



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date:

Department:

Agenda Planning Date:

Time required:

Audio/Visual aids

Contact:

Phone:

Department Head Signature:

A handwritten signature in black ink, appearing to read "Ryan Matthews".

TITLE

Issue, Description & Background

Financial Impacts:

Impacts to Department & External Agencies

Options for Consideration:

1. Approve OHA Choice Model Agreement 173265.
2. Deny approval of OHA Choice Model Agreement 173265.
3. Take no action at this time.

Recommendation:

List of attachments:

Presenter:

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

Copies to:



Contract Review Sheet

Contract #: HE-4614-22

Person Sending: Jeffrey Good

Department: Health & Human Services

Contact Phone #: 503-540-2147

Date Sent: Wednesday, February 23, 2022

Contract Amendment# Lease IGA MOU Grant (attach approved grant award transmittal form)

Title: OHA Choice Model Agreement 173265

Contractor's Name: Oregon Health Authority

Term - Date From: Jan 1, 2022 Expires: Dec 31, 2022

Contract Total: \$804,624.00 Amendment Amount: New Contract Total: \$804,624.00

Source Selection Method: #

Additional Considerations (check all that apply)

Board Order#

Feasibility Determination (attach approved form)

Incoming Funds

Federal Funds (attach sub-recipient / contractor analysis)

Independent Contractor (LECS) approval date:

Reinstate (attach written justification)

Insurance Waiver (attach)

Retroactive (attach written justification)

CIP# (required for all goods /software greater than \$5,000)

Description of Services or Grant Award:

OHA provides financial assistance, on an annual basis, in an Intergovernmental Agreement (IGA) to the MCHHS Department to provide Exceptional Needs Care Coordination for Individuals served in Choice Model Services to facilitate access to services in the most integrated setting appropriate to the individual's needs and strengths. Term of this IGA is Jan. 1, 2022 to Dec. 31, 2022.

FOR FINANCE USE

Date Finance Received:

BOC Planning Date:

Date Legal Received:

Comments:

REQUIRED APPROVALS:

Finance - Contracts Date Risk Manager Date

Legal Counsel Date Chief Administrative Officer Date

Date To be filed Added to Finance Table

Date Returned to department for signature

REQUEST FOR AUTHORIZATION OF CONTRACT

Date: 2/15/2022

To: Chief Administrative Officer

Cc: Contract File

From: Kim Hankins

Subject: Retroactive Approval of HE-4614-22 OHA Choice Model Agreement 173265

The Marion County Health and Human Services is requesting approval of a retroactive intergovernmental agreement as described in Section 10-0580 of the Marion County Public Contracting Rules. The interactive agreement is with Oregon Health Authority for the Choice Model Services with a value of \$804,624.00 and will be effective retroactive to 1/1/2022 upon approval.

As required in Section 10-0580(2)(a), Department staff will provide an explanation of why the contract was not submitted before performance began:

Oregon Health Authority just sent over the agreement.

As required in Section 10-0580(2)(b), Department staff will provide a description of the steps being taken to prevent similar occurrences in the future:

Work closer with OHA to make sure there is time on Marion County's end to process the agreements timely.

Submitted by:

Kim Hankins
Procurement

Acknowledged by:



Department Head



Agreement Number 173265

**STATE OF OREGON
INTERGOVERNMENTAL 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
P.O. Box. 13309
Salem, OR 97309**
**Attention: Ryan Matthews
Telephone: 503-391-2792
Fax: 503-364-6552**
E-mail address: rmatthews@co.marion.or.us

hereinafter referred to as "County."

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

**Health Systems
BH Intensive Services, Housing and Social Determinants of Health
500 Summer Street NE
Salem, Oregon 97301**
**Agreement Administrator: Michael Oyster or delegate
Telephone: 503-410-2303
E-mail address: michael.w.oyster@dhsoha.state.or.us**

1. Effective Date and Duration.

This Agreement shall become effective on the later of: (I) **January 1, 2022**, provided it is (i) approved in writing by the Oregon Department of Justice on or before such date, and (ii) when required, approved in writing by the Oregon Department of Administrative Services, and (iii) is signed by all parties, regardless of the date of the parties' signatures; or (II) the date this Agreement is approved in writing by the Oregon Department of Justice, provided it is (i) when required, approved in writing by the Oregon Department of Administrative Services, and (ii) is signed by all parties, regardless of the date of the parties' signatures. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **December 31, 2022**. Agreement termination shall not extinguish or prejudice OHA's right to enforce this Agreement with respect to any default by County 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 A, Part 3:	Special Terms and Conditions
(4) Exhibit B:	Standard Terms and Conditions
(5) Exhibit C:	Subcontractor Insurance Requirements
(6) Exhibit D:	Financial Pages

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 and C.
- 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 **\$804,624.00**. 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 all 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): _____

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: (_____) 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: _____

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 all 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 BOARD OF COMMISSIONERS:

Chair	Date
County Commissioner	Date
County Commissioner	Date

MARION COUNTY SIGNATURE:

Authorized Signature:  2/15/2022
Ryan Matthews, HHS Administrator Date

Authorized Signature:  2/15/2022
Jeremiah Elliott, Sr. Admin Serv. Mgr. Date

Authorized Signature: _____
Chief Administrative Officer Date

Reviewed by Signature: _____
Marion County Legal Counsel Date

Reviewed by Signature: _____
Marion County Contracts & Procurement Date

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

Authorized Signature

Printed Name

Title

Date

Approved by: Director, OHA Health Systems Division

By:

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Via email by Jeffrey J. Wahl, Assistant Attorney General on December 20, 2021: email in
contract file.

Department of Justice

EXHIBIT A

Part 1 Statement of Work

1. **Purpose:** County shall provide services for Alcohol and drug abuse, adult residential treatment and problem gambling services as described below. OHA requires that the County meets the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services.
2. **Services to be provided by County shall include:** Where referenced in this Agreement, “Agreement Settlement” means OHA’s reconciliation of amounts OHA actually disbursed to County against amounts that OHA is obligated to pay to County for services provided under this Agreement. Agreement Settlement can occur following the end of a biennial period, upon termination or expiration of this Agreement. County shall provide the following:
 - a. Service Name: CHOICE MODEL SERVICES
 - Service ID Code: MHS 06

(1) For purposes of this Agreement the following definitions apply:

- (a) **Acute Care Psychiatric Facility or Acute Care Psychiatric Hospital** means a hospital that provides 24 hour-a-day psychiatric, multi-disciplinary, inpatient or residential stabilization, care and treatment, for adults ages 18 years of age or older with serious psychiatric disabilities.
- (b) **Assertive Community Treatment (ACT)** means an evidence-based practice designed to provide comprehensive treatment and support services to Individuals with SPMI. ACT is intended to serve Individuals who have serious functional impairments and who have not responded to traditional psychiatric outpatient treatment. ACT services are provided by a single multi-disciplinary team, which typically includes a psychiatrist, a nurse, a therapist, supported employment, and a peer, and are designed to meet the individual needs of each Individual and to help keep the Individual in the community and out of a structured service setting, such as residential or hospital care. ACT is characterized by:
 - i. Low client to staff ratios;
 - ii. Providing services in the community rather than in the office;
 - iii. Shared caseloads among team members;
 - iv. 24-hour staff availability;

- v. Direct provision of all services by the team (rather than referring Individuals to other agencies); and
- vi. Time-unlimited services.

(c) **Behavioral Health Treatment** means treatment for mental illness, substance use disorders, or problem gambling.

(d) **County of Responsibility (COR)** means the county in which an Individual most recently maintained a postal address, or if residence is otherwise indeterminate, the county where the Individual was last present before being transported to an acute psychiatric hospital such as where the Individual was placed on a police officer custody, director's custody or transport custody. Incarceration or placement on an involuntary hold, at OSH or a licensed 24-hour facility, is not to be used to make this determination. OHA will determine COR if there is a disagreement between counties.

(e) **Discharge Plan** means a written document prepared by the County beginning at admission and updated through the Discharge Planning process which identifies housing, treatment, and other services needed to support the continuity of care necessary to maintain the Individual's stability in the community. This report shall combine information from the Individual, OSH, community providers, recovery plan, and other resources.

(f) **Discharge Planning** means a process that begins upon admission to OSH or licensed residential setting and is based on the presumption that, with sufficient supports and services, all Individuals can live in an integrated community setting. Discharge planning is developed and implemented through a person-centered planning process in which the Individual has a primary role in creating, and is based on principles of self-determination.

(g) **Exceptional Needs Care Coordination (ENCC)** means a process-oriented activity to facilitate ongoing communication and collaboration with the Individual to arrange Services appropriate to their needs, preferences and choices. These functions include, but are not limited to:

- i. Facilitating communication between the Individual, family, natural supports and community resources, involved providers and agencies;
- ii. Organizing, facilitating and participating in interdisciplinary team (IDT) meetings when the Individual is in the community in collaboration with CCO Care Coordinators;
- iii. Emphasizing discharge planning in IDTs at OSH by collaborating with IDT members, providing

recommendations in collaboration with CCO Care Coordinators towards discharge preparation and sharing revisions of the Discharge Plan;

- iv. Providing for continuity of care by creating linkages to and managing transitions between levels of care and transitions for adults with SPMI; and
- v. In collaboration with CCO Care Coordinators, facilitating all referrals from OSH with the goal of providing oversight and care coordination for Adults with SPMI.

(h) **Face-to-Face** means a personal interaction where both words can be heard and facial expressions can be seen in person or through telehealth services where there is a live streaming audio and video.

(i) **Home and Community-Based Services (HCBS)** means the 1915 (i) state Medicaid plan amendment that allows for the use of Medicaid funding for home-based habilitation, behavioral habilitation, and psychosocial rehabilitation services for qualified Medicaid recipients who have been diagnosed with a mental illness.

(j) **Home CCO** means enrollment in a Coordinated Care Organization (CCO) in a given service area, based upon an Individual's most recent permanent residency, determined at the time of original Oregon Health Plan eligibility determination or most current point of CCO enrollment prior to hospitalization per enrollment requirements in OAR 410-141-3500 through OAR 410-141-3860 and OAR 410-141-3815.

(k) **Individual or Client** means, with respect to a particular Service, any person who is enrolled in that Service, in whole or in part, with payments provided under this Agreement.

(l) **In-Reach Services** means services delivered by community-based service providers to an Individual while at the Oregon State Hospital (OSH) or Acute Care Psychiatric Hospital to:

- i. Maintain the Individual's connection to ongoing services and supports;
- ii. Assist with stabilization and discharge planning; and
- iii. Collaborate with CCO Care Coordination to provide transition support for Individuals determined Ready to Transition from the OSH or determined appropriate for diversion from OSH while in an Acute Care Psychiatric Hospital.

(m) **Integrated Setting** means a setting that enables Individuals with disabilities to interact with non-disabled persons to the fullest extent possible. Integrated settings are those that provide

Individuals with disabilities opportunities to live, work, and receive services in the greater community, like Individuals without disabilities. Integrated settings are:

- i. Located in mainstream society;
- ii. Offer access to community activities and opportunities at times, frequencies, and with persons of an Individual's choosing;
- iii. Afford Individuals choice in their daily life activities; and,
- iv. Provide Individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible.

- (n) **Long-Term Psychiatric Care (LTPC)** means inpatient psychiatric services delivered in an Oregon State-operated Hospital after:
 - i. Usual and customary care has been provided in an acute inpatient hospital psychiatric care setting;
 - ii. The Individual continues to be unsuccessful in an alternative setting; and
 - iii. The Individual continues to need psychiatric hospitalization services.
- (o) **Oregon State Hospital (OSH)** means any campus of the Oregon State Hospital system.
- (p) **Peer Delivered Services** means community-based services and supports provided by peers, and peer support specialists, to Individuals or family members with similar lived experience. These services are intended to support Individuals and families, to engage Individuals in ongoing treatment, and to live successfully in the community.
- (q) **Ready To Transition (RTT)** means that, consistent with the scope of the order of commitment, the Interdisciplinary Team (IDT) has determined that a State hospital level of care is no longer required as described in OAR 309-091-0035.
- (r) **Recovery** means a process of change through which Individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.
- (s) **Recovery Plan** means a written document created by the Individual and facilitated by a peer support specialist, or an alternative as determined by the Individual, to help identify the Individual's strengths (e.g., knowledge gained from dealing with adversity, personal or professional roles, talents, personal traits) that can act as resources to the Individual and the

Individual's recovery planning team in pursuing personal and treatment goals.

(t) **Serious and Persistent Mental Illness (SPMI)** means the current Diagnostic and Statistical Manual, Fifth Edition (DSM-V) of the American Psychiatric Association diagnostic criteria, incorporated by reference herein, for at least one of the following conditions, as a primary diagnosis for an adult 18 years of age or older:

- i. Schizophrenia and other psychotic disorders;
- ii. Major depressive disorder;
- iii. Bipolar disorder;
- iv. Anxiety disorders limited to OCD (Obsessive Compulsive Disorder) and PTSD (Post Traumatic Stress Disorder);
- v. Schizotypal personality disorder; or
- vi. Borderline personality disorder.

(u) **Supported Housing** means permanent housing with tenancy rights and support services that enables Individuals to attain and maintain integrated affordable housing. Support services offered to Individuals living in supported housing are flexible and are available as needed and desired, but are not mandated as a condition of obtaining tenancy. Individuals have a private and secure place to make their home, just like other members of the community, with the same rights and responsibilities. Supported Housing enables Individuals with disabilities to interact with individuals without disabilities to the fullest extent possible. Supported Housing is scattered site housing. To be considered Supported Housing, for buildings with two or three units, no more than one unit may be used to provide Supported Housing for Individuals with SPMI who are referred by OHA or its contractors, and for buildings or complexes with four or more units, no more than 25% of the units in a building or complex may be used to provide Supported Housing for Individuals with SPMI who are referred by OHA or its contractors. Supported Housing has no more than two Individuals in a given apartment or house, with a private bedroom for each Individual. If two people are living together in an apartment or house, the Individuals must be able to select their own roommates. Supported Housing does not include housing where providers can reject Individuals for placement due to medical needs or substance abuse history.

(v) **Voluntary by Guardian** means that an Individual's legal guardian has signed consent for admission to an acute psychiatric facility, Oregon State Hospital, or licensed residential facility.

(2) **Service Description**

- (a) County shall offer oversight and care coordination for Adults with SPMI, as follows:
 - i. Facilitate access to quality, individualized community-based services and supports so that Individuals with SPMI are served in the most integrated setting possible; and
 - ii. Facilitate effective utilization of services and facility-based care in the community.
- (b) Identify anticipated capacity needs across the system and communicate with Coordinated Care Organizations (CCO), Community Mental Health Programs (CMHP), and Oregon Health Authority (OHA).
- (c) The County's service area shall align primarily with the Home CCO and when no CCO is identified or the Home CCO has multiple MHS 06 Services contractors, then the service area will align with the COR as follows:
 - i. Home CCO is the designated service area for Individuals who are:
 - A. CCO enrolled members;
 - B. CCO members at the time of referral to Oregon State Hospital (OSH); or
 - ii. COR is the designated service area for Individuals who are:
 - A. Fee-For-Service Medicaid Eligible;
 - B. Uninsured, underinsured, not eligible for Medicaid, or have exhausted Medicaid services, including those who meet the criteria for the Citizen Alien Waived Medical Program;
 - C. Undocumented;
 - D. Privately insured;
 - E. Funded through Veterans Administration; or
 - F. Other as approved by OHA.
- (d) **Service Population**
 - i. Individuals who meet the following criteria, shall be offered Services through MHS 06 Services:
 - A. Have been civilly committed and admitted to OSH under ORS Chapter 426;

- B.** Have been civilly committed under ORS Chapter 426 and are referred to or at risk of being referred to OSH;
 - C.** Admitted to OSH under guardian authorization; secured or non-secure licensed residential facility as defined in ORS 443.400 including licensed programs designated specifically for young adults in transition;
 - D.** Are residing in a licensed adult foster home, as defined in ORS 443.705, due to SPMI; or
 - E.** As directed by OHA.
- ii.** Individuals who, due to SPMI, meet the following criteria shall also be offered Services per County's policies and procedures in Choice Model Services:
 - A.** Are placed on outpatient commitment pursuant to ORS 426.127;
 - B.** Are placed in assisted outpatient treatment pursuant to ORS 426.133;
 - C.** Have transitioned from civil commitment pursuant to ORS 426.060 within the past 12 months;
 - D.** Have been found to lack fitness to proceed pursuant to ORS 161.370;
 - E.** Will end jurisdiction within the next six months or ended jurisdiction under the Psychiatric Security Review Board (PSRB) within the past 12 months;
 - F.** Have been determined service eligible through the Department of Human Services (DHS), either through Aging & People with Disabilities (APD) or Intellectual/Developmental Disabilities (I/DD) Divisions to support the Behavioral Health Treatment service needs of Individuals determined service eligible for APD or I/DD; or
 - G.** Are at risk of meeting the above criteria without supports offered through Choice Model Services.

(e) Services

County shall provide:

- i.** Exceptional Needs Care Coordination as appropriate to the needs, preferences, and choices of each Individual.

- ii. Coordination of behavioral Health Treatment services and supports not funded through other sources including, but not limited to:
 - A. Medicaid;
 - B. Medicare;
 - C. County Financial Assistance Agreements; or
 - D. CCO Contracts.
- iii. Activities to remove barriers and facilitate access to integrated services and supports, which are not funded through other sources. Especially when Individuals are being discharged from OSH and when establishing residence in Supported Housing. These activities may include, but are not limited to:
 - A. Room and board payments;
 - B. Rental assistance, security deposits, and application fees;
 - C. Utility payments and deposits;
 - D. Prescription or over-the-counter medications and medical supplies not covered by Medicaid or other sources;
 - E. Transportation;
 - F. Activities to facilitate the securing of guardianship services, including but not limited to:
 - I. Paying the costs of:
 - (i) Court hearings to determine the necessity, continuation, or termination of a guardianship.
 - (ii) Guardianship services to make decisions related to overseeing the care and supervision of an Individual.
 - II. If guardianship is expected to continue beyond a transitional period of time (6 months or less), then other payment options should be sought in order to maintain guardianship services.
 - G. Activities to facilitate the securing of representative payee services; or
 - H. Peer Delivered Services.

- iv. Support CCO Care Coordination efforts to gather documents such as the Community Questionnaire, develop a preliminary discharge plan from OSH and sign for final authorization for the Long-Term Psychiatric Care referral.
- v. Other services and supports necessary to facilitate provision of services in the most integrated setting and the prevention of admission to higher levels of care.

(3) Performance Requirements

- (a) County shall provide the following services:
 - i. Exceptional Needs Care Coordination for Individuals served in Choice Model Services to facilitate access to services in the most integrated setting appropriate to the Individual's needs and strengths, including:
 - A. Care coordination and Discharge Planning for Individuals receiving services in licensed residential programs, even when placed outside the County's service area.
 - B. Facilitate access to community-based rehabilitative mental health treatment services that are recovery-oriented, culturally responsive, and geographically accessible.
 - C. Facilitate access to Peer Delivered Services.
 - D. Serve as the Single Point Of Contact (SPOC) (OAR 309-019-0225) for all referrals from OSH to Assertive Community Treatment as described in OAR 309-019-0225 (25) Definition of SPOC in ACT Admission Process 309-019-0248.
 - E. Collaborate with CCO Care Coordination concerning Acute Care Psychiatric Hospitals to divert Individuals approved for LTPC from admission to OSH and toward community-based services and supports, when indicated to be appropriate.
 - F. Collaborate with the DSH, APD and I/DD Divisions to support the Behavioral Health Treatment service needs of Individuals determined service eligible for APD or I/DD.
 - G. Coordinate the transition from forensic services for Individuals ending jurisdiction under the PSRB within six months and who will be served in Choice Model Services.

- H.** Coordinate the transition from forensic services for Individuals found to lack fitness to proceed pursuant to ORS 161.370 and who will be enrolled in Choice Model Services; and
 - I.** Serve as a resource for community partners and service agencies in locating local community-based Behavioral Health Treatment services and supports.
- ii.** In collaboration with CCO Care Coordinators, facilitate transition for Individuals with SPMI out of hospital settings and into the most integrated community settings by completing the following:
 - A.** Hold a face-to-face meeting with each Individual within the County's service area being referred to OSH from Acute Care Psychiatric Hospitals prior to being referred but no later than 72 hours from the date of approval for LTPC to identify services and supports necessary for community-based stabilization and facilitate access to those services and supports in order to divert Individuals from admission to OSH whenever possible.
 - B.** Hold a face-to-face meeting with each Individual within the County's service area who is civilly committed, and to the extent practical for Voluntary by Guardian, admitted to OSH within seven calendar days of admission.
 - C.** Participate in OSH IDT meetings for each Individual within the County's service area to update the Discharge Plan and to coordinate appropriate community-based services and supports.
 - D.** Arrange, advocate, and coordinate appropriate In-Reach Services from CCOs and community providers who are delegated or identified as having responsibility for providing mental health services upon discharge.
 - E.** Facilitate development of an initial Discharge Plan within 10 calendar days of admission to OSH and update the plan as appropriate after each IDT or discharge planning meeting with the Individual.
 - F.** Coordinate and facilitate access to community-based resources of those civilly committed at OSH to support discharge from OSH within 72 hours of being determined RTT whenever possible for

Individuals with SPMI who have been civilly committed, ensuring that:

- I.** No less than 90% of Individuals shall be discharged within 20 calendar days of being determined RTT.
- II.** If not discharged within the above timeframe then each Individual shall be discharged no later than 60 calendar days from the date placed on RTT.
- G.** Collaborate with OSH to verify that entitlement enrollments (e.g. Medicaid, Medicare, SSI/SSDI) are in place and anticipated to be active upon discharge.
- H.** For Individuals not receiving Choice Model Services directly, collaborate and serve as a resource to support Discharge Planning for Individuals:
 - I.** Determined services eligible for APD or I/DD;
 - II.** Under the jurisdiction of ORS 161.370 to determine fitness to proceed; or
 - III.** Under the jurisdiction of the PSRB.

(4) Special Reporting Requirements

- (a)** County shall prepare and electronically submit, to amhcontract.administrator@dhsoha.state.or.us, the following written reports using forms and procedures as prescribed on OHA's website, located at <http://www.oregon.gov/OHA/HSD/AMH/Pages/Reporting-Requirements.aspx>.
 - i.** Maintain for reference but not submit policies and procedures for enrollment in Choice Model Services.
 - ii.** Monthly Choice Model Client Status Reports shall be submitted no later than 45 calendar days following the end of each subject month during the term of the Agreement for review and approval.
 - iii.** Any other reports as mutually agreed upon between OHA and the County.
- (b)** Upon OHA's identification of any deficiencies in the County's performance under this Agreement, including failure to submit reports as required, failure to expend available funding, or failure to meet performance requirements, County shall prepare and

submit to OHA within 30 calendar days a Corrective Action Plan (CAP) to be reviewed and approved by OHA. The CAP must include, but is not limited to, the following information:

- i. Reason or reasons for the CAP based on OHA's concerns and the County's review;
- ii. The date the CAP will become effective with timelines for implementation;
- iii. Planned action already taken to correct the deficiencies as well as proposed resolutions to address remaining deficits identified with oversight and monitoring by OHA; and
- iv. Proposed remedies, short of termination, should County not come into compliance within the timeframe set forth in the CAP.

(5) Payment Calculation, Disbursement, and Confirmation of Performance and Reporting Requirements Procedures

OHA provides payments for MHS 06 Services in two different ways, through Part A and Part C payments. The payment type is identified in Exhibit E, "Financial Pages," on MHS 06 lines in which column "Part ABC," contains an "A" for Part A or "C" for Part C payments. OHA will make payments for MHS 06 Services claims submitted through either Part A or Part C payments, for non-Medicaid-eligible Services. Provider is not entitled to payment for Part A or Part C payments (or both) in combination with Medicaid payments for the same Service, during the same time period or date of Service for the same Individual. County and Service Providers shall maintain compliance with OAR 410-172-0600 to 410-172-0860, OAR 943-120-0310, and OAR 943-120-0320.

(a) Payments made to County or Service Provider are subject to the following:

- i. OHA shall not authorize in aggregate, under this "Payment Calculation, Disbursement, and Confirmation of Performance and Reporting Requirements Procedures" section, payments requested for MHS 06 Services in excess of the contractual Not-to-Exceed amount. Total aggregate funding means the total of all funding authorized in Exhibit E, "Financial Pages" before reducing payments to account for client resources received by the County or Service Provider from an Individual, or from another on behalf of the Individual, in support of Individual's care and Services provided. The monthly rate will be prorated for any month in which the Individual does not receive Services for a portion of the month. Funding will be reduced (offset) by the amount of funding received by the Service Provider

from the Individual, the Individual's health insurance provider, another person's health insurance provider under which Individual is also covered, or any other Third Party Resource (TPR) in support of Individual's care and Services provided:

- ii. County understands and agrees that funding under Part A or Part C may be reduced by Agreement amendment to the extent County's billings under MMIS for Part B payments exceed the allocated total aggregated budget as set for in Exhibit E, "Financial Pages," and
- iii. OHA is not obligated to provide payment for any MHS 06 Services that are not properly reported in accordance with the "Reporting Requirements" and "Special Reporting Requirements" sections above or as required in an applicable Specialized Service Requirement by the date 60 calendar days after the earlier of expiration or termination of this Agreement, termination of OHA's obligation to provide funding for MHS 06 Services, or termination of County's obligation to include the Program Area in which MHS 06 Services fall within its Services.

(b) The Part A payments will be calculated, disbursed, and confirmed as follows:

- i. Calculation of Payments: OHA will provide payments for MHS 06 Services provided under a particular line of Exhibit E, "Financial Pages," containing and "A" in column "Part ABC," from payments identified in that line in an amount equal to the rate set forth in that line of the Financial Pages during the period specified in that line. The total of OHA payments for all MHS 06 Services delivered under a particular line of Exhibit E, "Financial Pages," containing and "A" in column "Part ABC," shall not exceed the total payments for MHS 06 Services as specified in that line of the Financial Pages and are subject to the limitations described herein.
- ii. Disbursement of Payments: Unless a different disbursement method is specified in that line of the Exhibit E, "Financial Pages," OHA will disburse the Part A payments for MHS 06 Services provided under a particular line of the Financial Pages containing and "A" in column "Part ABC" to County in substantially equal monthly payments during the period specified in that line of the Financial Pages, subject to the following:
 - A. OHA may, upon written request of County, adjust monthly payments;

- B.** Upon amendment to the Financial Pages, OHA shall adjust monthly payments as necessary, to reflect changes in the payments shown for MHS 06 Services provided under that line of the Financial Pages;
 - C.** OHA may, after 30 calendar days (unless parties agree otherwise) written notice to County, reduce the monthly payments based on under-used payments identified through MOTS and other reports in accordance with the “Reporting Requirements” and “Special Reporting Requirements” sections above or applicable special conditions.
 - D.** OHA is not obligated to provide payments for any MHS 06 Services that are not properly reported in accordance with the “Reporting Requirements” and “Special Reporting Requirements” sections above or as required in an applicable Specialized Service Requirement by the date 60 calendar days after the earlier of expiration or termination of this Agreement; termination of OHA’s obligation to provide payments for MHS 06 Services; or termination of County’s obligation to include the Program Area in which MHS 06 Services fall in its Services; and
 - E.** OHA will reduce the payments made for MHS 06 Services delivered under a particular line of Exhibit E, “Financial Pages,” containing an “A” in column “Part ABC,” by the amount received by a Provider of MHS 06 Services, as payment for the cost of the Services delivered to an Individual from the Individual, the Individual’s health insurance provider, another person’s health insurance provider under which Individual is also covered, or any other Third Party Resource (TPR) in support of Individual’s care and Services provided. County is obligated to report to OHA, be email at amhcontract.administrator@dhsoha.state.or.us, any TPR payments no later than 30 calendar days following receipt of payment by County or Service Provider.
- (c)** The Part C payments will be calculated and disbursed as follows:
 - i.** Calculation of Performance Payment: County will qualify for a performance payment at the end of the calendar year

if it was operational, as defined by serving Individuals for a minimum of 180 calendar days per fiscal year and who submit the Monthly Choice Model Client Status Report no later than 45 calendar days following the end of each subject month during the term of the Agreement and address any deficiencies identified by the Agreement Administrator.

- ii. Disbursement of Performance Payment: The performance payment is based on achievement of the performance criteria in accordance with the “Performance Requirements” section above. Upon OHA’s determination that County met the performance criteria, County may prepare and electronically submit a written invoice, to amhcontract.administrator@dhsoha.state.or.us, for a performance payment, not to exceed the amount specified in that particular line of Exhibit E, “Financial Pages.”

- (d) Confirmation of Performance and Reporting Requirements: County shall be required to demonstrate through the data properly reported in accordance with the and “Special Reporting Requirements” sections above, how funds awarded for MHS 06 Services were utilized consistent with the terms and limitations herein to meet the performance requirements of this Service Description, and that County shall be subject to the monitoring and review of performance requirements and quality measures by the OHA Agreement Administrator for the Program under which this MHS 06 Service Description falls.

EXHIBIT A

Part 2 Payment and Financial Reporting

1. Payment Provisions.

- a. OHA agrees to pay County for accomplishing the Work required by this Agreement as described in Exhibit A, PART 1, "Statement of Work" and Exhibit E, "Financial Pages."
- b. County shall electronically submit all invoices to OHA's Agreement Administrator at: amhcontract.administrator@dhsowa.state.or.us, or to any other address as OHA may indicate in writing to County. County's claims to OHA for overdue payments on invoices are subject to ORS 293.462.
- c. County shall revise and resubmit invoice's/reports to OHA's satisfaction upon request.

2. **Travel and Other Expenses.** OHA will not reimburse County for any travel or additional expenses under this Agreement.

EXHIBIT A

Part 3 Special Terms and Conditions

1. Confidentiality of Client Information.

- a.** All information as to personal facts and circumstances obtained by the County on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- b.** The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- c.** OHA, County and any subcontractor will share information as necessary to effectively serve OHA clients.

2. Amendments.

- a.** OHA reserves the right to amend or extend the Agreement under the following general circumstances:
 - (1) OHA may extend the Agreement for additional periods of time up to a total Agreement period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on OHA's satisfaction with performance of the work or services provided by the County under this Agreement.
 - (2) OHA may periodically amend any payment rates throughout the life of the Agreement proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if OHA so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b.** OHA further reserves the right to amend the Statement of Work **for** the following:
 - (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Agreement or previous amendments to the Agreement;
 - (2) Implement additional phases of the Work; or
 - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Agreement.

c. Upon identification, by any party to this Agreement, of any circumstance which may require an amendment to this Agreement, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Agreement before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 22 "Amendments" of this Agreement.

3. County Requirements to Report Abuse of Certain Classes of Persons.

- a. County shall comply with, and cause all employees to comply with, the applicable laws for mandatory reporting of abuse for certain classes of persons in Oregon, including:
 - (1) Children (ORS 419B.005 through 419B.045);
 - (2) Elderly Persons (ORS 124.055 through 124.065);
 - (3) Residents of Long Term Care Facilities (ORS 441.630 through 441.645);
 - (4) Adults with Mental Illness or Developmental Disabilities (ORS 430.735 through 430.743).
 - (5) Abuse of Individuals Living in State Hospitals (OAR 943-045-0400 through 945-045-0520)
- b. County shall make reports of suspected abuse of persons who are members of the classes established in Section 3.a. above to Oregon's Statewide Abuse Reporting Hotline: 1-855-503-SAFE (7233), as a requirement of this Agreement.
- c. County shall immediately report suspected child abuse, neglect or threat of harm to DHS' Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 through 419B.045). If law enforcement is notified, the County shall notify the referring DHS caseworker within 24 hours. County shall immediately contact the local DHS Child Protective Services office if questions arise as to whether or not an incident meets the definition of child abuse or neglect.
- e. If known, the abuse report should contain the following:
 - (1) The name and address of the abused person and any people responsible for their care;
 - (2) The abused person's age;
 - (3) The nature and the extent of the abuse, including any evidence of previous abuse;
 - (4) The explanation given for the abuse;
 - (5) The date of the incident; and
 - (6) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

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.** Both parties shall comply with laws, regulations and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and OHA, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Nothing in this Agreement shall require County or OHA 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. OHA represents and warrants as follows:

- (1) Organization and Authority. OHA 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 OHA of this Agreement (a) have been duly authorized by all necessary action by OHA 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 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 OHA is a party or by which OHA 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 OHA of this Agreement, other than approval by the Department of Justice if required by law.

(3) **Binding Obligation.** This Agreement has been duly executed and delivered by OHA and constitutes a legal, valid and binding obligation of OHA, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

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

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. If billings under this Agreement, or under any other Agreement between County and OHA, result in payments to County to which County is not entitled, OHA, after giving to County written notification and an opportunity to object, may withhold 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 Agreement.

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. 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, 28, 29, 30 and 31 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 recipient, or on the next business day if transmission was outside normal business hours of the recipient. 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. **Reserved.**
29. **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.

30. 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.

31. 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

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

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

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

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 \$1,000,000.00 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.00.

AUTOMOBILE LIABILITY INSURANCE:

Required **Not required**

PROFESSIONAL LIABILITY:

Required **Not required**

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000.00 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 Contractor 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 INSURED:

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

WAIVER OF SUBROGATION:

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency 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 Agency's acceptance of all Services required under the Contract, or
- (ii) Agency or Contractor termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Contractor shall provide to Agency 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 Agency 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 Agency 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 Agency under this Contract and to provide updated requirements as mutually agreed upon by Contractor and Agency.

STATE ACCEPTANCE:

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

EXHIBIT D

Financial Pages

OREGON HEALTH AUTHORITY
Financial Assistance Award Amendment (FAAA)

CONTRACTOR: MARION COUNTY-CHOICE
DATE: 11/16/2021

Contract#: 173265
REF#: 000

REASON FOR FAAA (for information only):

Payments provided through this Financial Assistance Agreement (FAA) are subject to the 2021-2023 Legislative Approved Budget (LAB) for Oregon Health Authority, as allocated for the 2022 calendar year, at the level proposed for the 2021 calendar year or higher (continuing service level or "CSL"). This FAA may require modification by written amendment to reflect actual changes in funding amounts, or by administrative amendment (memo) provided that such administrative amendment is only used to change fund source coding and not the amount of funding.

The following special condition(s) apply to funds as indicated by the special condition number in column 9. Each special condition set forth below may be qualified by a full description in the Financial Assistance Award.

M0514 1 These payments are for MHS 06 Choice Model Services.

M0514 2 These payments are for MHS 06 Choice Model Services performance payment.