

Legal Counsel

Date

Chief Administrative Officer

Date



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: June 28, 2023

Department: Health & Human Services

Agenda Planning Date: June 15, 2023

Time required: 10

 Audio/Visual aids

Contact: Meuy Saechao

Phone: 503-584-4897

Department Head Signature:

DocuSigned by:

Ryan Matthews

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TITLE

Oregon Health Authority IGA#179926 Grant Agreement: Behavioral Health Workforce Initiative (BHWi)

Issue, Description & Background

Oregon Health Authority provides Grant Agreement # 179926 to Marion County Health and Human Service under the Behavioral Health Workforce Initiative (BHWi), was created through House Bill (HB) 2949 (2021) and refined in HB 4017 (2022).

The purpose of the Workforce Incentive Program is to invest in Community Mental Health Programs (CMHPs) to a) support the recruitment and retention of behavioral health providers with associate, bachelor's, master's, doctoral degrees or other credentials and b) provide supervised clinical experience necessary for behavioral health providers to obtain a license to practice through grant monies associated with HB 2949 (2021) (as updated by HB 4071 (2022)). The funding for this agreement may be used for activities authorized by Agreement #6230 (Workforce Incentive Activities) and for activities authorized by Agreement #6231 (Clinical Supervision Activities).

The total amount not exceed the contract amount \$1,980,301.00

Financial Impacts:

The total amount not exceed the contract amount \$1,980,301.00

Impacts to Department & External Agencies

Health & Human Services anticipates no financial impact to other departments.

Options for Consideration:

1. Approve Amendment Ten to OHA IGA #179926.
2. Deny approval Amendment Ten to OHA IGA #179926.
3. Take no action at this time.

Recommendation:

Health and Human Services Department recommends approval of Oregon Health Authority IGA# 179926.

List of attachments:

Oregon Health Authority IGA#179926.

Presenter:

Ryan Matthews

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Copies to:

Meuy Saechao; msaechao@co.marion.or.us



Grant Agreement Number 179926

**STATE OF OREGON
INTERGOVERNMENTAL GRANT AGREEMENT**

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

This Agreement is between the State of Oregon, acting by and through its Oregon Health Authority, hereinafter referred to as "OHA," and

**Marion County
Acting by and through its Behavioral Health Program
3180 Center Street NE; Suite 2100
Salem, OR 97301
Attention: Ryan Matthews
Telephone: (503) 588-5357
E-mail address: rmatthews@co.marion.or.us**

hereinafter referred to as "County" (collectively, the "Parties").

Work to be performed under this Agreement relates principally to OHA's

**OHA Health Systems
Behavioral Health Workforce
500 Summer Street N.E.
Salem, OR 97301
Agreement Administrator: Daniel Page or delegate
Telephone: (503) 400-0145
E-mail address: Daniel.Page@oha.oregon.gov**

1. Effective Date and Duration.

This Agreement shall become effective on the date this Agreement has been fully executed by the Parties and, when required, approved by Department of Justice. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2024**. Agreement termination or expiration shall not extinguish or prejudice either party’s right to enforce this Agreement with respect to any default by the other party that has not been cured.

2. Agreement Documents.

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

- (1) Exhibit A, Part 1: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit B: Standard Terms and Conditions
- (4) Exhibit C: Subcontractor Insurance Requirements
- (5) Exhibit D: Federal Terms and Conditions
- (6) Attachment 1: County Proposal
- (7) Attachment 2: Sample Project Performance Plan
- (8) Attachment 3: Sample Quarterly Reporting Forms
- (9) Attachment 4: Sample Annual Reporting Forms

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

- b.** In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits, Exhibits D, B, A, C, and Attachments 1-4.
- c.** For purposes of this Agreement, “Work” means specific work to be performed or services to be delivered by County as set forth in Exhibit A.

3. Consideration.

- a.** The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is **\$1,980,301.00**. OHA will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by the Parties.
- b.** OHA will pay only for completed Work under this Agreement, and may make interim payments as provided for in Exhibit A.

4. Contractor or Subrecipient Determination.

In accordance with the State Controller’s Oregon Accounting Manual, policy 30.40.00.104, OHA’s determination is that:

- County is a subrecipient County is a contractor Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: N/A

5. County Data and Certification.

a. County Information. This information is requested pursuant to ORS 305.385.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

County Name (exactly as filed with the IRS): Marion County, Oregon

Street address: PO BOX 14500

City, state, zip code: Salem, OR 97309

Email address: msaechao@co.marion.or.us

Telephone: (503)584-4897 Facsimile: ()

Proof of Insurance: County shall provide the following information upon submission of the signed Agreement, all insurance listed herein and required by Exhibit C, must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: County self-insure

Policy #: _____ Expiration Date: _____

b. Certification. Without limiting the generality of the foregoing, by signature on this Agreement, the County hereby certifies under penalty of perjury that:

- (1) The County is in compliance with all insurance requirements of this Agreement and notwithstanding any provision to the contrary, County shall deliver to the OHA Agreement Administrator (see page 1 of this Agreement) the required Certificate(s) of Insurance within 30 days of execution of this Agreement. By certifying compliance with all insurance as required by this Agreement, County acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. County may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;
- (2) The County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney

General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County;

- (3) The information shown in this Section 5a. "County Information", is County's true, accurate and correct information;
- (4) To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (5) County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (6) County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at: <https://www.sam.gov/portal/public/SAM/>;
- (7) County is not subject to backup withholding because:
 - (a) County is exempt from backup withholding;
 - (b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified County that County is no longer subject to backup withholding; and
- (8) County Federal Employer Identification Number (FEIN) provided to OHA is true and accurate. If this information changes, County is required to provide OHA with the new FEIN within 10 days.

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

COUNTY: YOU WILL NOT BE PAID FOR WORK PERFORMED PRIOR TO NECESSARY STATE APPROVALS

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

Marion County Acting by and through Behavioral Health Program

By:



Ryan Matthews

Authorized Signature
Administrator

Printed Name

5/12/2023

Title

Date

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

By:

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Via email by Nathan Karman Assistant Attorney General
Department of Justice

05/01/2023
Date

**SIGNATURE PAGE FOR
BEHAVIORAL HEALTH WORKFORCE INITIATIVE (BHWI) IGA# 179926 - HE-5442-23
between
MARION COUNTY and OREGON HEALTH AUTHORITY**

**MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:**

| | |
|-------|------|
| Chair | Date |
|-------|------|

| | |
|--------------|------|
| Commissioner | Date |
|--------------|------|

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|--------------|------|
| Commissioner | Date |
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|-----------------------|---|----------|
| Authorized Signature: | <small>DocuSigned by:</small>  <small>DC18351248DE4EC...</small> | 6/8/2023 |
| | Chief Administrative Officer | Date |

| | | |
|------------------------|---|----------|
| Reviewed by Signature: | <small>DocuSigned by:</small>  <small>D0CFC5B04B9F483...</small> | 6/7/2023 |
| | Marion County Legal Counsel | Date |

| | | |
|------------------------|--|----------|
| Reviewed by Signature: | <small>DocuSigned by:</small>  <small>D1FCCAACCB14CB...</small> | 6/6/2023 |
| | Marion County Contracts & Procurement | Date |

EXHIBIT A

Part 1 Program Description

1. Background

The Behavioral Health Workforce Initiative (BHWi) was created through House Bill 2949 (2021) and refined in HB 4071 (2022). One goal of the legislation is to provide grants that provide supervised clinical experience to associates or other individuals who have the necessary education but need supervised clinical experience to obtain a license to practice.

The State of Oregon is committed to all Oregonians having the opportunity for optimal health. As part of that, it is important to ensure that the distribution of the behavioral health care workforce appropriately meets the needs of all Oregonians and is reflective of the communities being served, and that behavioral health professionals are working in a supportive, culturally responsive environment.

To help advance this goal, the Legislature has approved \$60 million under Agreement Number **6230** to provide incentives to increase the recruitment and retention of providers in the behavioral health care workforce, and \$20 million under Agreement Number **6231** to establish a program to provide grants to licensed psychologists, licensed marriage and family therapists, licensed professional counselors and licensed clinical social workers.

2. Purpose

The intent of the BHWi and its Workforce Incentive Program is to help establish an equitable behavioral health system and break down the systemic barriers that reduce access and exacerbate inequities in people of color, tribal members, and other communities harmed by historical and contemporary injustices.

The purpose of the Workforce Incentive Program is to invest in Community Mental Health Programs (CMHPs) is to a) support the recruitment and retention of behavioral health providers with associate, bachelor's, master's, doctoral degrees or other credentials and b) provide supervised clinical experience necessary for behavioral health providers to obtain a license to practice through grant monies associated with HB 2949 (2021) (as updated by HB 4071 (2022)).

In 2019, the Oregon Health Policy Board and OHA adopted a definition of health equity:

Oregon will have established a health system where all people can reach their full health potential and well-being and are not disadvantaged by their race, ethnicity, language, disability, age, gender, gender identity, sexual orientation, social class, intersections among these communities or identities, or other socially determined circumstances. Achieving health equity requires

the ongoing collaboration of all regions and sectors of the state, including tribal governments to address: The equitable distribution or redistribution of resources and power, and recognizing, reconciling, and rectifying historical and contemporary injustices.

3. Goals

The goals of this Agreement are to:

- a. Increase access to services that are peer and community driven and that provide culturally specific and culturally responsive services for people of color, tribal communities, and persons with lived behavioral health experience;
- b. Increase access to services for rural and underserved communities; and
- c. Increase the number of individuals training for and entering the field of behavioral health and improve the recruitment and retention of behavioral health care providers.

4. Scope of Work

The funding for this Agreement may be used for activities authorized by Agreement Number 6230 (“Workforce Incentive Activities”) and for activities authorized by Agreement Number 6231 (“Clinical Supervision Activities”). County shall use grant funds for the following activities, up to the not to exceed (“NTE”) dollar amounts listed:

Clinical Supervision Activities - NTE: \$578,318.00

| Projects | Description | Expected Impact | Cost Estimates |
|----------------------|---|--|----------------|
| Clinical Supervision | Marion County intends to provide retention bonuses and a pay differential to Clinical Supervisors that provide licensure supervision to our staff as a free benefit. In addition, we will reimburse any out-of-pocket licensure fees or costs to obtain required Continuing Education Unites to maintain licensure for licensed staff and licensed clinical supervisors. In addition, we have entered, into contracts with licensed clinical supervisors to increase the capacity of licensure supervision we can offer as a free benefit to our employees. | To increase County’s ability to recruit for and retain licensed clinical supervisors. In addition, this benefit may assist with recruitment and retention efforts with County’s licensed mental health staff and/or those on their path towards licensure. | \$578,318 |

Workforce Incentive Activities – NTE: \$1,401,983.00

| Projects | Description | Expected Impact | Cost Estimates |
|---|---|--|-----------------------|
| Tuition Assistance | County will be ramping up internal efforts to promote tuition assistance to those employees working towards a Qualified Mental Health Professional or licensure. This includes tuition reimbursement and other education related expenditures for those enrolled in an eligible degree path in an accredited school or University. | The intention would be to grow capacity of higher-level mental health positions from within the County workforce. This will encourage professional development with the goal of increasing staff retention. | \$150,000 |
| Other Programs and Incentives | County will seek to utilize these funds for retention bonuses for hard to fill classifications. Other incentives offered will be to develop an employee relocation package which will include a relocation bonus as well as reimbursement for moving expenses. Finally, County has multiple 24/7 operations and finds increasing difficulty in employing mental health staff on swing or graveyard shifts. These funds will be utilized to increase the shift differential pay for these positions. | The goal of these incentives is to encourage more providers into the area, allowing us to advertise in other areas of the country and offer a relocation package to encourage them to relocate to Marion County. | \$1,153,844 |
| Additional Consideration: Assistance with Administrative Costs associated with supporting these incentives. | County will utilize 7% of the gross Grant as allowable for Administrative Costs. There will be a cost associated with setting up and managing this incentive program. | We will be required to cover costs to setup our financial and ERP systems to setup the incentive programs as described in this plan. | \$98,139 |

5. Reporting requirements:

a. County Reporting Schedule:

County shall submit reporting requirements in accordance with the following schedule.

| REPORT NAME | FREQUENCY | DUE DATE(S) |
|--------------------------|------------------|---|
| Project Performance Plan | One-Time | Immediately after execution of the Agreement but no later than 45 Days after Agreement Effective Date |
| Quarterly Report | Quarterly | January 15, April 15, July 15, and October 15 |
| Annual Report | Annually | July 15 |

b. Project Performance Plan:

County shall submit to OHA the following information in the Project Performance Plan (see template provided as Attachment 2). An electronic version will be provided by the Agreement Administrator upon execution of the Agreement and will be used for subrecipient monitoring by OHA:

- (1) Problem Statement;
- (2) Goal;
- (3) Rationales;
- (4) Assumptions;
- (5) Resources;
- (6) Activities;
- (7) Outputs;
- (8) Short-Term Outcomes;
- (9) Intermediate Outcomes; and
- (10) Long-Term Outcomes.

c. Quarterly Reports:

County shall submit Quarterly Reports to OHA which shall include such information as is necessary to comply with the reporting requirements established by 42 U.S.C. § 802, guidance issued by the U.S. Treasury, and 2 CFR Part 200 (known as the “Super Circular”).

OHA’s Agreement Administrator will provide an Excel version of the Quarterly Report for use (see template provided as Attachment 3). County shall submit the

electronic version in accordance with Exhibit A, Part 2 and must include the following required information (requirements subject to change):

- (1) Expenditure Report
 - (a) Quarterly Obligation Amount
 - (b) Quarterly Expenditure Amount
 - (c) Projects
 - (d) Primary Location of Project Performance
 - (e) Detailed Expenditures (categories to be provided by OHA)

- (2) Project Status Update
 - (a) Status of project: not started, completed less than 50 percent, completed 50 percent or more, completed.
 - (b) Progress since last update including project outputs and achieved outcomes.
 - (c) Identify barriers/risks to outcomes and describe actions taken to mitigate delays/risks to the overall project goal.
 - (d) Optional: Share with OHA community outreach/engagement or other positive local news stories.

d. Annual Reports

County shall submit to OHA an Annual report that includes the following information, as applicable, (see template provided as Attachment 4). OHA's Agreement Administrator will provide an electronic version for use and must be submitted in accordance with Exhibit A, Part 2.

- (1) How the Project is Promoting Equitable Outcomes, if applicable.
- (2) How the Project is Engaging with the Community, if applicable.

EXHIBIT A

Part 2 Payment and Financial Reporting

1. Expenditure of Grant Funds and reporting for the period beginning upon execution of the Agreement through June 30, 2024.

Upon execution of the Agreement, OHA shall disburse initial grant funds to the Subrecipient after receipt of an approved invoice that includes the Project Performance Plan.

2. Invoices.

County shall invoice in accordance with the following provisions in accordance with the budget provided in Part 1, Section 1, above.

- a. Travel and other expenses of the County are all inclusive and are included in the maximum not-to-exceed amount of this Agreement.
- b. No Grant funds may be expended for costs that are not directly related to the operation of the County under this Agreement.
- c. County shall submit invoice and required reporting documents. All invoices and reporting documents shall be sent to hsd.contracts@odhsoha.oregon.gov and bh.workforceinitiative@odhsoha.oregon.gov and include:
 - (1) Agreement Number;
 - (2) Agreement Administrator name from cover of this agreement;
 - (3) Date range of billing;
 - (4) Description of Activities included in the billing;
 - (5) Quarterly Reporting documents to be submitted **ELECTRONICALLY IN EXCEL FORMAT** using the form provided by OHA's Agreement Administrator (*requirements subject to change*); and
 - (6) Any other reporting requirements as described in the Agreement.
- d. Recovery of Overpayments. Any overpayment of Grant funds under this Agreement shall be recovered as described in Exhibit B, "STANDARD TERMS & CONDITIONS", Section 5, "Recovery of Overpayments".
- e. Acceptance and approval of progress reports and invoices will be the basis for verifying payments and proper expenditures.

EXHIBIT B

Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** County shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the County and this Agreement. Without limiting the generality of the foregoing, County expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. County shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Nothing in this Agreement shall require the Parties to act in violation of state or federal law or the Constitution of the State of Oregon.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that County is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
 - a. County represents and warrants as follows:
 - (1) **Organization and Authority.** County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
 - (2) **Due Authorization.** The making and performance by County of this

Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.

- (3) Binding Obligation. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession;
- (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
- (6) County prepared its proposal related to this Agreement, 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. Funds Available and Authorized Clause.

- a.** The State of Oregon's payment obligations under this Agreement are conditioned upon OHA receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow OHA, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than OHA. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. OHA represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.
- b.** Payment Method. Payments under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR

410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County 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 Agreement. County shall provide this designation and information on a form provided by OHA. In the event that EFT information changes or the County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the County shall provide the changed information or designation to OHA on a OHA-approved form. OHA is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from the County.

- 6. Recovery of Overpayments.** Any funds disbursed to County under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement (“Misexpended Funds”) or that remain unexpended (“Unexpended Funds”) on the earlier of termination or expiration of this Agreement must be returned to OHA. County shall return all Misexpended Funds to OHA promptly after OHA’s written demand and no later than 15 days after OHA’s written demand. County shall return all Unexpended Funds to OHA within 14 days after the earlier of termination or expiration of this Agreement. OHA, in its sole discretion, may recover Misexpended or Unexpended Funds by withholding from payments due to County such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if County objects to the withholding or the amount proposed to be withheld, County shall notify OHA that it wishes to engage in dispute resolution in accordance with Section 19 of this Exhibit.
- 7. Reserved.**
- 8. Ownership of Intellectual Property.**
- a. Definitions.** As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- (1) "County Intellectual Property" means any intellectual property owned by County and developed independently from the Work.
 - (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than OHA or County.
- b.** Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA will not own the right, title and interest in any intellectual property created or delivered by County or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that the County owns, County grants to OHA a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the

intellectual property, (2) authorize third parties to exercise the rights set forth in Section 8.b.(1) on OHA's behalf, and (3) sublicense to third parties the rights set forth in Section 8.b.(1).

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

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

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

reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

10. OHA Default. OHA shall be in default under this Agreement upon the occurrence of any of the following events:

- a. OHA fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or
- b. Any representation, warranty or statement made by OHA herein or in any documents or reports relied upon by County to measure performance by OHA is untrue in any material respect when made.

11. Termination.

a. County Termination. County may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to OHA;
- (2) Upon 45 days advance written notice to OHA, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;
- (3) Upon 30 days advance written notice to OHA, if OHA is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as County may specify in the notice; or
- (4) Immediately upon written notice to OHA, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

b. OHA Termination. OHA may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to County;
- (2) Upon 45 days advance written notice to County, if OHA does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of OHA under this Agreement, as determined by OHA in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, OHA may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon

Legislative Assembly or Emergency Board reduces OHA's legislative authorization for expenditure of funds to such a degree that OHA will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by OHA in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;

- (3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that OHA no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
- (4) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as OHA may specify in the notice;
- (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or
- (6) Immediately upon written notice to County, if OHA determines that County or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.

c. **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

12. Effect of Termination.

a. **Entire Agreement.**

- (1) Upon termination of this Agreement, OHA shall have no further obligation to pay County under this Agreement.
- (2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.

b. **Obligations and Liabilities.** Notwithstanding Section 12.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

13. Limitation of Liabilities. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR

RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

14. **Insurance.** All employers, including County, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). County shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.
15. **Records Maintenance; Access.** County shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." County acknowledges and agrees that OHA and the Oregon 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 make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.
16. **Information Privacy/Security/Access.** If the Work performed under this Agreement requires County or its subcontractor(s) to have access to or use of any OHA computer system or other OHA Information Asset for which OHA imposes security requirements, and OHA grants County or its subcontractor(s) access to such OHA Information Assets or Network and Information Systems, County shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 943-014-0300 through OAR 943-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time.
17. **Force Majeure.** Neither OHA nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of OHA or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. OHA may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.
18. **Assignment of Agreement, Successors in Interest.**

- a. County shall not assign or transfer its interest in this Agreement without prior written approval of OHA. Any such assignment or transfer, if approved, is subject to such conditions and provisions as OHA may deem necessary. No approval by OHA of any assignment or transfer of interest shall be deemed to create any obligation of OHA in addition to those set forth in the Agreement.
 - b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
- 19. **Alternative Dispute Resolution.** The Parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- 20. **Subcontracts.** County shall not enter into any subcontracts for any of the Work required by this Agreement without OHA's prior written consent. In addition to any other provisions OHA may require, County shall include in any permitted subcontract under this Agreement provisions to require that OHA will receive the benefit of subcontractor performance as if the subcontractor were the County with respect to Sections 1, 2, 3, 4, 8, 15, 16, 18, 21, and 23 of this Exhibit B. OHA's consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.
- 21. **No Third Party Beneficiaries.** OHA and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The Parties agree that County's performance under this Agreement is solely for the benefit of OHA to assist and enable OHA to accomplish its statutory mission. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- 22. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and, when required, the Department of Justice. Such amendment, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.
- 23. **Severability.** The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
- 24. **Survival.** Sections 1, 4, 5, 6, 8, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.
- 25. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by

personal delivery, facsimile, or mailing the same, postage prepaid to County or OHA at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the County, or on the next business day if transmission was outside normal business hours of the County. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

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

26. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
27. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
28. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative

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

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

- 29. Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.
- 30. Stop-Work Order.** OHA may, at any time, by written notice to the County, require the County to stop all, or any part of the work required by this Agreement 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, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 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 11. Termination.

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

EXHIBIT C

Subcontractor Insurance Requirements

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

TYPES AND AMOUNTS

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

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

COMMERCIAL GENERAL LIABILITY:

Required

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

PROFESSIONAL LIABILITY:

Required **Not required**

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the County and County's subRecipients, agents, officers or employees in an amount not less than **\$1,000,000.00** per claim. Annual aggregate limit shall not be less than **\$2,000,000.00**. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the County and SubRecipients shall provide continuous claims made coverage as stated below.

EXCESS/UMBRELLA INSURANCE:

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

ADDITIONAL COVERAGE REQUIREMENTS:

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

ADDITIONAL INSURED:

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

WAIVER OF SUBROGATION:

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

CONTINUOUS CLAIMS MADE COVERAGE:

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Contractor's completion and OHA's acceptance of all Services required under the Contract, or
- (ii) OHA or Contractor termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

County shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before

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

NOTICE OF CHANGE OR CANCELLATION:

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

INSURANCE REQUIREMENT REVIEW:

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

STATE ACCEPTANCE:

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

EXHIBIT D

Federal Terms and Conditions

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

1. **Miscellaneous Federal Provisions.**

County shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of grant activities. Without limiting the generality of the foregoing, County expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of OHA Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide grant activities in violation of 42 U.S.C. 14402.

2. **Equal Employment Opportunity.**

If this Agreement, including amendments, is for more than \$10,000, then County shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

3. **Clean Air, Clean Water, EPA Regulations.**

If this Agreement, including amendments, exceeds \$100,000 then County shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of

facilities included on the EPA List of Violating Facilities. Violations shall be reported to OHA, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. County shall include and require all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this Section.

4. Energy Efficiency.

County shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).

5. Truth in Lobbying. By signing this Agreement, the County certifies, to the best of the County's knowledge and belief that:

- a.** No federal appropriated funds have been paid or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- b.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c.** The County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
- d.** This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- e.** No part of any federal funds paid to County under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or

video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f. No part of any federal funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g. The prohibitions in subsections (e) and (f) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h. No part of any federal funds paid to County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

6. Resource Conservation and Recovery.

County shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

7. Audits.

- a. County shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
- b. If County expends \$750,000 or more in federal funds (from all sources) in a federal fiscal year, County shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR

Part 200. Copies of all audits must be submitted to OHA within 30 days of completion. If County expends less than \$750,000 in a federal fiscal year, County is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, "Records Maintenance Access".

8. Debarment and Suspension.

County shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension" (See 2 CFR Part 180). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

9. Pro-Children Act.

County shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. 6081 et. seq.).

10. Medicaid Services.

County shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. 1396 et. seq., including without limitation:

- a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
- b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
- c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 Subpart I.
- d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. County shall acknowledge County's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
- e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and

abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. 1396a(a)(68).

11. Agency-based Voter Registration.

If applicable, County shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.

12. Disclosure.

- a. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.
- b. 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or Title XXI program in the last 10 years.
- d. County shall make the disclosures required by this Section to OHA. OHA reserves the right to take such action required by law, or where OHA has

discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

13. Federal Intellectual Property Rights Notice.

The federal funding agency, as the awarding agency of the funds used, at least in part, for the activities performed under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. The County agrees that it has been provided the following notice:

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any work developed under a grant, subgrant or contract under a grant or subgrant; and
 - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant.

14. Federal Whistleblower Protection. County shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

15. Information Required by 2 CFR Subtitle B with guidance at 2 CFR Part 200. All required data elements in accordance with 45 CFR 75.352 are available at <https://www.oregon.gov/OHA/HSD/AMH/Pages/federal-reporting.aspx>.

Attachment 1 (Represents the \$16 million dollars associated with Recruitment and Retention)

| Description | Expected Impact | Cost Estimate |
|---|---|----------------------|
| N/A | N/A | N/A |
| Marion County does allow for these opportunities, however, is not intending to use these funds to support the endeavor. | N/A | N/A |
| N/A | N/A | N/A |
| N/A | N/A | N/A |
| Marion County will be ramping up internal efforts to promote tuition assistance to those employees working towards a QMHP or licensure. This includes tuition reimbursement and other education related expenditures for those enrolled in an eligible degree path in an accredited school or university. | The intention would be to grow capacity of higher-level mental health positions from within our existing Marion County workforce. This will encourage professional development with the goal of increasing staff retention. | \$150,000 |
| N/A | N/A | N/A |
| Marion County will seek to utilize these funds for retention bonuses for hard to fill classifications. Other incentives offered will be to develop an employee relocation package which will | The goal of these incentives is to encourage more providers into the area, allowing us to advertise in other areas of | \$1,153,844 |

| | | |
|---|---|-----------------|
| <p>include a relocation bonus as well as reimbursement for moving expenses. Finally, Marion County has multiple 24/7 operations and finds increasing difficulty in employing mental health staff on swing or graveyard shifts. These funds will be utilized to increase the shift differential pay for these positions.</p> | <p>the country and offer a relocation package to encourage them to relocate to Marion County.</p> | |
| <p>Marion County will utilize 7% of the gross grant as allowable for Administrative Costs. There will be a cost associated with setting up and managing this incentive program.</p> | <p>We will be required to cover costs to setup our financial and ERP systems to setup the incentive programs as described in this plan.</p> | <p>\$98,139</p> |

Attachment 2 (Represents the \$6.6 million dollars associated with Clinical Supervision)

| Description | Expected Impact | Cost Estimate |
|--|--|----------------------|
| <p>Marion County intends to provide retention bonuses and a pay differential to Clinical Supervisors that provide licensure supervision to our staff as a free benefit. In addition, we will reimburse any out of pocket licensure fees or costs to obtain required CEUs to maintain licensure for licensed staff and licensed clinical supervisors. In addition, we have entered into contracts with licensed clinical supervisors to increase the capacity of licensure supervision we can offer as a free benefit to our employees.</p> | <p>The goal will be to increase our ability to recruit for and retain licensed clinical supervisors. In addition, this benefit may assist with recruitment and retention efforts with our licensed mental health staff and/or those on their path towards licensure.</p> | <p>\$578,318</p> |

Attachment 2 Sample Project Performance Plan



Performance Plan

Recipient Name: _____

Contact Name: _____

Contact Phone: _____

Grant #: _____

Instructions: Using the sections below, please provide a detailed description your project. This is a one-time requirement, and it will be used by DAS to monitor the progress of the project. In each of the sections, there is a subsection with instructions in *italics*. DAS recognizes that each project is unique and some may not have content for each section. Please complete this Performance Plan to the best of your ability and reach out for assistance to statefiscal.recoveryfund@das.oregon.gov if you have questions.

Context

Problem Statement

Briefly describe the problem or social issue that your program is working to address. (1-2 sentences)

Goal(s)/Mission Statement

Considering your problem statement, describe the overarching purpose, the goal(s), or mission of your project/program.

Rationale

Considering your problem statement and goal(s)/mission statement above, describe why this work is important to complete now and how the work being done affects the targeted problem or social issue.

Planned Work

Assumptions

Assumptions are the underlying beliefs about how your project/program will work. Describe key project assumptions below.

Resources and External Factors

List the resources needed to meet your project's goal(s)/mission statement. Also list any external factors in which you have little control that could influence the project's/program's success.

Activities

Please list the major activities for your project below. Each of these activities should move your project toward the intended results in the next section.

Intended Results

This section should be a bulleted list of measurable outcomes that list the expected achievements once all the activities are accomplished. E.g. number of youth referred, program participation rates, frequency, type, or duration of contacts or services.

Short-Term Outcomes (If applicable)

List items here that you expect to accomplish within the first 6 months of your project. Note: If you have a project that is anticipated to be completed within a few months of your project's start, you may skip short-term and/or intermediate outcomes and only complete the long-term or final outcomes.

Intermediate Outcomes (If applicable)

List items here that you expect to accomplish by the middle of your project. Note: If you have a project that is anticipated to be completed within a few months of your project's start, you may skip short-term and/or intermediate outcomes and only complete the long-term or final outcomes.

Long-Term Outcomes or Final Outcomes

List items here that you expect to accomplish by the end of your project.

Attachment 3 Sample Quarterly Reporting

| Subrecipient | Grant Agreement Number | Unique Entity ID (UEI) | Address Line 1 | Address Line 2 | City | State Zip | Contact Person | Email |
|-------------------|------------------------|---|---|--|---|-----------------|------------------|---------------------------|
| | | | | | | | | |
| EIN Number | Entity Type | Is the entity registered in SAM.gov? | If No: in the preceding fiscal year, did the recipient receive 80% or more of its annual gross revenue from federal funds? | If Yes: in the preceding fiscal year did recipient receive \$25 million or more of its annual gross revenue from federal funds? | If Yes: Is the total compensation for the organizations five highest paid officers publicly listed or otherwise listed in SAM.gov? | If No: P | and the t | by each. that info |
| | | | | | | | | |

| | |
|---------------------------------|----|
| Total Pass-Through Funds | \$ |
|---------------------------------|----|

| Reports | | | | | | | |
|-------------------|-----------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Report type: | Project Performance Plan | Q 2* | Annual | Q 3 | Q 4 | Q 1 | Q 2 |
| Reporting Period: | N/A | Apr – Jun 2023 | Apr – Jun 2023 | Jul – Sep 2023 | Oct – Dec 2023 | Jan – Mar 2024 | Apr – Jun 2024 |
| Report Due Date: | Within 45 Days of execution | July 5 | July 5 | October 5 | January 5 | April 5 | July 5 |

| Detailed Expenditures | | | | | | | |
|------------------------------------|-----|--|--|--|--|--|--|
| Salaries, Wages and Related Costs: | N/A | | | | | | |
| Materials and Supplies: | | | | | | | |
| Travel: | | | | | | | |
| Other: | | | | | | | |
| Equipment and other Capital Costs: | | | | | | | |
| Total Quarterly Expenditures: | | | | | | | |
| Remaining Grant Balance: | | | | | | | |

* If signed and executed by March 31st, 2023

| Comments about expenditures | |
|-----------------------------|------------|
| | Project Pe |
| | Q 2 – 2023 |
| | Annual – 2 |
| | Q 3 – 2023 |
| | Q 4 – 2023 |
| | Q 1 - 2024 |
| | Q 2 – 2024 |
| | Annual - 2 |

Attachment 4 Sample Annual Reporting



Annual Equitable Outcomes and Community Engagement Report

Recipient Name: _____
Contact Name: _____
Contact Phone: _____
Grant #: _____
Date Submitted: _____

Promoting Equitable Outcomes

The U.S. Treasury encourages uses of funds that promote strong, equitable growth, including racial equity. Describe efforts to promote equitable outcomes, including how programs were designed with equity in mind. Using the four points below: describe how your project will consider and measure equity at the various stages of your project, describe how your project's use of funds prioritizes economic and racial equity as a goal, describe how you identified specific targets intended to produce meaningful equity results at scale and explain the strategies to achieve those targets.

The information provided in this section will be used in DAS' annual Recovery Plan Performance Report as required in the Compliance and Reporting Guidance in section C.3.

Goals

Are there particular historically underserved, marginalized, or adversely affected groups that you intend to serve within your jurisdiction?

Response:

Awareness

How equal and practical is the ability for residents or businesses to become aware of the services funded by the SLFRF?

Response:

Access and Distribution

Are there differences in levels of access to benefits and services across groups? Are there administrative requirements that result in disparities in ability to complete applications or meet eligibility criteria?

Response:

Outcomes

Are intended outcomes focused on closing gaps, reaching universal levels of service, or disaggregating progress by race, ethnicity, and other equity dimensions where relevant for the policy objective?

Response:

Community Engagement

Describe how your planned or current use of funds incorporates written, oral, and other forms of input that capture diverse feedback from community residents and community-based organizations. Where applicable, this description must include how funds will build the capacity of community organizations to serve people with significant barriers to services, including people of color, people with low incomes, limited English proficient populations, and other traditionally underserved groups.

The information provided in this section will be used in DAS' annual Recovery Plan Performance Report as required in the Compliance and Reporting Guidance in section C.4.

Response: