who are not patients.

Emerging data confirms that people of color and other target communities do not have adequate access to COVID-19 therapeutics. These communities may also have overlapping barriers such as geographical spread, language, uninsured status, and/or houselessness.

Health Centers looks to expand COVID Treatment, primarily oral antivirals to community wide target populations without primary care access. Target populations, including but not limited to, migrant seasonal farmworkers, individuals experiencing homelessness, racial and ethnic minorities, refugees, immigrants and any additional target communities.

This agreement is effective July 1, 2022 and expires on December 31, 2022.

RECOMMENDATION:

Staff recommends approval of this contract, and authorizes the Chair to sign on behalf of the County.

Respectfully submitted,

Denise Swanson

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



SUB CONTRACT/PROFESSIONAL SERVICES AGREEMENT

This Company Services Agreement ("Agreement") is entered into effective the 1st day of July 2022 by and between Oregon Primary Care Association, Inc., an Oregon non-profit public benefit corporation ("OPCA"), and Clackamas County, by and through its Health, Housing and Human Services Department, Health Centers Division ("Company").

RECITALS

WHEREAS, OPCA wishes to engage Company to provide consulting Services ("Services"), as specified in Exhibit A to this Agreement to OPCA and or OPCA's members; and WHEREAS, Company wishes to provide the Services under the terms and conditions specified in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth below and these Recitals, OPCA and Company agree as follows:

AGREEMENT

1. Company Services.

- 1.1 **Description of Services.** Company shall provide all Services specified in Exhibit A to this Agreement.
- 1.2 **Manner of Rendering Services.** Company shall determine the method, details, and means of performing the Services.
- 1.3 **Direction and Control of Services.** OPCA may not control, direct, or supervise Company's employees.
- 1.4 **Services for Other Entities.** Company is free to provide Services to other entities or persons during the term of this Agreement.
- 1.5 **No Authority to Bind or Obligate OPCA.** Company shall have no authority to bind, obligate or commit OPCA by any promise or representation, unless Company has obtained the prior written approval of an authorized representative of OPCA.

1.6 **Compliance With Laws.** Company shall strictly comply with all applicable federal, state, and local civil and criminal laws and statutes, ordinances, regulations and codes, including, but not limited to, those related to non-discrimination in the provision of Services, and the Health Insurance Portability and Accountability Act (“HIPAA”).

2. **Term and Termination of Agreement.**

2.1 **Term.** The term of this Agreement shall begin on the date set forth above and shall terminate on December 31, 2022 , unless otherwise terminated by either party in accordance with Section 2.2 of this Agreement.

2.2 **Termination.** This Agreement may be terminated by either party at any time for any reason with the terminating party giving not less than sixty (60) days' prior written notice to the non-terminating party. If this Agreement is terminated, OPCA shall pay Company for hours worked, and reimburse expenses and costs actually incurred or expenses for which Company has become legally obligated prior to the effective date of termination and for which Company has not already received payment. This Agreement may be terminated by either party in the event of a default by the other party. Any defaulting party shall have thirty (30) days in which to cure following written notice of default by the non-defaulting party. If this Agreement is terminated due to Company's non-performance of Services within the agreed upon time frame, Company shall provide a detailed invoice for hours worked, expenses and costs actually incurred, and reimburse OPCA the remaining balance between these and the amount already paid.

3. **Compensation.**

3.1 **Fees for Services.** OPCA shall pay Company in accordance with the payment provisions set forth in Exhibit A. Company shall not be entitled to any other compensation from OPCA related to this Agreement. This Agreement does not restrict Company from billing for the rendering of healthcare or related services to the extent allowable by law or existing contracts with health insurers, government agencies, patients, or other entities.

3.2 **Expenses.** Company is responsible for all expenses incurred in providing the services under this Agreement including, but not limited to, Company's normal and ordinary business expenses such as rent, administrative assistance, general photocopying, postage, vehicle expense, office supplies, or local telephone service.

3.3 **Invoices.** Company shall submit to OPCA a complete invoice not later than three weeks following the end of the month in which the Services

are performed. Each invoice shall include a description of charges covered by the invoice. If this Agreement is terminated due to Company's non-performance of Services within the agreed upon time frame, then Company shall provide OPCA with an itemized description of Company's efforts performed in delivery of Services and the associated charges during the period covered by the invoice. OPCA shall pay Company all undisputed amounts by regular mail at Company's designated address not later than thirty (30) days after receipt of Company's invoice.

4. Relationship Between the Parties.

4.1 Independent Contractor. Company is an independent contractor. This Agreement does not create the relationship of employer and employee, a partnership, or a joint venture. None of the benefits provided by OPCA to its employees, if any, (including workers' compensation) shall be provided to Company, or any of Company's employees, agents or representatives.

4.2 Responsibility for Wages, Taxes, Workers' Compensation Coverage, Etc. Company shall be responsible for providing any salary or other benefits or payments due to its employees and subcontractors, if any. Additionally, Company shall be solely responsible for making all necessary and appropriate tax, social security, employment and workers' compensation and other withholding deductions and payments for Company, and any of Company's employees and/or subcontractors. Company also shall be solely responsible for providing any necessary and appropriate workers' compensation insurance coverage for Company, and any of its employees and subcontractors.

4.3 Tools and Equipment. Company is responsible for providing the principal tools, equipment and supplies for performance of the Services under this Agreement.

4.4 Permits and Licenses. Company shall, at Company's expense, obtain and maintain all permits, licenses, certifications and registrations necessary to perform the Services under this Agreement.

5.

6. Insurance and Risk of Loss.

6.1. Company shall maintain insurance or self-insurance sufficient to protect Company's business as required by local, state and federal law, and as necessary to protect against all applicable risks.

7. Indemnification.

7.1 Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act, Company agrees to indemnify OPCA and its officers,

directors, board members, employees and agents (the “Indemnified Party”) from and against all liabilities, claims, demands, causes of action and costs, including reasonable attorney’s fees, costs and disbursements, asserted by third parties and arising from or in connection with the Services if such Services are performed negligently or in willful disregard of standards of professionalism common within Company’s industry. Company’s obligation to indemnify any Indemnified Party will survive the expiration or termination of this Agreement by either party for any reason. OPCA shall promptly notify Company of any third party claim. OPCA will indemnify Company from claims from third parties arising out of negligence or breach of this Agreement by OPCA during Company’s performance of the Services.

8. Confidential Information.

8.1 “Confidential Information” Defined. In the course of performing the services for OPCA, Company may acquire knowledge (both orally and in writing) regarding confidential and/or proprietary information concerning OPCA and its members, employees, providers, contractors and vendors, including member lists, financial information, grant applications; information about costs and pricing structure; markets, community partners, plans for future development, and programs; marketing plans or strategies; and other information of a similar nature which is not generally disclosed by OPCA or its members or to the public (collectively, “Confidential Information.”) Similarly, OPCA may acquire similar information regarding confidential and/or proprietary information concerning Company.

8.2 Non Use and Non Disclosure. Company agrees that during the term of this Agreement and thereafter, it (a) will keep secret and retain in confidence all Confidential Information, (b) not disclose Confidential Information to anyone except employees of OPCA or OPCA’s members authorized to receive it, and third parties to whom such disclosure is specifically authorized, and (3) not use any Confidential Information for any purpose other than performance of services under this Agreement without prior written permission from OPCA. OPCA agrees similarly, as Company agrees above, not to use or disclose Company’s Confidential information, including copyright training materials, other than to OPCA employees and its members that receive Services under this contract.

8.3 Application. Company’s confidentiality obligations as set forth in Section 8 will not apply to any information or any portion thereof which (i) is or becomes publicly available by other than a breach of this Agreement (including, without limitation, any information filed with any governmental agency and available to the public); (ii) is disclosed to Company by a third party that is legally entitled to disclose such information; (iii) Company demonstrates through documented records that the information was

known by it prior to its receipt from OPCA; (iv) is developed by Company independently of any disclosures made by OPCA of such information, as demonstrated by Company's documented records; or (v) is required to be disclosed by subpoena, court order, or other legal or regulatory requirement, provided that Company provides prompt notice to OPCA of such a request for disclosure and cooperates with OPCA in any legal challenge to such disclosure. Identical exclusions pertain to OPCA's confidentiality obligations to Company.

8.4 Public Records Law. Notwithstanding anything to the contrary, Company's obligations under this agreement are expressly subject to the Oregon Public Records Law, Oregon Revised Statutes ("ORS") Chapter 192 *et. seq.*, and any other applicable state or federal law. OPCA asserts that Confidential Information, defined above, submitted pursuant to this agreement is exempt from disclosure under one or more exceptions under applicable law. While Company will make good faith efforts to perform under this agreement, Company's disclosure of Confidential Information, in whole or in part, will not be a breach of the agreement if such disclosure was pursuant to a request under the Oregon Public Records Law, or any other state or federal law, or if such disclosure was compelled by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar processes.

If Company is subject to such a disclosure order or receives from a third party any public records request for the disclosure of Confidential Information, Company shall notify OPCA within a reasonable period of time of the request. OPCA is exclusively responsible for defending OPCA's position concerning the confidentiality of the requested information. Company is not required to assist OPCA in opposing disclosure of Confidential Information, nor is Company required to provide a legal opinion as to whether the Confidential Information is protected under ORS Chapter 192, *et. seq.*, or other applicable state or federal law

Remedies for Breach. Company agrees that it would be difficult to measure damages to OPCA from any breach by Company of Section 8 of this Agreement, and that monetary damages would be an inadequate remedy for any such breach. Accordingly, Company agrees that if he/she breaches or threatens to breach Section 8, OPCA is entitled to seek an injunction or other appropriate relief to restrain any such breach or threatened breach without showing or proving any actual damage sustained by OPCA. Nothing in this Section 8 limits OPCA from also seeking all other remedies it may have at law or in equity against Company for a breach or threatened breach of this Section 9. This section also applies to remedies in case of OPCA breach of confidentiality regarding Company Confidential information.

9. Notices to the Parties.

9.1 Notices required by this Agreement shall be in writing. Notices may be served by certified or registered mail, postage paid with return receipt requested; by private courier, prepaid; or in person. Mailed notices shall be deemed delivered three (3) days after mailing, properly addressed. Couriered notices shall be deemed delivered on the date that the courier represents that delivery has been made. In person delivery shall be effective when accomplished. Unless a party changes its address by giving notice to the other party as provided herein, notices shall be delivered to the parties at the following addresses:

Company: Clackamas County, by and through its Health, Housing and Human Services Department, Health Centers Division
Attn: Sarah Jacobson
2051 Kaen Rd., Suite 367
Oregon City, OR 97045

OPCA: Oregon Primary Care Association
333 SW 5th Avenue, Suite 250
Portland, OR 97204

10. Assignment.

10.1 **Assignment.** Company agrees it may not assign this Agreement in whole or in part without the prior written consent of OPCA.

11. Dispute Resolution.

11.1 **Method of Resolution.** Subject to the provisions of Section 9.3 above, any claim, controversy or dispute arising out of or in connection with this Agreement shall be resolved as follows:

11.2 **Mediation.** Company and OPCA agree that the first step toward resolution shall be mandatory, non-binding mediation in Portland, Oregon with a neutral, third party mediator mutually selected by the parties. Company and OPCA agree to share equally the costs of mediation, including the mediator's time and expenses (and excluding any attorney fees or other costs incurred by either party).

11.3 **Arbitration.** In the event mediation is not successful, Company and OPCA agree to resolve the issue through expedited mandatory arbitration in Portland, Oregon with a mutually selected arbitrator from and

under the auspices of Arbitration Service of Portland, Inc. The arbitration shall be conducted as described below; however, to the extent ORS 36.600 to 36.740 ("Oregon Arbitration Act") requires otherwise, the arbitration will be conducted in accordance with the rules Arbitration Service of Portland then in effect. Notice of demand for arbitration shall be filed in writing with the other party and with the Arbitration Service of Portland, Inc. Each party shall be entitled to discovery as provided for in the Oregon Arbitration Act. A single arbitrator shall conduct the arbitration proceedings in private, and to the extent necessary to enforce any award, the arbitration proceedings and results shall be confidential. The parties agree that the decision of the arbitrator shall be final and binding, and that judgment thereon may be entered in any court having jurisdiction. In reaching a decision, the arbitrator shall have no authority to change or modify this Agreement. The parties shall share equally the costs of arbitration, including fees resulting from the arbitrator's review of any pre and post hearing motions, briefs or other documents or pleadings.

12. Waiver of Breach/Remedies.

12.1 Neither Company nor OPCA shall be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.

12.2 Upon default, each party shall have all rights and remedies available to it under this Agreement, at law, or in equity. The rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other party.

13. Governing Law

13.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to its conflict of laws provision.

14. Certification Regarding Lobbying

Title 31, United States Code, Section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," generally prohibits recipients of Federal grants and cooperative agreements from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government

in connection with a SPECIFIC grant or cooperative agreement. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative agreement must disclose lobbying undertaken with non-Federal (nonappropriated) funds. These requirements apply to grants and cooperative agreements EXCEEDING \$100,000 in total costs (45 CFR Part 93).

The undersigned (authorized official signing for the applicant organization) certifies, to the best of his or her knowledge and belief, that:

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

15. Severability

15.1 In the event that any section or provision of this Agreement shall be held to be illegal or unenforceable, such section or provision shall be severed from this Agreement and the entire Agreement shall not fail as a result, but shall otherwise remain in full force and effect.

16. Force Majeure.

16.1 Neither Party will be liable for any delay in performing its obligations to the extent that delay is caused by insurrection, terrorism, war, riot, explosion, nuclear incident, fire, flood, earthquake, Acts of God or other catastrophic event beyond the reasonable control of the affected Party, excluding a pandemic/epidemic, and the current Covid-19 crisis.

17. Amendments

17.1 This Agreement may be canceled, modified, or amended only by an instrument in writing and executed both by Company and OPCA.

18. Entire Agreement

18.1 This Agreement, including any and all exhibits, sets forth the entire understanding of the parties with respect to the subject matter of this Agreement, and supersedes any and all prior discussions, understandings

and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement.

19. Authority.

19.1 The undersigned represent that they are authorized to execute this Agreement on behalf of their respective principals.

20. Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent

21. No Attorney Fees. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

**OREGON PRIMARY CARE ASSOCIATION,
INC.**

By: _____

Joan Watson-Patko

Title: Executive Director

Clackamas County

By: _____

Tootie Smith

Title: Chair

*Please include completed W9 with submission of signed contract to OPCA.

EXHIBIT A
to
Company Services Agreement
Description of Services and Fees

Contract and Project Period: July 1, 2022, to December 31, 2022.

Contract Funding: \$250,000

Description of Services

Statement of Work:

Background/Context Emerging data confirms that people of color and other target communities do not have adequate access to therapeutics. These communities may also have overlapping barriers such as geographical spread, language, uninsured status, and/or houselessness. The OHA “Oregon Health Authority” explored an external vendor, Gothams, to be a Monoclonal Antibody (“mAb”) site at the Portland Adventist parking lot. After several months of negotiations, the supply shortages of Sotrovimab (the only mAb shown to retain efficacy against Omicron at the time), and the inability for the vendor to prescribe and dispense oral antivirals, it was determined that the fixed site did not align with OHA’s goal of equitable distribution of therapeutics to the most impacted communities. OHA is now redirecting its effort to support FQHC “Federally Qualified Health Centers” with their existing infrastructure in their mission to provide therapeutics by contracting with OPCA “Oregon Primary Care Association”

OPCA COVID Treatment Pilot Project Scope:

- a. OPCA will sub-contract with Oregon FQHCs to participate in a multi-phase pilot project to administer oral antiviral medication for COVID.
- b. Participating FQHCs will provide COVID-19 Treatment, primarily oral antivirals to existing patients and community wide target populations served that include migrant seasonal farmworkers, individuals experiencing homelessness, racial and ethnic minorities, refugees, immigrants and any additional target communities identified by the participating FQHC.
- c. Documentation, assessment, and lessons learned from the project/pilot to share with other FQHCs (and primary care practices).
- d. Sharing of lessons learned and agreement of FQHCs + OPCA to share lessons learned and phases of therapeutics onboarding including:

- (1) Development of a Toolkit or guide on the, “Administration of COVID 19 Treatments in Primary Care” that includes sample workflows, procedures for ordering treatments supplies, staff training, quick guide to coding for services.
- (2) Short learning collaborative series facilitated by OPCA and including early adaptors and all next phases of FQHC roll out.

Out of scope:

- (1) Infusion services as a requirement
- (2) The cost of the OHA staffing resources

Assumptions:

- (1) Oral antivirals continue to be produced and available
 - (a) Checkpoints for phases 1 and 2
- (2) COVID treatments continue to require state allocation
 - (a) Potential movement to commercial carriers
- (3) Health centers will sub-contract with OPCA to participate.

Indicators of Success for OPCA:

- a. Selection of pilot sites and development of contracts with participating FQHCs
- b. Funding selected FQHCs per the agreed upon contract
- c. Development of an implementation Toolkit to support the Administration of Covid-19 Treatments in Primary Care
- d. Successful facilitation of learning collaborative series for pilots and additional phases.
- e. Meet proposed timelines:

General timeline:

Phase 2: Pilots up and running (July – December 2022)

Start up & Kick Off meeting costs Due after completion of kick off meeting.

Monthly Pilot billing and meeting participation.

Final evaluation and invoicing due by January 31, 2023.

OPCA will Provide:

- a. Project manager to coordinate with OHA (a single contact point and back up for all questions/concerns) and participating FQHC sites (1) OPCA Project Manager – Claire Tranchese, OPCA Deputy Director
- b. Sub-contract with participating FQHCs
- c. Develop a timeline, work, and evaluation plan for all phases of implementation knowing that as a pilot, things can change.
- d. Recruit phase 1 and 2 sites (based on OHA criteria) for participation
- e. Follow-up with selected sites to identify and develop mitigation strategies to project barriers

- f. Coordination of documentation and lessons learned to share with other FQHCs (and primary care practices)
- g. Sharing of lessons learned/toolkit per above
- h. Planning for 2nd phases of project if pilot proves successful
- i. Development of success criteria for OPCA and for FQHCs
- j. Coordination of data collection and analysis efforts to test against developed success criteria
- k. Support FQHC collection of REALD data via a data collection process provided by OHA
- l. Monthly updates to OHA
- m. Support FQHCs in successfully collecting and submitting documentation for invoicing

OHA will Provide:

- a. Single point of contact project manager (and back up contact when OOT)
- b. To coordinate with OPCA and sites
- c. Support identifying or procurement of staffing augmentation, cannot be guaranteed (staffing opportunities will be enhanced once the current surge abates)
- d. Support identifying and connecting additional partners, such as independent pharmacies, safety net providers, etc.
- e. Coordination of therapeutics supply; supply is subject to change and outside of OHA control
- f. Support in identifying testing and other necessary supplies, cannot be guaranteed. Supplies are always subject to change.
- g. Support contracting, invoicing, and payment to OPCA for all phases of implementation.
- h. Invite and partner with appropriate CCO to partner with FQHC in pilot(s) to identify and develop mitigation strategies to project barriers and coordinate with CCOs and other area partners to encourage utilization of services and share data

Company Responsibilities FQHC Provides:

- a. Point of contact for the project
- b. Physical space
- c. Appropriate clinical expertise
- d. Commitment to accessing and providing adequate staff to implement a pilot therapeutics program
- e. Sharing of lessons learned and agreement of FQHCs + OPCA to share lessons learned and phases of therapeutics onboarding including:
 - (1) Support to OPCA, if needed for the development of an implementation Toolkit for the “Administration of COVID Treatment in Primary Care” of policies and procedures, including sample workflows, procedures for ordering treatments supplies, staff training, quick guide to coding for services and other relevant operational considerations.
 - (2) Participate in a learning collaborative series facilitated by OPCA and including early adaptors/pilots and following phases of FQHC roll out.
- f. REALD data collection for patients receiving COVID treatment
- g. Support community members with positive at home test results to access COVID treatment if they meet treatment criteria.
- h. Provide support for getting medication to individual if needed.
- 1. Collect and submit appropriate documentation to support fiscal invoicing.

Fees

Payment and Financial Reporting

1. Payment Provisions:

As consideration for Services provided by Company, OPCA will pay to Contractor, a maximum not-to-exceed amount of \$250,000. Consideration of this Contract, to be paid as follows:

Phase 2 Pilot Site Kick-off Meeting and start up costs up to \$30,000. To be invoiced upon execution of this agreement.

Monthly Phase 2 Pilot costs and project closing costs for the remainder of up to \$220,000 to be billed monthly between the execution of this agreement and December 31, 2022.

This pilot funding can be use for: Staffing, Services, Supplies, Space, Overhead, Marketing and with OHA approval other potential costs.

Duration of contract and project, **July 1, 2022 thru December 31, 2022.**

All fees for this Agreement are separate and distinct from patient-related billings that Company generates while serving patients seen during this pilot program.

This Agreement will not restrict Company from billing for the rendering of healthcare or related services to patients to the extent allowable by law, existing contracts, or obligations with health insurers, government agencies, patients, or other entities for the actual deliver of related healthcare services, including but not limited to evaluation and assessment of patients, testing or lab services, administration of treatments, or related services.

2. Company Invoices:

Company invoices to be submitted monthly to OPCA at ctranchese@orpca.org. OPCA will review and submit invoices to the OHA and following OHA's review, approval and payment of invoice to OPCA, OPCA will pay company for all approved expenses.

Invoicing will take place per the schedule outlined below:

<u>Project Milestones:</u>	<u>Invoicing</u>
Site Kick-off Meeting	\$5,000 per site
Start-up Costs	\$25,000 per site
Month 1 Project Costs	TBD
Month 2 Project Costs	TBD
Month 3 Project Costs	TBD
Month 4 Project Costs	TBD
Month 5 Project Costs	TBD
Month 6 Project Costs	TBD

Close-out Costs Up to \$5,000 per site, dependent upon site NTE

Allowable Expenses:

Kick-off meeting and Start-up Costs to be invoiced immediately upon completion of the Kick-off meeting and completion of a fully executed contract.

Monthly project costs not to exceed the overall project budget. Project costs can include:

- Staff time
- Subcontractor or contract work
- Recruiting
- Outreach Materials
- Translation and interpretation services
- Space rental
- Supplies and equipment
- Transportation for patients
- Transport supplies
- Administrative overhead costs
- Administrative time
- Staff costs
- IT costs
- Other expenses related to COVID-19 response

Activities that are NOT reimbursable:

- Cash valued gifts cards, food/gas cards, etc. for community engagement or vaccine.
- Gift cards for food, housing, wraparound services for people in isolation or quarantine.
- Isolation (hotel/motel) required for quarantine.
- Vaccines, vaccine refrigerators, and vaccinator staff hours.
- Alcohol
- Contact Tracing
- Donations
- Lobbying Costs
- Takeaway Items (items used outside of the event, including food boxes)
- Payments to volunteers
- Quarantine direct client costs
- Utilities not directly related to project

OPCA will not reimburse Company for any travel or additional expenses under this Agreement.

EXHIBIT B
to
Company Services Agreement

Sub-Contract Language included from OPCA and OHA Contract

Standard Terms and Conditions

1. Governing Law, Consent to Jurisdiction. This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between OHA or any other agency or department of the State of Oregon, or both, and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Contract.

2. Compliance with Law. Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor and the Contract. OHA's performance under the Contract is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein. This Section shall survive expiration or termination of this Contract.

3. Independent Contractor.

a. Contractor is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

b. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Contract, represents and warrants that Contractor's Work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS Chapter 244 and that no statutes, rules or regulations of the State of Oregon or federal agency for which Contractor currently performs work would prohibit Contractor's Work under this Contract. If compensation under this Contract is to be charged against federal funds, Contractor certifies that it is not currently employed by the federal government.

c. Contractor is responsible for all federal and state taxes applicable to compensation paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, OHA will not withhold from such compensation any amounts to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers'

compensation benefits from compensation paid to Contractor under this Contract, except as a self-employed individual.

d. Contractor shall perform all Work as an Independent Contractor, as defined in ORS 670.600. OHA reserves the right (i) to determine and modify the delivery schedule for the Work, and (ii) to evaluate the quality of the Work Product, however, OHA may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.

4. Representations and Warranties.

a. Contractor's Representations and Warranties. Contractor represents and warrants to OHA that:

(1) Contractor has the power and authority to enter into and perform this Contract;

(2) The obligations set forth in this Contract, when executed and delivered, shall be valid and binding obligations of the Contractor enforceable in accordance with its terms;

(3) Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with the highest standards prevalent in Contractor's industry, trade or profession;

(4) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; and

(5) Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

b. Warranties Cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

5. Time is of the Essence. Contractor agrees that time is of the essence under this Contract.

6. Funds Available and Authorized; Payments.

a. Contractor shall not be compensated for Work performed under this Contract by any other agency or department of the State of Oregon or the federal government. OHA certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within OHA's current biennial appropriation or

limitation. Contractor understands and agrees that OHA's payment for Work performed is contingent on OHA receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow OHA, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

b. Payment Method. Payments under this Contract will be made by Electronic Funds Transfer (EFT). Upon request, Contractor shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Contractor shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Contract. Contractor shall provide this designation and information on a form provided by OHA. In the event that EFT information changes or the Contractor elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the Contractor shall provide the changed information or designation to OHA on an OHA-approved form. OHA is not required to make any payment under this Contract until receipt of the correct EFT designation and payment information from the Contractor.

7. Recovery of Overpayments. IF BILLINGS UNDER THIS CONTRACT, OR UNDER ANY OTHER CONTRACT BETWEEN CONTRACTOR AND OHA, RESULT IN PAYMENTS TO CONTRACTOR TO WHICH CONTRACTOR IS NOT ENTITLED, OHA, AFTER GIVING WRITTEN NOTIFICATION TO CONTRACTOR, MAY WITHHOLD FROM PAYMENTS DUE TO CONTRACTOR SUCH AMOUNTS, OVER SUCH PERIODS OF TIME, AS ARE NECESSARY TO RECOVER THE AMOUNT OF THE OVERPAYMENT, UNLESS CONTRACTOR PROVIDES A WRITTEN OBJECTION WITHIN 14 CALENDAR DAYS FROM THE DATE OF THE NOTICE. ABSENT TIMELY WRITTEN OBJECTION, CONTRACTOR HEREBY REASSIGNS TO OHA ANY RIGHT CONTRACTOR MAY HAVE TO RECEIVE SUCH PAYMENTS. IF CONTRACTOR PROVIDES A TIMELY WRITTEN OBJECTION TO OHA'S WITHHOLDING OF SUCH PAYMENTS, THE PARTIES AGREE TO CONFER IN GOOD FAITH REGARDING THE NATURE AND AMOUNT OF THE OVERPAYMENT IN DISPUTE AND THE MANNER IN WHICH THE OVERPAYMENT IS TO BE REPAYED. OHA RESERVES ITS RIGHT TO PURSUE ANY OR ALL OF THE REMEDIES AVAILABLE TO IT UNDER THIS CONTRACT AND AT LAW OR IN EQUITY INCLUDING OHA'S RIGHT TO SETOFF.

8. Removed

9. Removed

10. Default; Remedies; Termination.

a. Default by Contractor. Contractor shall be in default under this Contract if:

- (1) Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
- (2) Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Contract and Contractor has not obtained such license or certificate within 14 calendar days after OHA's notice or such longer period as OHA may specify in such notice; or
- (3) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after OHA's notice, or such longer period as OHA may specify in such notice; or
- (4) Contractor failed to comply with the tax laws of this state or a political subdivision of this state before the Contractor executed this Contract or fails to comply with the tax laws of this state or a political subdivision of this state during the term of this Contract.

b. OHA's Remedies for Contractor's Default. In the event Contractor is in default under Section 10.a. above, OHA may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to:

- (1) termination of this Contract under Section 10.e.(2) below;
- (2) withholding all monies due for Work and Work Products that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;
- (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- (4) exercise of its right of recovery of overpayments under Section 7., "Recovery of Overpayment", of this Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and OHA may pursue any remedy or remedies singly, collectively, successively or in

any order whatsoever. If a court determines that Contractor was not in default under Section 10.a. above, then Contractor shall be entitled to the same remedies as if this Contract was terminated pursuant to Section 10.e.(1) below.

c. Default by OHA. OHA shall be in default under this Contract if OHA commits any material breach or default of any covenant, warranty, or obligation under this Contract, and such breach or default is not cured within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.

d. Contractor's Remedies for OHA's Default. In the event OHA terminates the Contract under Section 10.e.(1) below, or in the event OHA is in default under Section 10.c. above, and whether or not Contractor elects to exercise its right to terminate the Contract under Section 10.e.(3) below, Contractor's sole monetary remedy shall be: (i) with respect to Work compensable at a stated rate, a claim for unpaid invoices, time worked within any limits set forth in this Contract but not yet invoiced, authorized expenses incurred and interest within the limits permitted under ORS 293.462, and (ii) with respect to deliverable-based Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by OHA, less previous amounts paid and any claim(s) that OHA has against Contractor. In no event shall OHA be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 10.d., Contractor shall immediately pay any excess to OHA upon written demand. If Contractor does not immediately pay the excess, OHA may recover the overpayments in accordance with Section 7., "Recovery of Overpayments", and may pursue any other remedy that may be available to it.

e. Termination.

(1) OHA's Right to Terminate at its Discretion. At its sole discretion, OHA may terminate this Contract:

(a) For its convenience upon 30 days' prior written notice by OHA to Contractor;

(b) Immediately upon written notice if OHA fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products;

(c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that OHA's purchase of the Work or Work Products under this Contract is prohibited, or OHA is prohibited from paying for such Work or Work Products from the planned funding source; or

(d) Immediately upon written notice to Contractor if there is a threat to the health, safety, or welfare of any OHA client or recipient of services under this Contract, including any Medicaid Eligible Individual, under its care.

(2) OHA's Right to Terminate for Cause. In addition to any other rights and remedies OHA may have under this Contract, OHA may terminate this Contract immediately upon written notice to Contractor, or at such later date as OHA may establish in such notice, if Contractor is in default under Section 10.a. above.

(3) Contractor's Right to Terminate for Cause. Contractor may terminate this Contract upon 30 days written notice to OHA, or at such later date as Contractor may establish in such notice, if OHA is in default under Section 10.c. above, and OHA fails to cure such default within 30 calendar days after OHA receives Contractor's notice or such longer period as Contractor may specify in such notice.

(4) Mutual Termination. The Contract may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.

(5) Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to OHA all of OHA's property that is in the possession or under the control of Contractor at that time. This Section 10.e.(5) survives the expiration or termination of this Contract.

(6) Effect of Termination: Upon receiving a notice of termination of this Contract, or upon issuing a notice of termination to OHA, Contractor shall immediately cease all activities under this Contract, unless in a notice issued by OHA, OHA expressly directs otherwise.

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

- a. Cancel or modify the stop work order by a supplementary written notice; or
- b. Terminate the work as permitted by either the Default or the Convenience provisions of Section 10., "Default; Remedies; Termination."

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

12. Limitation of Liabilities. EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 9., "INDEMNITY", NEITHER PARTY SHALL BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS CONTRACT.

13. Insurance. Contractor shall maintain insurance as set forth in Exhibit C, attached hereto.

14. Records Maintenance, Access. Contractor shall maintain all financial records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records, books, documents, papers, plans, records of shipments and payments, and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract, in such a manner as to clearly document Contractor's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments, and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract, are collectively referred to as "Records." Contractor acknowledges and agrees that OHA, the Secretary of State's Office, and the federal government, and their duly authorized representatives shall have access to all Records to perform examinations and audits, and to make excerpts and transcripts. Contractor shall retain and keep accessible all Records for the longest of:

- a. Six years following final payment and termination of this Contract;
- b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
- c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Contract.

15. Removed

16. Force Majeure. No party is responsible for delay or default caused by an event beyond its reasonable control. OHA may terminate this Contract, without liability to Contractor, upon written notice after reasonably determining the delay or default reasonably prevents performance of this Contract.

17. Foreign Contractor. If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the

Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract.

18. Subcontracts; Assignment; Successors. Contractor shall not assign or transfer rights or responsibilities under this Contract, in whole or in part, without the prior written approval of OHA. This Contract's provisions are binding upon and inure to the benefit of the parties to this Contract and their respective successors and assigns.

19. No Third Party Beneficiaries. OHA and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract. This Section shall survive expiration or termination of this Contract.

20. Severability. The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Contract.

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

OHA: Office of Contracts & Procurement

635 Capitol Street NE, Suite 350 Salem, OR 97301

Telephone: 503-945-5818 Fax: 503-378-4324

This Section shall survive expiration or termination of this Contract.

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

23. Merger Clause. This Contract constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, regarding this Contract not specified herein.

24. Amendments; Waiver; Consent. OHA may amend this Contract to the extent provided herein, the solicitation document, if any from which this Contract arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Contract shall bind either party unless it is in writing and signed by both parties and when required, the Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Contract.

25. Contractor's Failure to Perform. Contractor's failure to perform the statement of work specified in this Contract, or to meet the performance standards established in this Contract, may result in consequences that include, but are not limited to:

- a. Reducing or withholding payment under this Contract;
- b. Requiring Contractor to perform at Contractor's expense additional work necessary to perform the statement of work or meet performance standards; or
- c. Declaring a default of this Contract and pursuing any available remedies for default, including termination of the Contract as permitted in Section 10., "Default; Remedies; Termination", of this Contract.

COVER SHEET

- New Agreement/Contract
- Amendment/Change/Extension to _____
- Other _____

Originating County Department: _____

Other party to contract/agreement: _____

Description:

After recording please return to: _____

- County Admin
- Procurement

If applicable, complete the following: _____

Board Agenda Date/Item Number: _____