



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, APRIL 19, 2023

Barnes Sawyer Rooms - Deschutes Services Bldg - 1300 NW Wall St – Bend

(541) 388-6570 | www.deschutes.org

AGENDA

MEETING FORMAT: In accordance with Oregon state law, this meeting is open to the public and can be accessed and attended in person or remotely, with the exception of any executive session.

Members of the public may view the meeting in real time via YouTube using this link: <http://bit.ly/3mmlnzy>. To view the meeting via Zoom, see below.

Citizen Input: The public may comment on any topic that is not on the current agenda. Alternatively, comments may be submitted on any topic at any time by emailing citizeninput@deschutes.org or leaving a voice message at 541-385-1734.

When in-person comment from the public is allowed at the meeting, public comment will also be allowed via computer, phone or other virtual means.

Zoom Meeting Information: This meeting may be accessed via Zoom using a phone or computer.

- To join the meeting from a computer, copy and paste this link: bit.ly/3h3oqdD.
- To join by phone, call 253-215-8782 and enter webinar ID # 899 4635 9970 followed by the passcode 013510.
- If joining by a browser, use the raise hand icon to indicate you would like to provide public comment, if and when allowed. If using a phone, press *6 to indicate you would like to speak and *9 to unmute yourself when you are called on.



Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, call (541) 388-6572 or email brenda.fritsvold@deschutes.org.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

CITIZEN INPUT: Citizen Input may be provided as comment on any topic that is not on the agenda.

***Note:** In addition to the option of providing in-person comments at the meeting, citizen input comments may be emailed to citizeninput@deschutes.org or you may leave a brief voicemail at 541.385.1734.*

CONSENT AGENDA

1. Consideration of Board Signature on letter removing Joseph Stapleton from the Cannabis Advisory Panel and thanking him for his service

ACTION ITEMS

- [2.](#) **9:10 AM** Consideration of Document No.2023-343, an intergovernmental agreement with the City of La Pine for the provision of law enforcement services by the Deschutes County Sheriff's Office
- [3.](#) **9:25 AM** Request for Board Signature of Document No. 2023-327, Amendment #4 to the Community Mental Health Provider agreement with PacificSource
- [4.](#) **9:35 AM** Acceptance of Oregon Health Authority grant #179643 to provide Behavioral Health workforce incentives
- [5.](#) **9:45 AM** Revision to Homeless Solutions Partnership with the City of Bend

OTHER ITEMS

These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.

EXECUTIVE SESSION

At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories.

Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.

6. Executive Session under ORS 192.660 (2) (d) Labor Negotiations

ADJOURN



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 19, 2023

SUBJECT: Consideration of Document No.2023-343, an intergovernmental agreement with the City of La Pine for the provision of law enforcement services by the Deschutes County Sheriff's Office

RECOMMENDED MOTION:

Move approval of Board Signature of Document No. 2023-343, an intergovernmental agreement with the City of La Pine for the provision of law enforcement services.

BACKGROUND AND POLICY IMPLICATIONS:

The Deschutes County Sheriff's Office and the City of La Pine, by and through its City Manager and Mayor, negotiated the terms of an intergovernmental agreement for law enforcement services to better serve the public safety needs of city residents.

BUDGET IMPACTS:

Please see compensation table which describes payments to be made by the City of La Pine to the County.

ATTENDANCE:

- Joe Brundage, Business Manager
William Bailey, Patrol Captain
Joe DeLuca, Lieutenant

REVIEWED
C. Spivey
SHERIFF'S OFFICE
LEGAL COUNSEL

**INTERGOVERNMENTAL AGREEMENT
FOR LAW ENFORCEMENT SERVICES
CITY OF LA PINE
DESCHUTES COUNTY DOCUMENT NO. 2023-343**

This Agreement is made and entered into by and between Deschutes County, Oregon, a political subdivision of the State of Oregon, by and through its Sheriff's Office, hereinafter referred to as "Sheriff," and the City of La Pine, a municipal corporation of the State of Oregon, hereinafter referred to as "City."

City desires to contract with Sheriff for law enforcement services within its boundaries by Sheriff; and

Sheriff agrees to provide services as set forth in this agreement; and

Sheriff is committed to providing city residents with public safety services that are equal to those services provided throughout Deschutes County; and

Sheriff and City are committed to community policing principles and will partner to reduce the fear and incidence of crime, recognize and solve problems, and fulfill the public safety needs of the citizens of the City; and

ORS 190.010 authorizes Sheriff and City to enter into this intergovernmental agreement; now, therefore,

It is agreed as follows:

1. Duration

- 1.1. Effective Date. This agreement is effective July 1, 2022 and terminates at 11:59 p.m. on June 30, 2025, unless terminated sooner under Section 1.2 of this agreement.
- 1.2. Termination. This agreement may be terminated by either party upon 180 days written notice to the other party. Termination under this Paragraph shall not affect any obligations or liabilities accrued prior to such termination.
- 1.3. Extension. This agreement may be extended for a period of one to three years by the mutual agreement of both parties, and the completion of an addendum specifying an updated compensation schedule and any changes to the provisions contained in this agreement.

2. Statement of Work

- 2.1. Sheriff agrees to:
 - 2.1.1. Provide law enforcement services within the corporate limits of City. Sheriff shall perform duties and functions of the type customarily rendered by Sheriff, including, but not limited to, response to calls for service, patrol in the city, traffic enforcement, criminal investigation and apprehension of criminal suspects, pursuant to the statutes of the State of Oregon and the enforcement of the ordinances of the City pertaining to health and safety violations. Enforcement of City health and safety violations shall be mutually determined by the Sheriff and the City Manager or their designees. The Sheriff will provide

to the City a breakdown of activities and statistics on a quarterly basis in a mutually agreeable format.

- 2.1.2. Be responsible for the standards of performance, the discipline of deputies, and matters in the performance of such services.
- 2.1.3. Provide a minimum of 60 hours of weekly patrol coverage within City, which includes employee hours allocated to training and authorized leave. The 60 hours of weekly patrol coverage shall include enforcement of school speed zones, neighborhood and City park patrols, and night business security checks. Assigned Sheriff personnel vacancies or absences in excess of 60 days will result in a proration of costs charged to the City.
- 2.1.4. During the term of this agreement, Sheriff will assign one lieutenant (the "Lieutenant") to serve as Sheriff's primary contact for purposes of communication and coordination with City concerning the Services. Lieutenant will directly supervise assigned Sheriff's deputies. Lieutenant will work traditional business hours on a normal basis, but remain accessible and responsive to City; provided, however, the overtime rate will apply if Lieutenant is required to respond to a City request for assistance outside Lieutenant's regularly scheduled hours. If the city manager reasonably determines necessary, and approved by the Sheriff (or designee), Lieutenant will (a) attend and participate in City management (department head) meetings, and (b) attend and participate in official City functions, celebrations, commissions, community meetings, and other functions. While Lieutenant will primarily focus their daily efforts within the geographical boundaries of the City, the Lieutenant will be available for and respond to Sheriff Office needs throughout Deschutes County as necessary.
- 2.1.5. In addition to the Lieutenant, Sheriff will provide one deputy to provide Services to City. While this deputy will primarily focus their daily efforts within the geographical boundaries of the City, the deputy will be available and respond to Sheriff Office needs throughout Deschutes County as necessary.
- 2.1.6. If City determines that additional deputies are necessary for limited duration special events (e.g. Frontier Days) and/or unusual circumstances, City will exercise reasonable efforts to provide Sheriff advance notice of such need 60 days prior to the event. City will pay Sheriff in accordance with the terms and conditions of this Agreement, which may include overtime compensation as necessary.
- 2.1.7. Furnish and supply all necessary labor, supervision, equipment, radio communication facilities and supplies to maintain the agreed level of service. City agrees to pay a portion of the monthly maintenance cost for radios and MDTs, which is included in the contract costs listed below in paragraph 3.2.

2.2. City agrees to:

- 2.2.1. Grant full municipal police authority to Sheriff and Deschutes County.

3. Compensation

- 3.1. City agrees to pay Sheriff the amounts set forth in 3.2. Such payments shall be paid quarterly, no later than the 15th of January, April, July and October.
- 3.2. In the contract year beginning July 1, 2022, the City agrees to pay \$217,308; beginning July 1, 2023, the City agrees to pay \$228,173; and beginning July 1, 2024, the City agrees to pay \$239,582. (Years two and three of this contract each include a planned 5% cost increase. See Attachment for additional detail).
- 3.3. A standard deputy overtime in the amount of 10 hours per month has been included in the yearly amounts as detailed in paragraph 3.2 above. Overtime needs that exceed the planned 10 hours per month will be billed to the City, to be paid in the next quarterly payment.

4. Partnership

- 4.1. Sheriff is not, by virtue of this agreement, a partner or joint venturer with City in connection with activities carried out under this agreement, and shall have no obligation with respect to City's debts or any other liabilities.

5. Constraints

- 5.1. This agreement is subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated. Any provisions herein which would conflict with law are inoperative.

6. Liability

- 6.1. To the fullest extent permitted by law, each party (the "Indemnifying Party") will defend, indemnify, and hold the other party (the "Indemnified Party") and the Indemnified Party's officers, employees, agents, and representatives harmless for, from, and against all claims, demands, actions, suits, damages, liabilities, costs, and expenses, including, but not limited to, attorney fees and costs, arising out of or related to the following: (a) the Indemnifying party's (and/or its officers, deputies, employees, agents, and/or representatives) performance of its obligations under this Agreement (including, but not limited to, performance of the Services in the case of the Sheriff); and/or (b) the Indemnifying Party's breach and/or failure to perform such Indemnifying Party's representations, warranties, obligations, and/or covenants under this Agreement; and (c) the Indemnifying Party's negligent or otherwise wrongful conduct. The Indemnified Party will have the right to retain counsel of its choosing and will control the defense and settlement of the claim; provided, however, the Indemnifying Party will not have the right to make any settlement or take any other action which may be deemed to confess wrongdoing by the Indemnified Party, could reasonably be expected to have a negative effect on the Indemnified Party, and/or provide for injunctive or other non-monetary relief adverse to the continuing interest of the Indemnified Party without the Indemnified Party's prior written consent.

7. Non-Discrimination

- 7.1. Both parties agree:

That no person shall, on the grounds of race, color, national origin, gender, religion, marital status, family relationship, sexual orientation, or age, suffer discrimination in the performance of this agreement. Each party agrees to comply with Title VI of the Civil Rights Act of 1964, with Section V of the Rehabilitation Act of 1973, and with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Additionally, each party shall comply with the American with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

8. Arbitration Required and Attorneys' Fees

8.1. Any dispute or claim that arises out of or that relates to this agreement, or to the interpretation, breach, or default thereof, or to the existence, scope or validity of this agreement or the arbitration agreement, shall be resolved by arbitration by filing a claim with Arbitration Service of Portland, Inc. Judgment upon the award rendered pursuant to such arbitration may be entered in Deschutes County Circuit Court. In the event suit or action is brought, or an arbitration proceeding is initiated, to enforce or interpret any of the provisions of this agreement, or that arise out of or relate to this agreement, the prevailing party shall be entitled to reasonable attorney's fees. The determination of the prevailing party and the amount of the reasonable attorney's fees to be paid to the prevailing party shall be decided by the arbitrator.

9. Assignment

9.1. This agreement is binding on each party, its successors, assigns, and legal representatives, and may not, under any circumstance, be assigned or transferred by either party.

10. No Waiver of Claims

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

11. Entire Agreement

11.1. This agreement constitutes the entire agreement between the parties. Any modifications to this agreement must be in writing and signed by both parties.

DESCHUTES COUNTY SHERIFF'S OFFICE:



L. Shane Nelson, Sheriff



William Bailey, Captain

Dated this 3 day of April 2023

Dated this 4th day of April 2023

DESCHUTES COUNTY BOARD OF COMMISSIONERS:

Anthony DeBone, Chair

ATTEST:

Recording Secretary

Patti Adair, Vice Chair

Phil Chang, Commissioner

Dated this ____ day of _____ 2023

FOR THE CITY OF LA PINE:

Daniel Richer, Mayor

Dated this ____ day of _____ 2023



ATTEST:

Geoff Wullschlager, City Manager

Dated this ____ day of _____ 2023

**Attachment to La Pine Contract
Compensation Table**

| <u>Deputy</u> | <u>Base</u> | <u>Comp</u> | <u>Lieutenant</u> | <u>Base</u> | <u>Comp</u> |
|-----------------|----------------|--------------------|-------------------|-------------|-------------|
| Monthly | 8,291 | 12,994 | Monthly | 12,812 | 19,636 |
| Annually (FY23) | 99,492 | 155,928 | Annually (FY23) | 153,742 | 235,632 |
| | | | | 50% | 117,816 |
| FY 23 Lt | 117,816 | Half of Total Comp | | | |
| FY 23 Deputy | 99,492 | All of Base Comp | | | |
| | <u>217,308</u> | | | | |
| FY24 | 104,467 | 166,843 | FY24 | 161,429 | 247,414 |
| | | | | 50% | 123,707 |
| July 1, 2022 | 217,308 | | | | |
| July 1, 2023 | 228,173 | 5.0% | | | |
| July 1, 2024 | 239,582 | 5.0% | | | |
| <u>Total</u> | <u>685,063</u> | | | | |
| | | | | | |
| FY 23 Monthly: | 18,109 | | | | |

| CERTIFICATE OF COVERAGE | | | | | | |
|---|--|--|----------------|--|----------------------------------|-------------|
| Insured Deschutes County 1300 NW Wall Street Bend, OR 97701 | This certificate is issued as a matter of information only and confers no rights upon the certificate holder other than those provided in the coverage document. This certificate does not amend, extend or alter the coverage afforded by the coverage documents listed herein. | | |  | | |
| Companies Affording Coverage | | | | | | |
| COMPANY A – GEM COMPANY B - Obsidian | | | | | | |
| General and Auto Liability | | | | | | |
| This is to certify that coverage documents listed herein have been issued to the Named Member herein for the Coverage period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which the certificate may be issued or may pertain, the coverage afforded by the coverage documents listed herein is subject to all the terms, conditions and exclusions of such coverage documents. | | | | | | |
| Type of Coverage | Company Letter | Certificate | Effective Date | Termination Date | Coverage | Limit |
| General Liability X Commercial General Liability X Public Officials Liability X Employment Practices Occurrence | A | Deschutes County | 7/1/2022 | 6/30/2023 | Each Occurrence: | \$9,000,000 |
| Auto Liability X Scheduled Autos X Hired Autos X Non-Owned Autos | A | Deschutes County | 7/1/2022 | 6/30/2023 | Each Occurrence: | \$9,000,000 |
| Cyber Liability | B | Deschutes County | 7/1/2022 | 6/30/2023 | Each Occurrence/Annual Aggregate | \$1,000,000 |
| Description: | | | | | | |
| Certificate Holder: | | CANCELLATION: Should any of the coverage documents herein be cancelled before the expiration date thereof, the County will provide 30 days written notice to the certificate holder named herein, but failure to mail such notice shall impose no obligation or liability of any kind upon the County, its agents or representatives, or the issuer of this certificate. | | | | |
| | |  | | | Date: | |
| | | By: | | | | |

DESCHUTES COUNTY SHERIFF'S OFFICE
DOCUMENT SUMMARY

Date: March 24, 2023

Deschutes County Sheriff's Office

Contractor/Supplier/Consultant Name: City of La Pine

Contractor Contact: Geoff Wullschlager, City Manager

gwullschlager@lapineoregon.gov

Contractor Phone #: 541-536-1432

Type of Document: Services Contract

Goods and/or Services: DCSO to provide agreed upon Law enforcement services to the City of La Pine including 60 hours of weekly patrol coverage within the City with a designated Lieutenant as the primary contact and one assigned Deputy.

Agreement Starting Date: July 1, 2022 **Ending Date:** June 30, 2025

Annual Value or Total Payment:

DCSO to receive payment for agreed upon services (see Compensation 3.2)

Insurance Certificate Received (check box)

Insurance Expiration Date:

Check all that apply: N/A

RFP, Solicitation or Bid Process

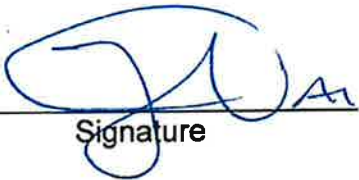
Informal quotes (<\$150K)

Exempt from RFP, Solicitation or Bid Process (specify – see DCC §2.37)

Funding Source: (Included in current budget?) Yes No

If **No**, has budget amendment been submitted? Yes No

Sheriff's Office Contact and Title: Lt. Joe DeLuca **Phone #:** 541-312-6020

Sheriff's Approval:  040323
Signature Date

Distribution of Document: Please notify Crystal Morton, ext. 4857 when document is ready to pick up.

Official Review:

Signature Required (check one): BOCC Sheriff (if <\$25K)

County Administrator (if >\$25K but <\$150K; if >\$150K, BOCC Order No. _____)

Legal Review  Date: 3/28/23

Document Number: **2023-343**



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 19, 2023

SUBJECT: Request for Board Signature of Document No. 2023-327, Amendment #4 to the Community Mental Health Provider agreement with PacificSource (#2021-323)

RECOMMENDED MOTION:

Move Board Signature of Document No. 2023-327, Amendment #4 to the Community Mental Health Provider agreement with PacificSource.

BACKGROUND AND POLICY IMPLICATIONS:

This Amendment #4 provides an updated attachment G and H, effective January 1, 2023, which details the Community Mental Health Provider (CMHP) fee-for-service monthly capitation rates. The estimated new contract will bring in \$16,800,000 for calendar year 2023 which is an increase from \$12,500,000 in calendar year 2022. The increase is in part due to the continuation of the Stabilization Center per member per month (PMPM) rate into the CMHP contract as well as the behavioral health increased fee mandates, which averaged a thirty percent (30%) across the board increase in both capitation PMPM amounts and fee for service reimbursement.

BUDGET IMPACTS:

\$16,800,000 for calendar year 2023

ATTENDANCE:

- Janice Garceau, Director
Holly Harris, Deputy Director
Cheryl Smallman, Business Officer

**2023 AMENDMENT
to the
PARTICIPATING PROVIDER AGREEMENT**

Effective January 1, 2023 the Participating Provider Agreement (the “Agreement”) between PacificSource Community Solutions (“Health Plan”) and Central Oregon Community Mental Health Programs (“CMHPs”) is amended to include the following:

- 1. New Attachments G and H.

Except for the changes described herein, the Participating Provider Agreement, and all other Exhibits, remain unchanged.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first set forth above.

PACIFICSOURCE COMMUNITY SOLUTIONS

DESCHUTES COUNTY HEALTH SERVICES

By: _____
PETER MCGARRY

By: _____
ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE CHAIR

PHIL CHANG, COMMISSIONER

Title: VP PROVIDER NETWORK

Title: BOARD OF DESCHUTES COUNTY COMMISSIONERS

Date: _____

Date: _____

Address: PO Box 7469
Bend, OR 97701

Address: 2577 NE Courtney Drive
Bend, OR 97701

**JEFFERSON COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISSIONERS**

**JEFFERSON COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISSIONERS**

By: _____

By: _____

Name: WAYNE FORDING

Name: KELLY SIMMELINK

Title: COMMISSIONER

Title: COMMISSIONER

Date: _____

Date: _____

**JEFFERSON COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISSIONERS**

By: _____

Name: MARK WUNSCH

Title: COMMISSIONER

Date: _____

PACIFICSOURCE COMMUNITY SOLUTIONS

By: _____

Name: PETER MCGARRY

Title: VP PROVIDER NETWORK

Date: _____

**CROOK COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISIONERS**

By: _____

Name: SETH CRAWFORD

Title: COUNTY JUDGE

Date: _____

**CROOK COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISIONERS**

By: _____

Name: JERRY BRUMMER

Title: COUNTY COMMISSIONER

Date: _____

**CROOK COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISIONERS**

By: _____

Name: BRIAN BARNEY

Title: COUNTY COMMISSIONER

Date: _____

PACIFICSOURCE COMMUNITY SOLUTIONS

By: _____

Name: PETER MCGARRY

Title: VP PROVIDER NETWORK

Date: _____

ATTACHMENT G

RISK MODEL

1.0 RISK MODEL

The 2023 Risk model agreed upon by Health Plan, various primary care providers of St. Charles Medical Group, Mosaic Medical Group, and COIPA and also Central Oregon Community Mental Health Programs (“CMHP(s)”) shall contain the following:

- (A) A construct involving two (2) main Coordinated Care Organization (CCO) territories (Central Oregon CCO and Columbia Gorge CCO) and settlements within each CCO for OHP Members, as well as the potential for settlement impacts for CMHPs should CMHPs provide services to OHP Members from the Lane, Marion/Polk or Portland area CCOs. In the Central Oregon CCO, the separate Health Care Budget (HCB) settlements shall be for those OHP Members who are assigned to primary care providers of (i) St. Charles Medical Group (SCMG) combined with the primary care providers of Mosaic Medical Group, and (ii) COIPA. In the Central Oregon CCO, there are some OHP Members who are assigned to primary care providers other than SCMG, Mosaic Medical Group and COIPA, for whom there may be no HCB, and/or no settlement involving CMHPs.
- (B) A Hospital Capitation Payment to St. Charles Health System (SCHS) for certain hospital services in the Central Oregon CCO as a component of the separate HCBs, and for which there is a Hospital Capitation Withhold (HCW) which shall be settled for SCMG/Mosaic Medical Group (Mosaic), COIPA, SCHS and the CMHPs in Central Oregon and distributed independently of any HCB settlement determining a surplus or deficit.
- (C) Capitated payment for primary care providers of SCMG, Mosaic and COIPA for certain primary care services provided to any assigned OHP Members from any CCO, for which there will be no withhold and no independent settlement.
- (D) Fee-for-service payment for all other professional services provided by SCMG, Mosaic and COIPA for any CCO members not designated as capitated primary care services per (C) above.
- (E) Capitated and fee-for-service payment to the CMHPs for services provided as detailed in Attachment H. Fee-for-service payments shall have a Claims Risk Withhold.
- (F) Patient-Centered Primary Care Home (PCPCH) and Behavioral Health Integration (BHI) per member per month payments for which primary care providers can qualify.

- (G) Payment allocations for (B), (C), (D), (E), and (F) above, and separate HCB settlements for health care expenses to determine Claims Risk Withhold and Surplus returns for SCMG, Mosaic, COIPA, other providers, Community Mental Health Programs (CMHPs) and Health Plan.
- (H) Separate risk models which features Revenue and Expenses for physical health, behavioral health/Chemical Dependency (CD), Alcohol/Drug – Residential, and Behavioral Health – Residential services under OHP, paid by the state of Oregon to Health Plan as a global capitation payment, and not otherwise designated as revenue contingent on innovation grants, and the exclusion of Revenue and Expenses in the following OHP categories:
 - “Dental Care” premium allocation and expenses.
 - “Non-Emergent Medical Transportation” premium allocation and expenses.
 - Payments to Central Oregon Health Council (COHC), taxes, adjustments and premium transfers.

If there are significant fluctuations (+/-10%) in the revenue allocations/adjustments for Dental, NEMT, or taxes/adjustments/premium transfers, Health Plan will discuss such fluctuations with CMHPs as soon as possible to gain a mutual understanding of the fluctuation, and whether it was due to membership fluctuation by benefit category, or some other cause.

- (I) Contract terms that are consistent with the Joint Management Agreement (JMA) and JMA budget signed between Health Plan and the COHC which specifies the rules, duties, obligation, limitations on Health Plan margin, “Health Services” allocations, and other obligations and expenses for Health Plan as a CCO for Central Oregon.
- (J) Utilization and Process Metrics which specify the return of any HCW, and metrics which specify the return of part of the Surplus and Claims Risk Withhold which may result from health care costs measured against any HCB.

2.0 CAPITATION

2.1 Hospital Capitation Rate (HCR) paid to SCHS: The HCR shall be \$107.50 per member, per month (PMPM), which has been calculated for the membership in the month of November 2020, and will fluctuate with membership fluctuations in each Rate Category, consistent with the revenue components listed in Section 1,H above. The HCR and the resulting Hospital Capitation Payment to SCHS may vary as Estimated Earned Net Premium Revenue payments from the state of Oregon to Health Plan increase or decrease, and is a weighted average of the following Central Oregon CCO membership in various benefit categories (which will change each month with membership) and PMPM Capitation Rates specific to each Rate Category as indicated below:

| Rate Category | PMPM Capitation Rate | Nov. 2020 Membership |
|---|----------------------|----------------------|
| Aid to Blind/Disabled & OAA with Medicare | \$20.12 | 3,474 |
| Aid to Blind/Disabled & OAA w/o Medicare | \$389.97 | 2,132 |
| CAF Children | \$27.66 | 820 |
| ACA Ages 19-44 | \$94.35 | 15,411 |
| ACA Ages 45-54 | \$186.29 | 4,089 |
| ACA Ages 55-64 | \$209.14 | 4,183 |
| PLM, TANF and CHIP Children age < 1 | \$425.93 | 1,217 |
| PLM, TANF and CHIP Children age 1-5 | \$26.36 | 6,333 |
| PLM, TANF and CHIP Children age 6-18 | \$27.11 | 14,990 |
| PLM Adults (includes pregnancy) | \$654.94 | 420 |
| TANF (Adults only) | \$170.58 | 5,042 |
| BCCP | \$433.42 | 18 |

| | |
|--|-----------------|
| Weighted Average | \$107.50 |
| Total Average Membership, Central Oregon CCO | 58,128 |

2.2 Hospital Capitation Withhold (HCW): The Hospital Capitation Payment will have an eight percent (8%) Hospital Capitation Withhold.

2.3 Hospital Capitation Services: The following hospital services provided to Central Oregon CCO OHP members will be reimbursed via the Hospital Capitation Payment paid to SCHS for services provided at St. Charles Medical Center – Bend, St. Charles Medical Center – Redmond, St. Charles Medical Center – Prineville, and St. Charles Medical Center – Madras:

- Hospital Inpatient Services, including swing beds and rehabilitation.
- Hospital Outpatient Services, including therapies.
- Home Health/Hospice Services billed by St. Charles Medical Center or its owned entities.

In the event of a significant shift in central Oregon community patterns-of-care that increase or decrease by more than five percent (5%) inpatient care, outpatient surgery, outpatient care, or the proportion of hospital care provided by out-of-area providers for any twelve-month period compared to a prior twelve-month period, the HCR may, upon mutual agreement by SCMG, Mosaic, SCHS, COIPA, CMHPs and Health Plan, be adjusted by Health Plan to account for such shifts in community patterns-of-care.

Both parties acknowledge the Hospital Capitation Payment is not intended to include reimbursement for behavioral health services funded via behavioral health/CD Residential or other OHP revenue. In the event of a duplicate payment to SCHS for such services paid under the Hospital Capitation Payment, Health Plan will present such information to all risk model entities adjust for such duplicate payment.

2.4 Other Hospital Services: The following hospital services provided to Central Oregon CCO OHP members will be reimbursed via methods other than the Hospital Capitation Payment:

- Professional Services billed by SCHS professional and hospital-based providers and billed on a CMS 1500 form or UB-04 or other form, which, unless covered under a separate agreement, will be reimbursed at one hundred percent (100%) of current OHP Allowable Amounts and eight percent (8%) claims risk withhold.
- Services provided by and billed under St. Charles Medical Group and St. Charles Family Care.
- Services provided by and billed under Sageview Behavioral Health.
- Inpatient and outpatient Behavioral Health/CD, Alcohol/Drug – Residential, or Behavioral Health – Residential services funded via OHP’s Behavioral Health/CD, Alcohol/Drug - Residential or Behavioral Health – Residential revenue.
- Inpatient and outpatient Dental Services funded as the Oregon Health Plan and OHA’s Dental revenue via dental care providers and Dental Care Organizations (DCOs).

2.5 Primary Care Capitation Rate. For services provided by SCMG, Mosaic Medical and COIPA who is providing certain primary care services for SCMG, Mosaic Medical and COIPA-assigned OHP Members, reimbursement will be made on or around the 15th of every month, and shall be:

Primary Care Capitation Rate negotiated as a variable per member per month

This Primary Care Capitation rate will be made as a per member per month amount for any Federally Qualified Health Centers or Rural Health Centers, upon identification as such by Health Plan.

This Primary Care Capitation Rate will be applied to the following PCP Adjustment Factors attributed to the individual rate categories, which are:

| Rate Category | PCP Adjustment Factor |
|---|-----------------------|
| Aid to Blind/Disabled & OAA with Medicare | 0.3475 |
| Aid to Blind/Disabled & OAA without Medicare | 2.2243 |
| CAF Children | 1.0280 |
| ACA Ages 19-44 | 0.9551 |
| ACA Ages 45-54 | 1.4266 |
| ACA Ages 55-64 | 1.4900 |
| PLM, TANF and CHIP Children age < 1 | 1.5641 |
| PLM, TANF and CHIP Children age 1-5 | 0.9435 |
| PLM, TANF and CHIP Children age 6-18 | 0.6882 |
| Poverty Level Medical Adults (includes pregnancy) | 0.9551 |
| TANF (Adults only) | 0.9551 |
| BCCP | 0.9551 |

Primary care providers shall submit a claim to Health Plan for every service provided, including capitated primary care services.

2.6 Covered Services Paid By Primary Care Capitation Rate

This Primary Care Capitation Rate, multiplied by the PCP Adjustment Factors, will be considered payment in full for the following CPT code services which are provided by primary care providers for their assigned OHP Members:

| Services | CPT Codes |
|-------------------------|--|
| Office Visits | 99201-99205, 99211-99215, 99241-99245 |
| Home Services | 99341-99345, 99347-99350 |
| Other Office Services | 92551, 92552, 93000, 93005, 93010, 93790, 95115-95134, 99000-99002, 99050, 99051, 99053, 99056, 99058, 99070, 99080, 99366-99368, 99429, 99441-99443 |
| Minor Surgical Services | 10060, 10061, 10080, 10120, 10140, 10160, 11720, 11721, 11740, 16000, 16020, 17110, 17111, 20550, 20600, 20605, 20610, 30300, 36415, 45300, 45303, 46600, 46604, 51701, 54050, 54055, 54056, 56501, 65205, 65220, 69200, 69210 |

3.0 COMPENSATION – ALL OTHER PROFESSIONAL SERVICES

For non-capitated primary care services and all specialty/ancillary services provided to OHP Members irrespective of primary care provider assignment, SCMG, Mosaic and COIPA shall be compensated based on Resource Based Relative Value Scale (“RBRVS”) conversion factors or a percentage of the current OHP fee schedule. Payment will be less an established Claims Risk Withhold. On an annual basis, this Claims Risk Withhold will be returned in whole, in part, or not returned, based upon (a) the comparison of paid and incurred claims expenses and other costs, to separate HCBs in Sections 7 of this Exhibit B as well as the performance of quality metrics in Section 7.6, or (b) per the contract of the OHP Member’s primary care provider, if other than SCMG, Mosaic or COIPA.

3.1 Medical Fee For Service

| SERVICE/PROCEDURE | MAXIMUM ALLOWABLE | CLAIMS RISK WITHHOLD |
|---|---|----------------------|
| Services listed in the CMS Physicians Fee Schedule: OHA GPCI Adjusted RVUs for services listed in the July 2019 Medicare Physician Fee Schedule | conversion factor ^{1, 2, 3} | 8% |
| Labor and Delivery: CPT Codes 59400-59622 | conversion factor ^{1, 2, 3} | 8% |
| Laboratory: Services classified by CMS using OHP Medical-Dental Fee Schedule | % of OHP Allowable ^{1, 3} | 8% |
| Anesthesia: Services classified in the American Society of Anesthesiologists Relative Value Guide | per unit ASA Conversion Factor ⁴ | 8% |
| Durable Medical Equipment, Prosthetics, Orthotics and Supplies: Services listed in the OHP Medical-Dental Fee Schedule | % of OHP Allowable ^{1, 3} | 8% |
| Injectables, Vaccines, Immunizations: Services listed in the OHP Medical-Dental Fee Schedule | % of OHP Allowable ^{1, 3} | 8% |
| Services and procedures without an OHP Allowable | % of Billed Charges | 8% |

Note: Payment will be based upon the lesser of the billed amount or Health Plan negotiated rates in effect at the time the service or supplies are rendered or provided as specified above.

1. Updates to the schedules noted above shall be updated in accordance to OHP.
2. Facility and non-facility RVUs shall be used and determined by the setting in which the service occurs.
3. Health Plan will reimburse based on the rates published as of the date of adjudication
4. ASA Basic Unit Value and annual updates as defined by the American Society of Anesthesiologists Relative Value Guide. Time units shall be based on fifteen (15) minute increments.

3.2 Patient Centered Primary Care Home (PCPCH) Program and Behavioral Health Integration

Primary care providers shall be able to opt into Health Plan’s Base or Program Participation PCPCH Program.

4.0 ALTERNATIVE PAYMENT MODELS

4.1 Pediatric Hospitalist Program.

SCHS shall be paid one dollar and twenty-five cents (\$1.25) per OHP Member, per month, for OHP Members assigned to SCMG, Mosaic and COIPA’s primary care providers in Central Oregon, to support a Pediatric Hospitalist Program (the “Program”). This amount will be an expense against separate HCBs to support the costs of the Program. Program revenue and costs, including FTE costs, will be reported showing any deficit/surplus. SCHS will provide, no less than quarterly, the accounting for the Program revenue and costs as described above to Health Plan.

4.2 Provider Incentives for Enhanced Access, Quality Improvement and PCPCH Certification

SCMG, Mosaic and COIPA shall be paid around three dollars and thirty cents (\$3.30) per OHP Member, per month, for OHP Members assigned to SCMG, Mosaic Medical and COIPA. This amount will be an expense against their respective HCBs.

4.3 Deschutes Stabilization Center

Deschutes County shall be paid ninety-one cents (\$0.91) per OHP Member, per month, for OHP Members assigned to SCMG, Mosaic, and COIPA primary care providers in Central Oregon, to support a Deschutes Stabilization Center. This amount will be an expense toward their respective HCBs.

5.0 PREMIUM ALLOCATION.

Health Plan and CMHPs have established the following allocation of premium in order to implement the compensation and risk incentive structure:

5.1 Definitions. Estimated Earned Net Premium Revenue. Estimated Earned Net Premium Revenue shall consist of those global capitation payments (including adjustments and reconciliations with the state of Oregon) received by Health Plan from the State of Oregon for OHP Members assigned to SCMG’s/Mosaic’s and COIPA’s primary care providers in the Central Oregon CCO for health services under OHP, less premium allocations and/or payments for services in Section 1,H, which include: Dental Care premium allocation and claims paid to DCOs, Non-Emergent Medical Transportation premium allocation and claims paid to NEMT vendors, payments to COHC per the agreement with the COHC, taxes, adjustments, premium transfers, innovation grant revenue, OHA-required Hepatitis C reconciliations with OHA as necessary, and any portion of QIM bonus or QIM withhold retained per agreement with the COHC.

5.2 Allocation of Estimated Earned Net Premium Revenue. After the application of any QDP/GME/MCO/Provider taxes, ACA taxes, OHA-required qualified directed pass-through payments, Health Plan Income Taxes for Medicaid, a payment to fund the COHC in the amount of one percent (1%) of gross premium (not counting pass-through funds), premium transfers for Dual Eligible Medicare premium and excluding: Dental Care premium allocation and claims paid to DCOs, Non-Emergent Medical Transportation premium allocation and claims paid to NEMT vendors, innovation grant revenue, OHA-required Hepatitis C reconciliation adjustments with the OHA/state of Oregon as necessary, and QIM withhold retained per agreement with the COHC, the remaining Estimated Earned Net Premium Revenue will be allocated as follows:

5.2.1 Administration. Eight and sixty hundredths percent (8.60%) of the remaining Estimated Earned Net Premium Revenue shall be allocated to Health Plan for administration.

5.2.2 Amounts Allocated to the primary care provider HCB. Ninety-one and forty hundredths percent (91.40%) of the remaining Estimated Earned Net Premium Revenue shall be allocated to the separate HCBs of SCMG/Mosaic, and COIPA.

6.0 ALLOCATIONS AND DISBURSEMENT

6.1 Computation of Budget Expenses.

For OHP Members assigned separately to primary care providers of SCMG/Mosaic and COIPA, all claims expenses (including Claims Risk Withhold), PMPM fees (including credentialing and any CPC+ expenses), reinsurance/stop loss premium expenses (less recoveries), Pharmacy Expenses (less rebates), Hospital Capitation Payments (including HCW), PCP Capitation Expense, subrogation adjustments, premium/MCO taxes, coinsurance expenses, out-of-area expenses, ancillary expenses, behavioral health/Chemical Dependency (CD) expenses paid to CMHPs, SCHS and other panel providers, Alcohol/Drug Residential expenses, Behavioral Health – Residential expenses, Health Services and other expenses iterated in the Joint Management Agreement (JMA) and JMA budget between Health Plan and the COHC shall be charged to the separate HCBs based on the day services were actually rendered with the exception of Late Claims, as defined in Section 6.2 below, which shall be charged to the next year’s applicable budget.

6.2 Disposition of Late Claims.

Late Claims are those claims received, processed, and paid later than four months (120 days) after the close of the contract period. Late Claims will be attributed to the next year's applicable budget.

7.0 SETTLEMENT PARAMETERS.

7.1 Settlement Parameters for OHP Members

The following settlement parameters for this Section 7 are intended to approximate financial terms for OHP Members assigned to SCMG/Mosaic and COIPA’s primary care providers. CMHP’s role in settlements shall be consistent with the settlement terms of SCMG/Mosaic and COIPA, should such settlement terms differ from the terms and percentages otherwise indicated in this Section 7. CMHPs understand and agree to be subject to the settlement terms other primary care provider agreements when CMHPs provide services for OHP Members assigned to non-SCMG/Mosaic and non-COIPA entities.

7.2 Time Period.

Annual Claims Risk Withhold and HCW settlement reports will occur for the 2023 calendar year four months (120 days) after the close of the contract period ending December 31st. Any charges/credits to the applicable budgets that have occurred since the settlement of the previous contract period are accounted for in the settlement of the current period.

7.3 Claims Risk Withhold Settlement Summary.

Health Plan shall be responsible for computing, documenting, and reporting annual Claims Risk Withhold settlement summary. This report shall be submitted approximately five months (151 days) after year-end. In the event of a dispute regarding the accuracy and completeness of the data reported by Health Plan, Health Plan agrees to an audit of the data by an independent third party mutually agreed upon between Health Plan and providers, which shall be at the sole cost and expense of providers.

7.4 Settlement Sequence – First Settlement (HCW)

There will be two (2) independent settlements. The first settlement will be the settlement of the HCW for OHP Members assigned to primary care providers of SCMG/Mosaic and COIPA.

7.4.1 Allocation. Unless otherwise changed in the primary care provider agreements, the HCW of eight percent (8%) of the Hospital Capitation Payment as allocated for the OHP Members assigned to primary care providers of SCMG/Mosaic and COIPA will be held by Health Plan until the time of settlement of each entity’s HCB.

- **SCMG/Mosaic or COIPA 49.00% of HCW**
- **SCHS 49.00% of HCW**
- **CMHPs 2.00% of HCW**

7.4.2 HCW settlement for CMHPs. HCW for OHP Members assigned to primary care providers of SCMG/Mosaic and COIPA will be awarded upon the meeting of performance goals in utilization and process areas as follows and as updated for automatic changes in calendar years or Oregon Health Authority benchmark changes, or as changed via amendment:

**2023 CENTRAL OREGON CCO / SCHS PERFORMANCE MEASURES FOR HOSPITAL CAPITATION
WITHHOLD RETURN**

| | |
|--|--|
| 1. Follow-Up After Hospitalization for Mental Illness within 7 days | |
| Weighting | 20% |
| Performance Monitoring | Health Plan reporting using Health Plan administrative claims data |
| Final Result ¹ | Health Plan data, administrative claims only |
| Target | 2022 CCO Final Rate plus one percentage point |
| Population | Central Oregon CCO Members |
| Measure Specification | OHA Current Specification: Follow-Up after Hospitalization for Mental Illness |
| Denominator | Per OHA Current Specification. Deviation from Specification: Discharges from Sage View only are included in the Denominator. |
| Numerator | Per OHA Current Specification |
| 2. Prenatal & Postpartum Care - Postpartum Care | |
| Weighting | 20% |
| Performance Monitoring | Health Plan reporting using Health Plan administrative claims data |
| Final Result ¹ | OHA Central OR CCO 2023 Final Hybrid QIM Results |
| Target | OHA Central OR CCO 2023 QIM Measure Target |
| Population | Central Oregon CCO Members |
| Measure Specification | OHA (QIM) Current Specification: Prenatal and Postpartum Care |
| Denominator | Per OHA (QIM) Current Specification |
| Numerator | Per OHA (QIM) Current Specification |
| 3. Follow-up After ED Visit for Mental Illness within 7 days | |
| Weighting | 20% |
| Performance Monitoring | Health Plan reporting using Health Plan administrative claims data |
| Final Result ¹ | Health Plan data, administrative claims only |
| Target | 2022 CCO Final Rate plus one percentage point |
| Population | Central Oregon CCO Members |
| Measure Specification | HEDIS Current Specification: Follow-Up After Emergency Department Visit for Mental Illness |
| Denominator | Per HEDIS Current Specification |
| Numerator | Per HEDIS Current Specification |
| 4. Follow-up After ED Visit for Alcohol or Other Drug Abuse or Dependence within 7 days | |
| Weighting | 20% |
| Performance Monitoring | Health Plan reporting using Health Plan administrative claims data |
| Final Result ¹ | Health Plan data, administrative claims only |
| Target | 2022 CCO Final Rate plus one percentage point |
| Population | Central Oregon CCO Members |
| Measure Specification | HEDIS Current Specification: Follow-Up After Emergency Department Visit for Alcohol and Other Drug Abuse or Dependence |
| Denominator | Per HEDIS Current Specification |
| Numerator | Per HEDIS Current Specification |

| 5. Standardized Healthcare-Associated Infection Ratio | |
|--|---|
| Weighting | <i>Clostridium difficile</i> (C. Diff) intestinal infections – 6% Central Line-Associated Bloodstream Infections (CLABSI) – 4% Catheter-associated Urinary Tract Infections (CAUTI) – 6% Methicillin-resistant <i>Staphylococcus Aureus</i> (MRSA) blood infections – 4% |
| Performance Monitoring | SCHS |
| Final Result ² | SCHS ² <i>*Final result is subject to review and audit by Health Plan</i> |
| Target | Final rate is not statistically significantly worse than the expected rate. Each rate is measured and scored separately. |
| Population | All SCHS hospitalizations (entire SCHS population regardless of location) |
| Measure Specification | N/A – Measure Steward: NHSN, NCQA |
| Denominator | As per NHSN Specification for hospitals |
| Numerator | As per NHSN Specification for hospitals |
| <p>¹Final contract performance results will be available after final QIM results are delivered from OHA and will be included in the final reconciliation risk reports.</p> <p>²SCHS must provide final results for all four (4) Standardized Healthcare-Associated Infection Ratio (SIR) measures by 11:59 PST on March 31, 2024 to be eligible for payout. Performance reporting for each of the four (4) SIR measures must include:</p> <ul style="list-style-type: none"> • Standardized Infection Ratio (SIR) • Count of Observed Infections • Expected (Predicted) Infections • 95% Confidence Interval for SIR (low and high) <p>Final results must be sent via email to the following recipients: RiskReportAnalytics@pacificsource.com Beth.Quinlan@pacificsource.com Peter.McGarry@pacificsource.com</p> | |

7.4.5 Unearned HCW

Any HCW not paid shall be considered Unearned HCW. Unearned HCW shall be allocated in the following manner:

- 1st Used to offset any Deficits for the HCB settlement, after the application of Claims Risk Withhold for that settlement.
- 2nd Any remaining Unearned HCW will contribute to Health Plan margin, consistent with limitations in the Joint Management Agreement (JMA) between Health Plan and the COHC.

3rd Any remaining Unearned HCW will be treated as shared savings under the terms of the JMA.

7.5 Settlement Sequence – Second Settlement (HCB)

After completion of the HCW settlement, separate HCBs shall be settled.

7.5.1 The separate HCBs are established for the following health care expenses for those OHP Members assigned to primary care providers of SCMG/Mosaic and COIPA: Hospital Capitation Payments (including HCW) consistent with Section 2, PCP Capitation payments consistent with Section 2, claims expenses for professional services including those established by the reimbursement terms in Section 3 (including Claims Risk Withhold), Pharmacy expenses (less rebates), out-of-area expenses, and other provider PMPM fees per Sections 4, or other PMPM expenses, ancillary services, reinsurance premium (less recovery amounts), premium/MCO taxes, coinsurance expense, subrogation adjustments, behavioral health/Chemical Dependency (CD) expenses paid to CMHPs, SCHS and other panel providers, Alcohol/Drug – Residential expenses, Behavioral Health-residential expenses, and Health Services and other expenses iterated in the JMA and JMA budget between Health Plan and COHC.

7.6 Budget Surplus or Deficit.

For the contract period for the experience of OHP Members assigned to SCMG/Mosaic and COIPA, the separate HCBs will be compared to actual expenses incurred per Section 7.5 to determine whether a Surplus or Deficit exists.

7.6.1 Surplus. If the total value of total covered claims and expenses, including HCW and Claims Risk Withhold, is less than any HCB, a **Surplus** exists. Unless otherwise changed in the primary care provider agreements, Surplus will be limited to seventy percent (70%) of the Surplus amount, with any percentage increase beyond this amount contingent on a review of the one percent (1%) of gross premium allocated to COHC for community reinvestment. In the event of a Surplus, Claims Risk Withhold and Surplus share amounts will be returned/paid based on the below contingencies by approximately August 30 following the contract year. Any unknown final OHA determinations of QIM revenue or any OHA decisions on any revenue reductions will be applied and adjusted for the following contract year. Surplus amounts may be offset against amounts owed to Health Plan, if amounts owed are not otherwise paid to Health Plan. Surplus payment amounts are additionally determined according to the following:

Unless otherwise changed in the primary care provider agreements, Fifty-five percent (55%) of the Surplus will be earnable by the primary care entity (SCMG/Mosaic or COIPA), forty percent (40%) of the Surplus will be earnable by SCHS, and five percent (5%) of the Surplus will be earnable by the CMHPs and allocated proportionate to CMHP-represented county populations of OHP Members. Twenty-five percent (25%) of the Surplus and twenty-five percent (25%) of the Claims Risk Withhold are paid contingent on the performance of the below metrics, the majority of which are established and measured by the state of Oregon for the entire Central Oregon CCO, which are based on the final target setting for the Central Oregon CCO by OHA and will be awarded based on such state of Oregon measurement and state of Oregon final payment. Any other metric not established by the state of Oregon is an alternative metric and indicated with a (*) and is designed and measured by Health Plan. The following metrics will be used:

2023 CENTRAL OREGON CCO PROVIDER PERFORMANCE MEASURES FOR SURPLUS AND CLAIMS RISK WITHHOLD RETURN

| | |
|---|---|
| 1. Child Well-Care Visits (Age 3-6) | |
| Weighting | 22.5% |
| Performance Monitoring | Health Plan reporting using Health Plan administrative claims data |
| Final Result | OHA Central OR CCO 2023 Final QIM Results |
| Target | OHA Central OR CCO 2023 QIM Measure Target |
| Population | Central Oregon CCO Members |
| Measure Specification | OHA (QIM) Current Specification: Child and Adolescent Well-Care Visits |
| Denominator | Per OHA (QIM) Current Specification |
| Numerator | Per OHA (QIM) Current Specification |
| 2. Members Receiving Preventive Dental or Oral Health Services | |
| Weighting | 22.5% |
| Performance Monitoring | Health Plan reporting using Health Plan administrative claims data |
| Final Result | OHA Central OR CCO 2023 Final QIM Results |
| Target | OHA Central OR CCO 2023 QIM Measure Targets - This is a two-component measure with a target for Age 1-5 and a separate target for Age 6-14. Both targets need to be met to achieve measure. |
| Population | Central Oregon CCO Members |
| Measure Specification | OHA (QIM) Current Specification: Members Receiving Preventive Dental or Oral Health Services |
| Denominator | Per OHA (QIM) Current Specification |
| Numerator | Per OHA (QIM) Current Specification |
| 3. Diabetes: HbA1c Poor Control (>9.0%) | |
| Weighting | 22.5% |
| Performance Monitoring | Health Plan reporting using Central Oregon CCO clinic submitted electronic health record data ¹ excluding Weeks Family Medicine data |
| Final Result | OHA Central OR CCO 2023 Final QIM Results |
| Target | OHA Central OR CCO 2023 QIM Measure Target |
| Population | Central Oregon CCO Members |
| Measure Specification | OHA (QIM) Current Specification: Diabetes: HbA1c Poor Control |
| Denominator | Per OHA (QIM) Current Specification |
| Numerator | Per OHA (QIM) Current Specification |
| 4. Initiation and Engagement of Substance Use Disorder Treatment | |
| Weighting | 22.5% |
| Performance Monitoring | Health Plan reporting using Health Plan administrative claims data |
| Final Result | OHA Central OR CCO 2023 Final QIM Results |
| Targets | OHA Central OR CCO 2023 QIM Measure Targets - This is a two-part measure with a target for Initiation and a separate target for Engagement. Both targets must be met to achieve measure. |
| Population | Central Oregon CCO Members |
| Measure Specification | OHA (QIM) Current Specification: Initiation and Engagement of Substance Use Disorder Treatment |
| Denominator | Per OHA (QIM) Current Specification |
| Numerator | Per OHA (QIM) Current Specification |

| 5. Immunizations for Adolescents (Combo 2) | |
|---|---|
| Weighting | 10% |
| Performance Monitoring | Health Plan reporting using Health Plan administrative claims data |
| Final Result | OHA Central OR CCO 2023 Final QIM Results |
| Target | OHA Central OR CCO 2023 QIM Measure Target |
| Population | Central Oregon CCO Members |
| Measure Specification | OHA (QIM) Current Specification: Immunizations for Adolescents (Combo 2) |
| Denominator | Per OHA (QIM) Current Specification |
| Numerator | Per OHA (QIM) Current Specification |
| <p>¹ Participating organizations must report monthly data to Health Plan by the 20th of each month. To be eligible for payout, final 2023 eCQM data submissions must be received by Health Plan from participating clinics no later than 11:59 PM PST on January 20, 2024. All submissions are subject to audit by Health Plan for accuracy.</p> <p>All reporting data submissions must be sent via previously agreed upon SFTP or via email to the following recipient: ecqmreporting@pacificsource.com</p> | |

7.6.2 Unearned Surplus and unearned Claims Risk Withhold Contingent On Quality

Any Unearned Quality Surplus and unearned Claims Risk Withhold shall be allocated in the following manner:

- 1st Used to offset any Deficits for any other Central Oregon OHP HCB settlements, after the application of Claims Risk Withhold associated with those other settlements.
- 2nd Used to contribute to Health Plan margin, consistent with the limitation in the Joint Management Agreement (JMA) between Health Plan and the COHC.
- 3rd Any remaining Unearned Surplus Contingent On Quality will be treated as shared savings under the terms of the JMA.

7.6.3 Deficit. If the value of total covered claims and expenses, including HCW and accumulated Claims Risk Withhold from all providers, is more than the single community HCB, a **Deficit** exists, and any and all Claims Risk Withhold will be used to satisfy the Deficit at an equal percentage for all providers. If any Claims Risk Withhold remains upon the Deficit being reduced to zero dollars (\$0.00), it will be returned with twenty-five percent (25%) of any distributable Claim Risk Withhold return contingent on the performance of the quality metrics in Section 7.6.

7.6.4 Limited Liability. If the Deficit of the HCB exceeds the amount of total Claims Risk Withhold, no further amounts will be payable from CMHPs to reduce the Deficit beyond any unearned amounts.

8.0 GENERAL PROVISIONS.

8.1 Defined Terms.

Any terms not otherwise defined herein shall have the meaning set forth in the Participating Provider Agreement.

8.2 Precedence.

In the event of any conflict or inconsistency between this Exhibit and the Participating Provider Service Agreement, such conflict or inconsistency shall be resolved by giving precedence first to this Exhibit then the Participating Provider Agreement.

8.3 Health Plan Reporting

Health Plan shall provide accurate and timely reports to assist CMHPs in monitoring utilization, financial, and quality-related data. A schedule of reports and the frequency with which these reports are to be provided is listed below.

| | |
|---|---|
| Existing Claims Risk Withhold Settlement Report, Central Oregon CCO | Monthly in 2023 and through March of 2024, by the end of the month, starting six (6) months after the beginning of the contract start date. |
|---|---|

8.4 Health Services Understanding

Health Plan and SCMG and COIPA signed a separate Letter of Understanding in July of 2015 which detailed the appropriate allocation of certain health care expenses as being part of any HCB. Consistent with that understanding Health Plan (a) has entered into a contract with OHA whereby Health Plan has agreed to manage programs to optimize cost, quality and experience of care for OHP Members, (b) is mandated to operate such programs with auditable reporting requirements, (c) has signed an agreement with OHA (consistent with OHA rules and regulations) which stipulates such program expenses are accounted for outside Health Plan administrative/general expenses and are part of health care expenses which are part of any HCB in this Agreement, and (d) calculates a PMPM expense as a percentage of the CCO global budget, to pay for such Health Services programs.

8.5 Requirements

CMHPs will participate in and attest to performing (a) data submission activities pertinent to CCO eQMs EHR-based incentive metrics, (b) data submission requirements including sending accurate data in time and formats determined by CCO to comply with OHA measure specifications, (c) submitting eCQM data to Health Plan on a monthly basis by the 20th of the month and acknowledging reports for the first four months of the calendar year will be provided as early as possible based on the delivery from CMHPs’ software vendor, (d) requests for surveys or other information, (e) requests to complete successful CCO data collection/submission activities, and (f) reporting expectations for eQMs for diabetes, hypertension, depression, tobacco prevalence and BMI. CMHPs acknowledge that submission of these requirements is essential as failure to do so for each EHR-based incentive will lead to failure for each eCQM measure, failure to meet the population threshold required and will cause the entire Central Oregon CCO to fail the measure.

CMHPs will perform patient satisfaction surveys in alignment with PCPCH standard requirements and will share such survey results with Health Plan upon reasonable request.

CMHPs will cooperate with Health Plan on Health Plan’s CAHPS Improvement Plans.

CMHPs allows Health Plan to share individual provider performance information such as quality performance metrics with CCO-contracted providers and Health Councils.

8.6 Oregon Health Plan/OHA Capitation Administration Regulations

In the event of (a) requirements rules, regulations or guidance related to applicable provider capitation payments made by Health Plan to CMHPs, and per Health Plan Exhibit L filing and Medical Loss Ratio filings submitted to OHA, and/or (b) Health Plan’s and/or OHA’s interpretation of applicability of such requirements, rules, regulations, or guidance and applicability of Health Plan’s capitation payment methodology with CMHPs, Health Plan may enact the following:

- A charge commensurate with any OHA recoupment, demand for repayment, charge, tax or fee, to be charged against any HCB, and/or
- A renegotiation with CMHPs to revert all payment methodologies entailing CMHP’s capitation, to a fee-for-service payment methodology.

CMHPs shall cooperate with Health Plan to produce reports for Health Plan and/or OHA that satisfy to Health Plan and OHA discretion, the requirements, rules, regulations or guidance from OHA related to capitation payments.

8.7 Oregon Health Plan/OHA Possible Premium Revision / MLR-based repayment to OHA

In the event of a revision of premium levels for OHP Members by the state of Oregon/OHA by a net amount deemed by Health Plan to be inconsistent with the 2023 (a) CMHP capitation rate, (b) conversion factors, or (c) hospital capitation rates agreed to in this 2023 amendment to the Agreement, Health Plan will notify CMHPs of such inconsistency in writing, and both parties will enter into a renegotiation of 2023 reimbursement rates in order to achieve consistency with any new Oregon Health Plan/OHA premium levels.

In the event OHA determines Health Plan must pay OHA any sum because the Central Oregon CCO Medical Loss Ratio (MLR), as determined by OHA, does not meet a minimum threshold for the entire population or any benefit-category specific sub populations, Health Plan reserves the right to (a) deduct a pro-rata portion of such repayment from any HCB in Section 7, or (b) make direct investments to increase the MLR and offset such expenses with the settlement, upon communication with CMHPs and the COHC.

8.8 MLR Reporting for 2022.

CMHPs shall submit to Health Plan a report for the cost year January 1, 2022 – December 31, 2022 no later than March 30, 2023 using a format accepted by OHA. CMHPs shall refer to “2022 Medical Loss Ratio Rebate Instructions” (as published on the OHA CCO Contract Forms website at <http://www.oregon.gov/oha/healthplan/Pages/cco-contract-forms.aspx>) for support.

8.9 MLR Reporting for 2023.

CMHPs shall submit to Health Plan reports for the cost year January 1, 2023 – December 31, 2023 no later than March 30, 2024 using a format accepted by OHA. CMHPs shall refer to “2024 Medical Loss Ratio Rebate Instructions” (as published on the OHA CCO Contract Forms website at <http://www.oregon.gov/oha/healthplan/Pages/cco-contract-forms.aspx>) for support.

8.10 Health Related Services (Flexible Services and Community Based Health-Related Services.

Consistent with the Health-Related Services Rule adopted by the OHA (which includes member-level disbursements often called “flexible services”, and community-based Health-Related Services, often called “Community Benefit Initiatives”) and the Health-Related Services Brief released by the OHA, along with Health Plan policies approved by OHA, Health Plan will make certain disbursements from any HCB from time to time and at Health Plan’s discretion. These disbursements are distinct from Health Plan-provided Health Services.

8.11 Community Health Improvement Plan, Transformation Plan and Health Council Activities.

CMHPs will collaborate with Health Plan, the COHC, and other stakeholders in completing a Community Health Assessment (CHA) and a Community Health Improvement Plan (CHIP), and in carrying out activities to implement the CHIP including any recommendation tied to community access studies. CMHPs will collaborate with Health Plan, the COHC, and other stakeholders to carry out the Transformation And Quality Strategies. For purposes of the CHA, CHIP, or Transformation And Quality Strategies, for reporting to the COHC or any of its subcommittees, or for reporting to OHA, Health Plan may share CMHP’s utilization, membership numbers, and additional performance data. CMHPs will collaborate with Health Plan and the COHC to meet Transformation And Quality Strategies requirements and participate in Transformation And Quality Strategy projects.

8.12 Corrective Action Plans

Health Plan, at its sole discretion and consistent with the expectations of Health Plan by OHA, may determine that CMHP’s performance of obligations, duties and responsibilities under the terms of this Agreement is deficient. In reaching that conclusion, Health Plan may, but is not required to consider third-party audit or other formal review results, peer review results, quality measures, written or oral feedback from members or patients, and any other issues which may be identified by Health Plan. If Health Plan determines CMHP’s performance is deficient for any reason, but that such deficiency does not constitute a Material Breach of the terms of this Agreement, Health Plan may institute a corrective action plan (“CAP”) subject to internal review. Health Plan will notify CMHPs of the terms of the CAP and will provide a CAP reporting template. Health Plan will supply supporting information/data to CMHPs at that time. CMHPs shall have thirty (30) days to resolve the CAP to Health Plan’s satisfaction. Failure to resolve the CAP shall constitute a Material Breach by CMHPs, and Health Plan may terminate this Agreement immediately.

8.13 Cooperation and Engagement in Quality Improvement Process.

The COHC voted to support QIM-related positions within Health Plan and area providers. CMHPs agrees to cooperate with the QIM Practice Facilitator, QIM Improvement Coordinator, QIM Program Manager, and the ED Improvement Coordinator to support success on regional quality measures including the QIMS, as well as to engage and cooperate with the Provider Engagement Panel to support quality improvement in the region.

8.14 Member Assignment

Health Plan may, at its discretion, assign OHP Members to primary care providers. Revisions to assignment procedures may be made in response to objective data related to quality performance, patient access, patient experience, or in response to other information available to Health Plan.

Attachment H

**CCO Fee-for-service and Capitation for Behavioral Health Services
Community Mental Health Program for Central Oregon CCO**

Effective 01/01/2023

1. CMHP Fee-for service and Monthly Capitation Payment

For services provided to OHP Members in the counties where the CMHPs are the designated Community Mental Health Program, Health Plan will reimburse CMHPs for Therapy Services and Assessment Services on a fee-for-service basis and on a capitation PMPM basis for Non-Encounterable Health Care Costs and Program Allocation costs according to the below rate schedule. These expenses will be charged and allocated to the separate Health Care Budgets (HCBs) in Attachment G.

Services provided to OHP Members from other CCOs and other counties for which the CMHP is not the designated Community Mental Health Program, CMHPs shall be reimbursed per a separate agreement for such services.

Intensive In-Home Behavioral Health Treatment (IIBHT) Deschutes County Health Services:

CMHP shall provide access to Intensive In-Home Behavioral Health Treatment (IIBHT) services for all eligible OHP Members aged twenty (20) and younger in accordance with OARs 309-019- 0167, 410-172-0650, and 410-172-0695. For Deschutes County, IIBHT services shall be submitted using HCPCS code of H0023 and shall be reimbursed through the below capitation table. The services under H0023 are separate from services billed for Behavioral Health outreach and engagement, for which a CPT code will be designated by Health Plan. Until such a time as an alternative code is identified, CMHP will submit non-billable Behavioral Health Outreach and Engagement (H0023) claims valued at the agreed rate of \$169.90 and attributed to Non-Encounterable Healthcare Services Costs in the capitation portion of this contract.

Intensive In-Home Behavioral Health Treatment (IIBHT) Jefferson County Health Services and Crook County Health Services:

CMHP shall provide access to Intensive In-Home Behavioral Health Treatment (IIBHT) services for all eligible OHP Members aged twenty (20) and younger in accordance with OARs 309-019- 0167, 410-172-0650, and 410-172-0695. For Jefferson County and Crook County CMHPS, IIBHT services shall be submitted using HPCPS code H0023 and shall be reimbursed at one hundred percent (100%) of the current OHA allowable, with an eight percent (8%) Claims Risk Withhold to be settled per Attachment G.

Deschutes Stabilization Center

Deschutes County's CMHP shall be paid ninety-one cents (\$0.91) per OHP Member, per month, for OHP Members assigned to SCMG, Mosaic, COIPA, and other primary care providers in Central Oregon, to support a Deschutes Stabilization Center. This amount will be an expense allocated to the separate HCBs.

Therapy Services for all CMHPs: Therapy Services FFS CPT Codes: 90832, 90834, 90837, 90846, 90847, H0004, H0005, H0016, H0038 shall be reimbursed at one hundred and thirty-two percent (132%) of the current OHP fee schedule, for services provided to OHP Members domiciled in the county for which Provider is the designated Community Mental Health Program. Allowable amounts will have an eight percent (8%) Claims Risk Withhold to be settled per Attachment G.

Assessment Services for all CMHPs: Assessment Services FFS CPT Codes: 90791, 90792, H0001, H0031, H2000 shall be reimbursed at one hundred seventy percent (170%) percentage of the current OHP fee schedule for services provided to OHP Members domiciled in the county for which Provider is the designated Community Mental Health Program. Allowable amounts will have an eight percent (8%) Claims Risk Withhold to be settled per Attachment G.

Non-Encounterable services/other billed services and Program Allocation Definition:

CMHPs shall provide and report non-encounterable services and system supports. Non-encounterable services and system supports include, but are not limited to: travel, prevention, education and outreach, internal case consultation, co-provided services, outreach and engagement, socialization, and psycho-educational services that are not otherwise encounterable. Payments shall be an expense against the HCBs detailed in Attachment G. Payments for such services and programs shall be as follows:

| | Non-Encounterable services and all other CMHP-billed services PMPM | Program Allocation PMPM |
|--|---|--------------------------------|
| Deschutes County Health Services, Public Health Division members domiciled in Deschutes/Klamath County | \$18.67 | \$6.63 |
| BestCare members domiciled in Jefferson County | \$16.09 | \$10.39 |
| BestCare domiciled in Crook County | \$16.09 | \$10.39 |



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 19, 2023

SUBJECT: Acceptance of Oregon Health Authority grant #179643 to provide Behavioral Health workforce incentives

RECOMMENDED MOTION:

Move approval of Chair signature of Document No. 2023-377, accepting a grant from Oregon Health Authority for Behavioral health workforce incentives.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of County Commissioners (BOCC), recognizing the difficulty in hiring and retaining behavioral health care professional, gave approval to Deschutes County Health Services (DCHS) to apply for an Oregon Health Authority (OHA) Behavioral Health Workforce Incentive grant. Based on an equitable distribution formula, funding was distributed to Community Mental Health Programs with DCHS being awarded \$883,216 (\$625,286 for workforce incentives and \$257,930 for clinical supervision) for the period ending June 30, 2024.

OHA is providing this funding through HB 2949 (2021) (as updated by HB 4071 (2022)). The purpose of the funding is to a) support the recruitment and retention of behavioral health providers and b) provide supervised clinical experience necessary for behavioral health providers to obtain a license to practice. Goals of this program are as follows:

- 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.
- Increase access to services for rural and underserved communities
- 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.
- 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

DCHS plans to use the \$257,930 “Clinical Supervision funding” to provide stipends to licensed clinicians that provide licensure supervision. Providing supervision significantly increases a clinician’s workload. Through these incentives DCHS expects to improve retention of those staff that provide this extra service.

DCHS intends to use a variety of strategies to incentivize recruitment and retention. These include \$275,000 of housing stipends/relocation packages for the south part of Deschutes County; \$28,036 to fund the costs of expanding part-time opportunities; \$125,000 to supplement the County’s Tuition Reimbursement Program for clinical staff furthering their education; \$150,000 to offer stipends to licensed staff who provide internship supervision, and \$47,250 for program administration.

BUDGET IMPACTS:

\$883,216 revenue.

ATTENDANCE:

Holly Harris, Deputy Director, Health Services



Grant Agreement Number 179643

**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

**Deschutes County Mental Health and Adult Treatment Services
2577 NE Courtney Ave
Bend, Oregon 97701
Attention: Holly Harris
Telephone: 541-322-7500
E-mail address: holly.harris@deschutes.org**

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

The Program to be supported under this Agreement relates principally to OHA's

**BH Behavioral Health Workforce
500 Summer Street N.E.
Salem, Oregon 97301
Agreement Administrator: Bret Golden or delegate
Telephone: 503-593-9399
E-mail address: bret.golden@oha.oregon.gov
hsd.contracts@odhsoha.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 OHA's right to enforce this Agreement with respect to any default by Recipient 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: Program Description
- (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

There are no other Agreement documents unless specifically referenced and incorporated in this Agreement.

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 documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits D, B, A, and C.

3. Grant Disbursement Generally.

The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **\$883,216.00**. OHA will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by the Parties. OHA will disburse the grant to Recipient as described 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:

Recipient is a subrecipient Recipient is a contractor Not applicable

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

5. Recipient Data and Certification.

a. Recipient Information. Recipient shall provide the information set forth below.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Recipient Name (exactly as filed with the IRS): _____

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: () _____ Facsimile: () _____

Proof of Insurance: Recipient 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 undersigned hereby certifies under penalty of perjury that:

(1) Recipient is in compliance with all insurance requirements in Exhibit C of this Agreement and notwithstanding any provision to the contrary, Recipient shall deliver to the OHA Contract 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, Recipient acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. Recipient 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) Recipient 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 Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient 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. Recipient 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 Recipient;

- (3) The information shown in this Section 5a. “Recipient Information”, is Recipient’s true, accurate and correct information;
- (4) To the best of the undersigned’s knowledge, Recipient 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) Recipient and Recipient’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) Recipient 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) Recipient is not subject to backup withholding because:
 - (a) Recipient is exempt from backup withholding;
 - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding; and
- (8) Recipient Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided is true and accurate. If this information changes, Recipient is required to provide OHA with the new FEIN within 10 days.

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

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.

Deschutes County Mental Health and Adult Treatment Services

By:

| | |
|----------------------|--------------|
| _____ | Holly Harris |
| Authorized Signature | Printed Name |
| _____ | _____ |
| Title | Date |

State of Oregon acting by and through its Oregon Health Authority

By:

| | |
|----------------------|--------------|
| _____ | _____ |
| Authorized Signature | Printed Name |
| _____ | _____ |
| Title | Date |

Approved by: Interim Director, OHA Health Systems Division

By:

| | |
|----------------------|--------------|
| _____ | _____ |
| Authorized Signature | Printed Name |
| _____ | _____ |
| Title | Date |

Approved for Legal Sufficiency:

| | |
|----------------------------|----------------|
| Nathan Karman via email on | April 10, 2023 |
| Department of Justice | Date |

EXHIBIT A
Part 1
Program Description

Behavioral Health Workforce Initiative Program

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. Intent and 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) 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
- 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.
- d. 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.

4. Scope of Work

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

Clinical Supervision Activities – NTE: \$257,930.00

| Projects | Description | Expected Impact | Cost Estimates |
|----------------------|---|---|-----------------------|
| Clinical Supervision | Deschutes County intends to use the entirety of the funds to provide stipends for licensed clinicians that provide licensure supervision. | This will provide incentives for licensed staff to provide supervision, which is a significant increased workload for those staff. This is expected to improve retention for those staff that provide this extra service. | \$257,930.00 |

Workforce Initiative Activities – NTE: \$625,286.00

| Projects | Description | Expected Impact | Cost Estimates |
|--|---|--|-----------------------|
| Housing | Deschutes County intends to utilize funds to incentivize recruitment to South County (i.e. Sun River and South) that will live and work in South County. Relocation package and/or Housing Stipend will be offered with a two year with stay agreement. | Expected to impact 8-12 staff at most. The South County location has been hit the hardest with the workforce crisis. We've been unable to fill four QMHP positions for nearly a year which is 25% percent of the entire staff for our South County location. | \$275,000.00 |
| Part time and Flex time opportunities | Expansion of part-time opportunities would be offered to staff where it made programmatic sense to do so. | Currently not many part time opportunities are offered due to the increased cost to the department. It is expected this would allow for retention of certain staff that would otherwise leave the department due to child care and other personal reasons. | \$28,036.00 |
| Tuition Assistance | Deschutes County has a tuition reimbursement program but is limited due to availability of funds and only pays up to 80%. This would allow for the expansion of tuition reimbursement options for all clinical staff and retain employees with a two year stay agreement. | Expected that this will impact a significant number of staff and increase both recruitment and retention rates. | \$125,000.00 |
| Bonuses and Stipends for Supervisors of Interns- | Deschutes County intends to offer stipends to licensed staff who provide internship supervision. In addition, adding the ability to offer paid internships to all internship contracts. | This would impact approximate 16 current staff and intern contracts. In addition, it will increase capacity to offer additional internships. | \$150,000.00 |
| Additional Consideration: Assistance with | Funds can be used for Administration: • Between 5-10% of gross grant can be allocated | This will enable CMHPs to create and manage programs | \$47,250.00 |

| | | | |
|--|---|---|--|
| Administrative costs associated with supporting these incentives | towards hiring additional staff to provide support to these incentives. [OHA may be able to provide technical assistance with some of these incentives around how to operationalize to fulfill the requirements of these incentives.] | surrounding the funds awarded to implement incentives with the end goal of increasing retention, hiring, and adding to the pipeline efforts for Behavioral Health professionals | |
|--|---|---|--|

5. Reporting requirements:

a. Recipient Reporting Schedule:

Recipient 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:

Recipient shall submit to OHA the following information in the Project Performance Plan (see template provided as Attachment 1). 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:

Recipient 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 2). Recipient 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

Recipient shall submit to OHA an Annual report that includes the following information, as applicable, (see template provided as Attachment 3). 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 1 Program Description
Attachment 1
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.

EXHIBIT A
Part 1
Program Description
Attachment 2a Clinical Supervision Activities
Sample Quarterly Reporting

| Subrecipient | Grant Agreement Number | Unique Entity ID (UEI) | Address Line 1 | Address Line 2 | City | State Zip | Contact Person | Email | Phone |
|--------------|------------------------|--------------------------------------|--|---|--|---|----------------|-------|-------|
| 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 revue 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: Provide name of each officer and the total compensation received by each. If fewer than 5 please not that information. | | | |

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

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

EXHIBIT A
Part 1
Program Description
Attachment 2b Workforce Initiative Activities
Sample Quarterly Reporting

| Subrecipient | Grant Agreement Number | Unique Entity ID (UEI) | Address Line 1 | Address Line 2 | City | State Zip | Contact Person | Email | Phone |
|--------------|------------------------|--------------------------------------|--|---|--|---|----------------|-------|-------|
| 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 revue 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: Provide name of each officer and the total compensation received by each. If fewer than 5 please not that information. | | | |

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

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

EXHIBIT A
Part 1
Program Description
Attachment 3
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:

EXHIBIT A**Part 2
Payment and Financial Reporting****1. Expenditure of Grant Funds and reporting for the period beginning upon execution of the Grant Agreement to June 30, 2024.**

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

2. Invoice.

Recipient shall invoice in accordance with the following provisions in accordance with the budget provided in Part 1, Section 4, above.

- a. Travel and other expenses of the Recipient are all inclusive and are included in the maximum not-to-exceed amount of this Agreement. Without limiting the foregoing, Grant funds used for travel shall be paid in accordance with the rates set forth in the Oregon Accounting Manual as of the date Recipient incurred the travel or other expenses. The Oregon Accounting Manual is currently available at <https://www.oregon.gov/das/Financial/Acctng/Documents/40%20Travel%20search.pdf>.
- b. No Grant funds may be expended for costs that are not directly related to the operation of Recipient under this Agreement.
- c. Recipient 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 OHA or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Agreement.

2. Compliance with Law.

Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Recipient and this Agreement. This Section shall survive expiration or termination of this Agreement.

3. Independent Parties.

The parties agree and acknowledge that their relationship is that of independent parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

4. Grant Funds; Payments.

- a.** Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. Recipient understands and agrees that OHA's participation in this Agreement is contingent on OHA receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow OHA, in the exercise of its reasonable administrative discretion, to participate in this Agreement.
- b.** Disbursement Method. Disbursements 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 OHA Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, Recipient must provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Recipient must

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 disbursements under this Agreement. Recipient must provide this designation and information on a form provided by OHA. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any payment made using EFT procedures, Recipient will provide the changed information or designation to OHA on a OHA-approved form.

5. Recovery of Overpayments.

Any funds disbursed to Recipient 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. Recipient shall return all Misexpended Funds to OHA promptly after OHA’s written demand and no later than 15 days after OHA’s written demand. Recipient 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 Recipient such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be withheld, Recipient shall notify OHA that it wishes to engage in dispute resolution in accordance with Section 14 of this Exhibit. This Section shall survive expiration or termination of this Agreement.

6. Ownership of Work Product. Reserved.

7. 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 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 Recipient (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 Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient 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 Recipient 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 Recipient is jointly liable with the State (or would be if joined in the Third Party Claim), the Recipient 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 Recipient 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 Recipient 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 Recipient'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.

This Section shall survive expiration or termination of this Agreement.

8. Indemnification by Subcontractors.

Recipient shall take all reasonable steps to require 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 Recipient'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. This Section shall survive expiration or termination of this Agreement.

9. Default; Remedies; Termination.

a. Default by Recipient. Recipient shall be in default under this Agreement if:

- (1) Recipient fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- (2) Any representation, warranty or statement made by Recipient herein or in any documents or reports relied upon by OHA to measure compliance with this Agreement, the expenditure of disbursements or the desired outcomes by Recipient is untrue in any material respect when made;

- (3) Recipient (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
 - (4) A proceeding or case is commenced, without the application or consent of Recipient, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Recipient, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of Recipient or of all or any substantial part of its assets, or (3) similar relief in respect to Recipient 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 Recipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).
- b.** OHA's Remedies for Recipient's Default. In the event Recipient is in default under Section 9.a., OHA may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:
- (1) termination of this Agreement under Section 9.c.(2);
 - (2) withholding all or part of monies not yet disbursed by OHA to Recipient;
 - (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
 - (4) exercise of its right of recovery of overpayments under Section 5. of this Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and OHA may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Recipient was not in default under Section 9.a., then Recipient shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 9.c.(1).

c. Termination.

- (1) OHA's Right to Terminate at its Discretion. At its sole discretion, OHA may terminate this Agreement:
 - (a) For its convenience upon 30 days' prior written notice by OHA to Recipient;
 - (b) Immediately upon written notice if OHA fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to continue supporting the program;
 - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that OHA's support of the program under this Agreement is prohibited or OHA is prohibited from paying for such support from the planned funding source; or
 - (d) Immediately upon written notice to Recipient if there is a threat to the health, safety, or welfare of any person receiving funds or benefitting from services under this Agreement "OHA Client", including any Medicaid Eligible Individual, under its care.
- (2) OHA's Right to Terminate for Cause. In addition to any other rights and remedies OHA may have under this Agreement, OHA may terminate this Agreement immediately upon written notice to Recipient, or at such later date as OHA may establish in such notice if Recipient is in default under Section 9.a.
- (3) Mutual Termination. The Agreement may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
- (4) Return of Property. Upon termination of this Agreement for any reason whatsoever, Recipient shall immediately deliver to OHA all of OHA's property that is in the possession or under the control of Recipient at that time. This Section 9.c.(4) survives the expiration or termination of this Agreement.
- (5) Effect of Termination. Upon receiving a notice of termination of this Agreement or upon issuing a notice of termination to OHA, Recipient shall immediately cease all activities under this Agreement unless, in a notice issued by OHA, OHA expressly directs otherwise.

10. Insurance.

All employers, including Recipient, 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). Recipient shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

11. Records Maintenance, Access.

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

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

12. Information Privacy/Security/Access.

If this Agreement requires or allows Recipient or, when allowed, 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 Recipient or its subcontractor(s) access to such OHA Information Assets or Network and Information Systems, Recipient 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.

13. Assignment of Agreement, Successors in Interest.

- a. Recipient shall not assign or transfer its interest in this Agreement without prior written consent of OHA. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by OHA. 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 this Agreement.
- b. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.

14. Resolution of Disputes.

The parties shall attempt in good faith to resolve any dispute arising out of this 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. This Section shall survive expiration or termination of this Agreement.

15. Subcontracts.

Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without OHA's prior written consent. In addition to any other provisions OHA may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that OHA will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 6, 7, 8, 10, 11, 12, 13, 15, 16, and 17 of this Exhibit B. OHA's consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.

16. No Third Party Beneficiaries.

OHA and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons 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. This Section shall survive expiration or termination of this Agreement.

17. 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. This Section shall survive expiration or termination of this Agreement.

18. 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, e-mail, or mailing the same, postage prepaid to Recipient 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 e-mail shall be deemed received and effective five days after the date of e-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 foregoing, 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
Fax: 503-378-4324

This Section shall survive expiration or termination of this Agreement.

19. 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.

20. Amendments; Waiver; Consent.

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

21. Merger Clause.

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

22. 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.

EXHIBIT C**SUBCONTRACTOR INSURANCE**

Recipient 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 Recipient 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. Recipient shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient 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 Recipient permit a contractor to work under a Subcontract when the Recipient 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.

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:

Recipient 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 Recipient 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, Recipient 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 Recipient, 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.**

Recipient 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, Recipient 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 Recipient 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 Recipient 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. Recipient 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.

Recipient 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 Recipient certifies, to the best of the Recipient's knowledge and belief that:

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of Recipient, 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 Recipient shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c. The Recipient 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 Recipient 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 Recipient 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 Recipient 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.

Recipient 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.** Recipient 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 Recipient expends \$750,000 or more in federal funds (from all sources) in a federal fiscal year, Recipient 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 Recipient expends less than \$750,000 in a federal fiscal year, Recipient 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.

Recipient 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.

Recipient 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.

Recipient 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. Recipient shall acknowledge Recipient'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, Recipient 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.** Recipient 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 Recipient 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. Recipient 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>.

Confidential
CONTRACTOR TAX IDENTIFICATION INFORMATION
For Accounting Purposes Only

The State of Oregon requires contractors to provide their Federal Employer Identification Number (FEIN) or Social Security Number (SSN). This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(2). Social Security numbers provided pursuant to this section will be used for the administration of state, federal and local tax laws. The State of Oregon may report this information to the Internal Revenue Service (IRS). Contractors must keep this information current at all times. Contractors are required to notify the State of Oregon contract administrator within 10 business days if this information changes. The State of Oregon reserves the right to ask contractors to update this information at any time during the document term.

Document number: 179643-0

Legal name *(tax filing)*: _____

DBA name *(if applicable)*: _____

Billing address: _____

City: _____ State: _____ Zip: _____

Phone: _____

FEIN: _____

- OR -

SSN: _____



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 19, 2023

SUBJECT: Revision to Homeless Solutions Partnership with the City of Bend

RECOMMENDED MOTION:

Move approval of proposed revisions to the Homeless Solutions Partnership with the City of Bend.

BACKGROUND AND POLICY IMPLICATIONS:

In 2021, the City and County agreed to match funding at \$1.5 million each to address the need for shelter in our community. The attached contract was created for this purpose. In the adopted scope, \$750,000 is allocated/intended for a Temporary Outdoor Shelter operated by Central Oregon Villages. Phase One, signed in summer 2022, centered on extensive community outreach. This outreach phase lasted three months and helped address community questions and concerns. In October 2022, the City and COV agreed to a Phase Two with units to open in mid-May.

Per the agreement, the funds may also be utilized for other sheltering purposes should a second site not come to fruition. The City respectfully requests utilizing \$750,000 towards the operations of the Franklin Avenue Shelter (former Rainbow Motel).

The City of Bend owns the former 50-room Rainbow Motel on Franklin Avenue in downtown Bend. In partnership with Shepherd's House, the City proposes creating 60+ new beds of non-congregate shelter at this location. The cost will be approximately \$1.2M dollars annually for 12 months of operations. The 50 units are varied in size and layout and are able to accommodate families. The property was purchased as part of a redevelopment plan that is pending and the facility is vacant. The City anticipates the former motel will be available for four years.

Two extremely vulnerable populations will have room set asides in the non-congregate shelter:

- Families with children
- Medical respite

Shepherd's House is an experienced operator. Currently in partnership with the City, they

operate The Lighthouse Navigation Center which utilizes HMIS and Coordinated Entry. The Lighthouse provides 130+ beds of emergency low barrier shelter nightly. Measurable impacts they currently and would continue to track include transitions to more permanent housing, shelter nights, unique clients, and day services. These are reported on monthly to the City and quarterly to the State. The new beds will directly impact houselessness by providing low barrier shelter as early as May if funding is secured. Shepherd’s House will provide 24/7 onsite supervision and support, case management, food service, and will maintain a Good Neighbor Agreement with the surrounding businesses. With the support of the County, the City is prepared and able to open the proposed shelter quickly in response to the significant unsheltered houselessness experienced by vulnerable Central Oregon community members.

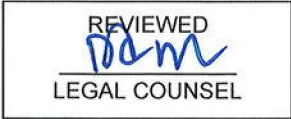
The City anticipates opening the shelter for use within four weeks of contract execution. The City will report quarterly to the County on this project.

BUDGET IMPACTS:

\$1.5 million in ARPA funds (see attached agreement, approved in 2022)

ATTENDANCE:

- Nick Lelack, County Administrator
- Laura Skundrick, Management Analyst
- Lynne McConnell, Housing Director, City of Bend



**GRANT AGREEMENT
BETWEEN DESCHUTES COUNTY and
CITY OF BEND**

No. 2022-175

Program Name: Deschutes County
 Grantee: City of Bend
 Project: Homeless Solutions Partnership
 Address: 710 NW Wall Street
 Bend, OR 97703
 Phone Number: 541.388.5505
 Contact Person: Eric King, City Manager
 Amount of Award: \$1,500,000
 Duration: 11/01/2022 to 12/31/2026

1. Background

On March 11, 2021, the American Rescue Plan Act of 2021 (ARPA) become law. Funding objectives associated with ARPA include: (a) support public health response, (b) replace public sector revenue loss, (c) investments in water and sewer infrastructure, (d) address negative economic impact to workers, families, small businesses, impacted industries and the public sector, (e) investments in broadband infrastructure, (f) address systemic public health and economic challenges that contribute to unequal impacts due to the pandemic, and (g) premium pay for essential workers bearing the greatest health risks due to service in critical infrastructure sectors.

In total, counties throughout the United States have been allocated \$65 Billion in ARPA funding. Deschutes County has been allocated and is the recipient of \$38 Million in ARPA funding.

The Grantee (subrecipient) identified in this Grant Agreement is obligated to comply with the expenditure rules included in this Grant Agreement and ARPA, in addition to the requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200. This includes cost accounting and audit principles as well as record-keeping procedures to prevent and safeguard against the unauthorized use of ARPA funds.

Where otherwise appropriate, ARPA funds may cover costs incurred beginning March 3, 2021, onward, and must be obligated before December 31, 2024, and project performance completed by December 31, 2026.

2. Grant Agreement Purpose

The purpose of this Grant Agreement is to: Assist in partnership projects that provide additional temporary housing options for those individuals and families experiencing homelessness per approval of the Board of County Commissioners on January 12, 2022. See Exhibit A for details.

3. Grant Disbursement

The maximum not-to-exceed amount payable to Grantee under this Grant Agreement, which includes any allowable expenses, is **\$1,500,000**. County will not disburse funds to Grantee in excess of the not-to-exceed amount and will not disburse funds until this Grant Agreement has been signed by all parties. Funds for the identified scope of work / project must be obligated by December 31, 2024, and project completed by December 31, 2026.

4. Subrecipient Determination

In accordance with 2 C.F.R., 200.332, the Grantee is deemed subrecipient and obligated to comply with federal requirements for pass-through entities.

5. Reporting Requirements

As applicable, Grantee shall submit reports requested by County and in accordance with the U.S. Department of the Treasury's Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds available at the following link: <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

6. Effective Date and Termination Date.


The effective date of this Grant Agreement ("Agreement") shall be deemed November 1, 2022. Unless extended or terminated earlier in accordance with its terms, this Agreement shall terminate when County confirms Grantee's completed performance on or before December 31, 2026. Grant Agreement termination shall not extinguish or prejudice County's right to enforce this Grant Agreement with respect to any default by Grantee that has not been cured. This Grant Agreement may be renewed or extended only upon written agreement of the Parties.

7. Exhibits. This Grant Agreement contains the following Exhibits.

- Exhibit A – PROGRAM / USES
- Exhibit B – FUNDING
- Exhibit C – INSURANCE REQUIREMENTS
- Exhibit D – WORKER'S COMPENSATION EXEMPTION CERTIFICATION
- Exhibit E – CONFIDENTIALITY AGREEMENT
- Exhibit F – FEDERAL TERMS AND CONDITIONS

IN WITNESS WHEREOF, the Parties hereto have caused this Grant Agreement and attached Exhibits to be executed, either as individuals, or by their officers, thereunto duly authorized.

CITY OF BEND

DocuSigned by:

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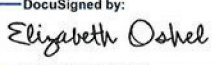
Signature: _____

Email: eking@bendoregon.gov

Title: City Manager


Date: 11/16/2022

APPROVED AS TO FORM:

DocuSigned by:

 19705434244D4ED...

 City Attorney's Office

DESCHUTES COUNTY

DocuSigned by:

 409FF33EB4E84D3...

Signature: _____

Email: erik.kraft@deschutes.org

Title: Acting County Administrator

Date: 11/17/22

STANDARD TERMS AND CONDITIONS

1. **Governing Law, Consent to Jurisdiction.** This Grant 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.
 - A. Any claim, action, suit or proceeding (collectively, "Claim") between County and Grantee that arises from or relates to this Grant Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Deschutes County for the State of Oregon; provided, however, if a Claim shall be brought in federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
 - B. GRANTEE, BY EXECUTION OF THIS GRANT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. The parties agree that the UN Convention on International Sales of Goods shall not apply.
2. **Compliance with Law.** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Grantee and this Grant Agreement. This Section shall survive expiration or termination of this Grant Agreement.
3. **Independent Parties; Conflict of Interest.**
 - A. Grantee is not an officer, employee, or agent of Deschutes County as those terms are used in ORS 30.265 or otherwise.
 - B. If Grantee is currently performing work for Deschutes County or the federal government, Grantee by signature to this Grant Agreement, represents and warrants that Grantee's participation in this Grant Agreement creates no potential or actual conflict of interest as defined by ORS Chapter 244 and that no statutes, rules or regulations of the State of Oregon or federal agency for which Grantee currently performs work would prohibit Grantee's participation under this Grant Agreement. Grantee certifies that it is not currently employed by the federal government.
4. **Grant Funds; Payments.** Grantee is not entitled to compensation under this Grant Agreement by any other agency or department of the federal government. Grantee understands and agrees that County's participation in this Grant Agreement is contingent on County receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow County, in the exercise of its reasonable administrative discretion, to participate in this Grant Agreement.
5. **Recovery of Overpayments.** Any funds disbursed to Grantee under this Grant Agreement that are expended in violation or contravention of one (1) or more of the provisions of this Grant Agreement or applicable federal regulation ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Grant Agreement ("Unexpended Funds") must be returned to County. Only funds resulting in performance of the project by December 31, 2026, are eligible under ARPA; all other disbursed funds must be returned to the County. Any Unexpended Funds must be returned to County by **January 15, 2027**. Grantee shall return all Misexpended Funds to County promptly after County's written demand and no later than fifteen (15) days after County's written demand. Grantee shall return all Unexpended Funds to County within fourteen (14) days after the earlier of termination or expiration of this Grant Agreement.
6. **Indemnity.** GRANTEE SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY DESCHUTES COUNTY AND ITS OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY FEES, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTIVITIES OF GRANTEE OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS GRANT AGREEMENT. THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS GRANT AGREEMENT.
7. **Default; Remedies.** In the event of breach of this Grant Agreement the Parties shall have the following remedies:
 - A. Termination under this Grant Agreement shall be without prejudice to any obligations or liabilities of either Party already reasonably incurred prior to such termination.
 - 1) Grantee may not incur obligations or liabilities after Grantee receives written notice of termination

- 2) Additionally, neither Party shall be liable for any indirect, incidental, consequential or special damages under this Grant Agreement or for any damages of any sort arising solely from the termination of this Grant Agreement in accordance with its terms.
- B. If terminated under this Grant Agreement by the County due to a breach by the Grantee, County may pursue any remedies available at law or in equity.
- 1) Such remedies may include, but are not limited to, termination of this Grant Agreement, return of all or a portion of this Grant Agreement amount, payment of interest earned on this Grant Agreement amount, and declaration of ineligibility for the receipt of future grant/contract awards.
- C. If amounts previously paid to Grantee exceed the amount due to Grantee under this Grant Agreement, Grantee shall repay any excess to County upon demand.
- D. Neither County nor Grantee shall be held responsible for delay or default caused by fire, civil unrest, government declared public health emergency, labor unrest, riot, acts of God, or war where such cause was beyond reasonable control of County or Grantee, respectively; however, Grantee shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Grant Agreement. For any delay in performance as a result of the events described in this subparagraph, Grantee may be entitled to additional reasonable time for performance that shall be set forth in an amendment to this Grant Agreement, but only upon County approval.
- E. The passage of this Grant Agreement expiration date shall not extinguish or prejudice the County's or Grantee's right to enforce this Grant Agreement with respect to any default or defect in performance that has not been cured.
- F. County's remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- G. Differences between a Grantee and County will be resolved, when possible, at appropriate management levels, followed by consultation between governing or operating bodies, if necessary.
- 8. Termination.** All or part of this Grant Agreement may be terminated by mutual consent of both Parties or by either Party at any time for convenience upon sixty (60) days' notice in writing to the other Party. The County may also terminate all or part of this Agreement as specified below:
- A. This Grant Agreement shall be terminated immediately and no obligations, financial or otherwise, shall be imposed upon County if funding to the County from Federal or other sources is not obtained or is not continued at levels sufficient to allow for the underlying grant award. The County will give notice whenever possible.
- B. With thirty (30) days' written notice, if Federal or State regulations are modified or changed in such a way that the subject matter of the underlying grant award is no longer lawful or deemed an allowable use under this Grant Agreement or ARPA.
- C. Upon notice of denial, revocation, or non-renewal of any letter of approval, license, insurance, or certificate required by law or regulation to be held by the Grantee to provide a service under this Grant Agreement.
- D. With thirty (30) days' written notice, if Grantee fails to proceed as appropriate with the deemed allowable use(s) described in this Grant Agreement (or subsequent modifications to this Grant Agreement) within the time specified herein, or any extensions thereof.
- E. Upon written notice, if the Grantee fails to proceed with deemed allowable uses on or about the date specified in this Grant Agreement (or subsequent modifications to this Grant Agreement).
- F. Upon written or oral notice, if County has evidence that the Grantee has endangered or is endangering the health and safety of clients, residents, staff, or the public.
- G. Failure of the Grantee to comply with the provisions of this Grant Agreement and all applicable Federal, State and local laws and rules which may be cause for termination of this Grant Agreement. The circumstances under which this Grant Agreement may be terminated by either Party under this paragraph may involve major or minor violations. Major violations include, but are not limited to:

- 1) Acts or omissions that jeopardize the health, safety, or security of individuals.
- 2) Misuse of funds.
- 3) Intentional falsification of records.

- H. In those circumstances where a major violation is substantiated, continued performance may be suspended by the County immediately. In all cases involving a major violation, a written notice of intent to terminate this Grant Agreement shall be sent to the Grantee found to be in violation. Prior to termination, the Grantee shall be given a reasonable opportunity to refute the findings. If the problem is not corrected within a reasonable time as determined by County in its sole discretion, this Grant Agreement may be terminated or other remedial actions may be initiated.
- I. Minor violations usually involve less than substantial compliance with the general or special conditions of this Grant Agreement. In the event of alleged minor violations, written notice shall be given and a reasonable period shall be allowed to develop a corrective action plan. This plan shall describe activities that respond to specific violations and means by which a permanent change will be made in the procedures or practices that caused the violation. If these activities do not occur within the notice period, this Grant Agreement may be terminated. Continued substantial minor violations that threaten adequacy of services may be treated like a major violation.
- J. Termination shall be without prejudice to any obligations or liabilities of either Party accrued prior to such termination.
- K. Grantee shall make no expenditures, enter into no contracts, nor encumber funds in its possession or to be transferred by County, after notice of termination and later termination as set out above, without prior written approval from County.

9. Payment on Early Termination. Upon termination pursuant to Paragraph 8, payment shall be made as follows:

- A. If this Grant Agreement terminated because funding from Federal, State, or other sources is not obtained or is not continued at levels sufficient to allow for purchase of the indicated quantity of services, the County shall pay Grantee for deemed allowable uses undertaken prior to the termination date if such use was performed in accordance with the Grant Agreement. Provided however, County shall not be obligated to allow grant funds to be payable to Grantee for any obligations or liabilities incurred by Grantee after Grantee receives written notice of termination.
- B. If this Grant Agreement is terminated due to Grantee's failure to perform services in accordance with this Grant Agreement, County obligations shall be limited to payment for uses/expenditures incurred in accordance with this Grant Agreement prior to the date of notice of termination, less any damages suffered by the County.
- C. If this Grant Agreement is terminated by the Grantee due to a breach by the County, then the County shall pay the Grantee for use/expenditures incurred prior to the termination date if such work was performed in accordance with the Grant Agreement.

10. Grantee's Tender upon Termination. Upon receiving a notice of termination of this Grant Agreement, Grantee shall immediately cease all activities under this Grant Agreement unless County expressly directs otherwise in such notice of termination.

- A. Upon termination of this Grant Agreement, Grantee shall, as applicable, deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had this Grant Agreement been completed.
- B. Upon County's request, Grantee shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to continue the deemed allowable uses.

11. Insurance. Grantee shall maintain insurance as set forth in Exhibit D, attached hereto.

12. Records Maintenance, Access. Grantee shall maintain all financial records relating to this Grant Agreement in accordance with generally accepted accounting principles. In addition, Grantee shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Grantee, whether in paper, electronic or other form, that are pertinent to this Grant Agreement, in such a manner as to clearly document Grantee's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Grantee whether in paper, electronic or other form, that are pertinent to this Grant

Agreement, are collectively referred to as "Records." Grantee acknowledges and agrees that County 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. Grantee shall retain and keep accessible all Records for the longest of:

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

13. Information Privacy/Security/Access.

- A. If this Grant Agreement requires or allows Grantee and, when allowed, its subcontractor(s), to have access to or use of any County computer system or other County Information Asset for which County imposes security requirements, and Grantee or its subcontractor(s) access to such County Information Assets or Network and Information Systems, Grantee 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, including 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.
- B. If this Grant Agreement requires or allows Grantee, and when allowed, its subcontractor(s), to have access to or use any information systems hosted by a third party in order to support the deemed allowable uses identified in this Grant Agreement, Grantee and any authorized subcontractor(s) access to such systems, Grantee shall comply and require all subcontractor(s) to which such access has been granted to comply with the provisions of OAR 943-014-0300 through OAR 943-014-0320 applicable to the client information in the third party system, including as such rules may be revised from time to time. Grantee will be responsible for its compliance and the compliance of its subcontractor(s) with any terms applicable to the system, which may be addressed in a separate agreement.

14. Assignment of Agreement, Successors in Interest.

- A. Grantee shall not assign or transfer its interest in this Grant Agreement without prior written consent of County. Any such assignment or transfer, if approved in the sole discretion of County, is subject to such conditions and provisions required by County. No approval by County of any assignment or transfer of interest shall be deemed to create any obligation of County apart from those set forth in this Grant Agreement.
- B. The provisions of this Grant Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns

15. Resolution of Disputes. The parties shall attempt in good faith to resolve any dispute arising out of this Grant 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. This Section shall survive expiration or termination of this Grant Agreement.

16. No Third Party Beneficiaries.

- A. County and Grantee are the only Parties to this Grant Agreement and are the only Parties entitled to enforce its terms.
- B. Nothing in this Grant Agreement gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Grant Agreement and expressly described as intended beneficiaries of this Grant Agreement.

17. Severability. The parties agree that if any term or provision of this Grant 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 Grant Agreement did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Grant Agreement.

18. Notice. Except as otherwise expressly provided in this Grant Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, e-mail, or mailing the same, postage prepaid to Grantee or County at the address or number set forth in this Grant Agreement, or to such other addresses 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 e-mail shall be deemed received and effective five (5) days after the date of e-mailing. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

| <u>To Grantee:</u> | <u>To County:</u> |
|-----------------------------|-------------------------------------|
| Eric King | Attn: ARPA Coordinator |
| City Manager, City of Bend | Deschutes County Finance Department |
| 710 NW Wall Street | 1300 NW Wall Street |
| Bend, OR 97703 | Bend, Oregon 97703 |
| Phone: 541.388.5505 | Phone: 541-388-6538 |
| Email: eking@bendoregon.gov | Email: dan.emerson@deschutes.org |

This Section shall survive expiration or termination of this Grant Agreement.

- 19. Headings.** The headings and captions to sections of this Grant Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Grant Agreement.
- 20. Amendments; Waiver; Consent.** County may amend this Grant Agreement to the extent provided herein, the solicitation document, if any from which this Grant Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Grant Agreement shall bind either party unless it is in writing and signed by both parties. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Grant Agreement shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Grant Agreement.
- 21. Merger Clause.** This Grant Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Grant Agreement.

DESCHUTES COUNTY / ARPA GRANT

EXHIBIT A: PROGRAMS / USES

The Deschutes County grants \$1.5 million to the City of Bend for Homeless Solutions Partnership to provide temporary housing options for individuals and families experiencing homelessness in the City of Bend.

This grant of \$1.5 million of County ARPA funds will be matched by \$1.5 million in City ARPA funds for this partnership.

The initial use of these grant funds shall be as follows:

| <u>Project</u> | <u>County ARPA</u> | <u>City ARPA Match</u> |
|---|--------------------|------------------------|
| Temporary outdoor shelter development/operations (3 years) 61210 SE 27th St. | \$750,000 | \$750,000 |
| Temporary outdoor shelter site acquisition, development, & operations (3 years) 61071 HWY 97 | \$750,000 | \$750,000 |

\$750,000 for a temporary outdoor shelter at 61210 SE 27th Street in Bend, which is being developed and operated through a three-year contract between the City and Central Oregon Villages (COV). This high barrier, 20 Pallet shelter will prioritize serving elderly women and women with children through placements utilizing the Coordinated Entry System. The City has allocated an additional \$750,000 of City ARPA funds, for a total of \$1.5 million to develop and operate the shelter for three years.

The other/remaining \$750,000 is for the purchase, development, and operation of a second temporary outdoor shelter, matched by \$750,000 in City ARPA funds. This shelter will likely be on property presently owned by ODOT on SE 3rd St/ Highway 97 south of Murphy Road. ODOT and the City have agreed the City will purchase the property for \$45,000 and intends to use the remaining \$1,455,000 in joint City-County funds to develop and operate the site as a temporary outdoor shelter. The property will be subject to a reversionary interest in ODOT if the property is needed to construct the Murphy ramps onto Highway 97. The City anticipates the remaining combined ARPA funds will be used to develop and operate site for a period of 3 years.

The funds may also be utilized for other sheltering purposes should a second site not come to fruition. The City of Bend will report annually to the Board of Commissioners as the project develops and will propose an amendment to this grant agreement to repurpose the funds for other projects to support homeless services, if the second outdoor shelter is not feasible.

DESCHUTES COUNTY / ARPA GRANT**EXHIBIT B: FUNDING**

1. **Funding.** County shall provide funding to Grantee as follows:
 - A. The County will fund Grantee as a subaward of the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) in accordance with 2 CFR Part 200 and the U.S. Department of the Treasury guidance for Coronavirus State and Local Fiscal Recovery Funds, CFDA # 21.027: Furthermore, the County will adhere to the U.S. Department of the Treasury guidance, and may require information of the Grantees including but not limited to that found within the CSLFRF Compliance and Reporting Guidance found at: <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>
 - B. Grantees whose total award is equal to or greater than \$50,000 are subject to subrecipient monitoring pursuant to 2 CFR §§ 200.330 through 200.332 by the County.
 - C. Grantees who are not subject to subrecipient monitoring pursuant to 2 CFR §§ 200.330 through 200.332 will be awarded funds as a lump sum payment. Grantees not subject to subrecipient monitoring by the County may be required, upon request, to submit quarterly reports to the County in the aggregate, with regards to obligations and expenditures with CSLFRF funds, as well as additional information ensuring the eligible usage of CSLFRF funds.
 - D. Grantees who are subject to subrecipient monitoring pursuant to 2 CFR §§ 200.330 through 200.332 by the County will complete a fiscal monitoring assessment questionnaire provided by the County. The fiscal monitoring assessment questionnaire is separate from this contract and the answers provided by the Grantee to this questionnaire must be accurate to the best of their ability and be attested to by the appropriate Grantee authority. The County will evaluate the Grantee's risk of noncompliance based on the attested answers to the fiscal monitoring assessment questionnaire. The Grantees evaluated risk level will determine the initial fund award payment type and the County's degree of subrecipient monitoring to ensure CSLFRF use compliance. To ensure compliance, the County will conduct ongoing validations of risk assessment throughout the life of the award for Grantee's subject to subrecipient monitoring. As the pass-through entity of CSLFRF responsible for subrecipient monitoring and the compliance of CSLFRF use, the County has the authority, in general, including but not limited to:
 1. Reviewing Grantee financial statements, business, and performance reports.
 2. Reviewing Grantee records, invoices, payroll, supporting documentation, and other pertinent financial documents as necessary to ensure compliance.
 3. Performing on-site reviews of the Grantees program operations.
 4. Requiring Grantee payments as reimbursements rather than advance payments.
 5. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance.
 6. Requiring additional, more detailed financial reports from the Grantee.
 7. Requiring additional project monitoring.
 8. Requiring the non-Federal Grantee to obtain technical or management assistance.
 9. Establishing additional prior approvals and internal controls for the Grantee
 10. Any additional requirements that the County imposes on the Grantee in order for the County to meet its own responsibility to the U.S. Department of the Treasury.
 - E. Should Grantee demonstrate noncompliance the County can take enforcement action against the Grantee, including and not limited to:
 1. Temporarily withholding cash payments pending correction of the deficiency by the Grantee or more severe enforcement action by the County.

2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
 3. Wholly or partly suspend or terminate the CSLFRF award.
 4. Recommend suspension or debarment proceedings as authorized under 2 CFR part 180 to be initiated by a Federal awarding agency.
 5. Withhold further awards for the project or program.
 6. Take other remedies that may be legally available.
- F. Notwithstanding any other payment provision of this Grant Agreement, should Grantee fail to submit required reports when due, or fail to perform or document the employment of funding for the deemed allowable uses; County may immediately withhold payments under this Grant Agreement or reject part or all of Grantee's request for funds.
- G. If the federal government disallows or requests repayment for any funds paid under this Grant Agreement due to Grantee's acts or omissions, Grantee shall make payment to County of the amount the federal government disallows or requests repayment.

2. The Maximum Funding Award.

- A. The maximum funding award under this Grant Agreement is **\$1,500,000**.
- B. Grantee shall not submit request for funds / invoices for, and County shall not pay for any sum in excess of the maximum funding award amount set forth above.
- 1) County may have need to amend maximum funding award through amendment of this Grant Agreement. If this maximum funding award amount is decreased or increased by amendment of this Grant Agreement, the amendment shall be fully effective before Grantee undertakes operations or proceeds with deemed allowable uses subject to the amendment.
 - 2) Notwithstanding any other funding provision of this Grant Agreement, should Grantee fail to submit required reports, itemized receipts or documentation as outlined in this Grant Agreement or as required by the federal government as a condition of ARPA funding, or fail to perform or document the performance of awarded project / uses; County shall immediately withhold funding under this Grant Agreement or reject part or the Grantee's entire request for funding.
 - 3) In the event that a statutorily required license or insurance is suspended or not extended, County's obligation to provide funding for uses / operations rendered without the necessary license or insurance will cease as of the date of expiration or suspension of license and/or insurance.

DESCHUTES COUNTY / ARPA GRANT**EXHIBIT C: INSURANCE REQUIREMENTS**

Grantee shall obtain at Grantee's expense the insurance specified in this Exhibit C prior to proceeding under this Grant Agreement and shall maintain it in full force and at its own expense throughout the duration of this Grant Agreement, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Grantee 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 the County. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Grantee shall pay for all deductibles, self-insured retention and self-insurance, if any.

1. WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Grantee, 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), (Exemption Certificate Exhibit D). As applicable, Grantee shall require and ensure that each of its subcontractors complies with these requirements. If Grantee is a subject employer, as defined in ORS 656.023, Grantee shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Grantee is an employer subject to any other state's workers' compensation law, Grantee 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.

2. COMMERCIAL GENERAL LIABILITY:

Required Not required

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the County. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Grant Agreement, 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.

3. PROFESSIONAL LIABILITY:

Required Not required

PROFESSIONAL LIABILITY. Professional Liability Insurance covering any damages caused by an error, omission, or negligent act related to the services to be provided under this Grant Agreement, with limits not less than the \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.

4. AUTOMOBILE LIABILITY INSURANCE:

Required Not required

Automobile Liability Insurance covering Grantee's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

5. ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Grant Agreement must include an additional insured endorsement specifying Deschutes County, 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 Grantee's activities to be performed under this Grant Agreement. 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.

6. WAIVER OF SUBROGATION:

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

7. TAIL COVERAGE:

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least twenty-four (24) months, Grantee shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Grant Agreement, for a minimum of twenty-four (24) months following the later of (i) Grantee's completion of the uses / project funding by this Grant Agreement, or, (ii) County or Grantee termination of this Grant Agreement, or, iii) the expiration of all warranty periods (if applicable) provided under this Grant Agreement.

8. CERTIFICATE(S) AND PROOF OF INSURANCE:

Grantee shall provide to County Certificate(s) of Insurance for all required insurance before County will fund this Grant Agreement. The Certificate(s) shall list Deschutes County, 1300 NW Wall Street, Bend, OR 97703 as a Certificate holder. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Grant Agreement. 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 County has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Grant Agreement.

9. NOTICE OF CHANGE OR CANCELLATION:

The Grantee or its insurer must provide at least thirty (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).

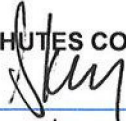
10. INSURANCE REQUIREMENT REVIEW:

Grantee agrees to periodic review of insurance requirements by County under this Grant Agreement and to provide updated requirements as mutually agreed upon by Grantee and County.

11. COUNTY ACCEPTANCE:

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

DESCHUTES COUNTY RISK MANAGEMENT

Signature: 

Email: sarahkey@deschutes.org

Title: Loss Prevention Coordinator

Date: 4/17/2022

DESCHUTES COUNTY / ARPA GRANT

EXHIBIT D: WORKER'S COMPENSATION EXEMPTION CERTIFICATION

(To be used only if Grantee claims to be exempt from Workers' Compensation coverage requirements)

Grantee is exempt from the requirement to obtain workers' compensation insurance under ORS Chapter 656 for the following reason (check the appropriate box):

- NOT APPLICABLE
SOLE PROPRIETOR
CORPORATION - FOR PROFIT
CORPORATION - NONPROFIT
PARTNERSHIP
LIMITED LIABILITY COMPANY

*NOTE: Under OAR 436-050-050 a shareholder has a "substantial ownership" interest if the shareholder owns 10% of the corporation or, if less than 10% is owned, the shareholder has ownership that is at least equal to or greater than the average percentage of ownership of all shareholders.

**NOTE: Under certain circumstances partnerships and limited liability companies can claim an exemption even when performing construction work. The requirements for this exemption are complicated. Consult with County Counsel before an exemption request is accepted from a contractor who shall perform construction work.

CITY OF BEND DocuSigned by: Eric King
Signature:
Email: eking@bendoregon.gov
Title: City Manager
Date: 11/16/2022

DESCHUTES COUNTY / ARPA GRANT

EXHIBIT E: CONFIDENTIALITY AGREEMENT

1. INTRODUCTION

This Confidentiality (the "Agreement") is entered into as of 11/01/2021 by and between City of Bend ("Grantee") and Deschutes County, a political subdivision of the State of Oregon ("Covered Entity").

WHEREAS, in connection with the performance of the Services, Grantee may receive from the County or otherwise have access to certain information that is required to be kept confidential in accordance with the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder, as may be amended from time to time (collectively, "HIPAA"); and

WHEREAS, as a part of the American Recovery and Reinvestment Act, the federal Health Information Technology for Economic and Clinical Health Act (the "HITECH Act") was signed into law, imposing certain privacy and security obligations on Covered Entities in addition to the obligations created by the Privacy Standards and Security Standards; and

WHEREAS, the HITECH Act revises many of the requirements of the Privacy Standards and Security Standards concerning the confidentiality of Protected Health Information (PHI) and Electronic Protected Health Information (EPHI), including extending certain HIPAA and HITECH Act requirements directly to business associates; and

WHEREAS, the HITECH Act requires that certain of its provisions be included in agreements, and that certain requirements of the Privacy Standards be imposed contractually upon Covered Entities as well as parties in privity;

Therefore, in consideration of the foregoing premises and the mutual covenants and conditions set forth below and in this Confidentiality Agreement between Grantee and County for Grantee's provision of deemed allowable uses, intending to be legally bound, agree as follows.

2. DEFINITIONS

- A. *Disclosure* means the release, transfer, provision of access to, or divulging in any other manner, of PHI, outside Grantee's organization, i.e., to anyone other than its employees who have a need to know or have access to the PHI.
- B. *Electronic Protected Health Information* or "*EPHI*" means protected health information (as defined below) that is transmitted, stored, or maintained by use of any electronic media. For purposes of this definition, "electronic media" includes, but is not limited to, memory devices in computers (hard drives); removable/transportable digital memory media (such as magnetic tape or disk, removable drive, optical disk, or digital memory card); the internet; the extranet; leased lines; dial-up lines; private networks; or e-mail.
- C. *Health Care Component* means a Deschutes County department, office or division, that regularly provides healthcare services or that regularly creates, accesses, uses or maintains PHI, and that Deschutes County has designated as a HIPAA-covered component of the County.
- D. *Protected Health Information* or "*PHI*" means information transmitted by or maintained in any form or medium, including demographic information collected from an individual, that (a) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; (b) individually identifies the individual or, with respect to which, there is a reasonable basis for believing that the information can be used to identify the individual; and (c) is received by Grantee from or on behalf of County, or is created by Grantee, or is made accessible to Grantee by County.
- E. *Secretary* means the Secretary of the United States Department of Health and Human Services or any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.
- F. *Services* means the CBO Services provided by Grantee and identified in the Grant Agreement to which this Exhibit E is attached.

G. *Use* (whether capitalized or not and including the other forms of the word) means, with respect to PHI, the sharing, employment, application, utilization, transmission, examination, or analysis of such information to, from or within Grantee's organization.

3. AGREEMENT. Grantee shall:

- A. not use PHI except as necessary to provide the Services.
- B. not disclose PHI to any third party and/or external client/patient and associated health care provider(s) without County's prior written consent.
- C. not use or disclose PHI except as required by law.
- D. implement appropriate safeguards to prevent unauthorized use or disclosure of PHI.
- E. comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of EPHI other than as provided for by this Confidentiality Agreement.
- F. mitigate, as much as possible, any harmful effect of which it is aware of any use or disclosure of PHI in violation of this Confidentiality Agreement.
- G. promptly report to County any use or disclosure of PHI not permitted by this Confidentiality Agreement of which Grantee becomes aware.
- H. make its internal practices, books, and records (including the pertinent provisions of this Confidentiality Agreement) relating to the use and disclosure of PHI, available to the Secretary for the purposes of determining County's compliance with HIPAA.
- I. return to County, or destroy, any PHI of County still in Grantee's possession upon conclusion or termination of the underlying Grant Agreement.
- J. ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Grantee agree to the same restrictions, conditions, and requirements that apply to the Grantee with respect to security and privacy of such information.
- K. make PHI available to County as necessary to satisfy County's obligation with respect to individuals' requests for copies of their PHI, as well as make available PHI for amendments (and incorporate any amendments, if required) and accountings.
- L. make any amendment(s) to PHI in a designated record set as directed or agreed to by the County pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy County's obligations under 45 CFR 164.526.
- M. to the extent the Grantee is to carry out one or more of County's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the County in the performance of such obligation(s).
- N. If Grantee (a) becomes legally compelled by law, process, or order of any court or governmental agency to disclose PHI, or (b) receives a request from the Secretary to inspect Grantee's books and records relating to the use and disclosure of PHI, Grantee, to the extent it is not legally prohibited from so doing, shall promptly notify County and cooperate with County in connection with any reasonable and appropriate action County deems necessary with respect to such PHI.
- O. If any part of Grantee's performance of business functions involves creating, receiving, storing, maintaining, or transmitting EPHI:
 - i. implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it creates, receives, stores, maintains, or transmits on behalf of County, in accordance with the requirements of 45 CFR Part 160 and Part 164, Subparts A and C; and
 - ii. report to County any security incident relating to the EPHI that Grantee maintains for County.

4. HIPAA DATA BREACH NOTIFICATION AND MITIGATION

- A. Grantee agrees to implement reasonable systems for the discovery and prompt reporting of any "breach" of "unsecured PHI" as those terms are defined by 45 C.F.R. §164.402 (hereinafter a "HIPAA Breach"). The parties acknowledge and agree that 45 C.F.R. §164.404, as described below in this Section, governs the determination of the date of a HIPAA Breach. Grantee will, following the discovery of a HIPAA Breach, notify County immediately and in no event later than seven business days after Grantee discovers such HIPAA Breach, unless Grantee is prevented from doing so by 45 C.F.R. §164.412 concerning law enforcement investigations.
- B. For purposes of reporting a HIPAA Breach to County, the discovery of a HIPAA Breach shall occur as of the first day on which such HIPAA Breach is known to the Grantee or, by exercising reasonable diligence, would have been known to the Grantee. Grantee will be considered to have had knowledge of a HIPAA Breach if the HIPAA Breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the HIPAA Breach) who is an employee, officer or other agent of the Grantee. No later than seven (7) business days following a HIPAA Breach, Grantee shall provide County with sufficient information to permit County to comply with the HIPAA Breach notification requirements set forth at 45 C.F.R. §164.400, *et seq.*
- C. Specifically, if the following information is known to (or can be reasonably obtained by) Grantee, Grantee will provide County with: (i) contact information for individuals who were or who may have been impacted by the HIPAA Breach; (ii) a brief description of the circumstances of the HIPAA Breach, including its date and the date of discovery; (iii) a description of the types of unsecured PHI involved in the HIPAA Breach; (iv) a brief description of what the Grantee has done or is doing to investigate the HIPAA Breach, mitigate harm to the individual impacted by the HIPAA Breach, and protect against future HIPAA Breaches; and (v) a liaison (with contact information) so that Grantee may conduct further investigation concerning the HIPAA Breach. Following a HIPAA Breach, Grantee will have a continuing duty to inform County of new information learned by Grantee regarding the HIPAA Breach, including but not limited to the information described herein.
- D. Data Breach Notification and Mitigation Under Other Laws. In addition to the requirements above, Grantee agrees to implement reasonable systems for the discovery and prompt reporting of any breach of individually identifiable information (including but not limited to PHI, and referred to hereinafter as "Individually Identifiable Information") that, if misused, disclosed, lost or stolen, Grantee believes would trigger an obligation under one or more State data breach notification laws (each a "State Breach") to notify the individuals who are the subject of the information.
- E. Breach Indemnification. Grantee shall indemnify, defend and hold County harmless from and against any and all actual losses, liabilities, damages, costs and expenses (collectively, "Information Disclosure Claims") arising directly from (i) the use or disclosure of Individually Identifiable Information (including PHI) in violation of the terms of this Agreement or applicable law, and (ii) any HIPAA Breach of unsecured PHI and/or any State Breach of Individually Identifiable Information. Grantee will assume the defense of any Information Disclosure Claim; County may participate, at its expense, in the defense of such Information Disclosure Claim. Grantee shall not take any final action with respect to any Information Disclosure Claim without the prior written consent of County.

5. OTHER PROVISIONS

- A. A breach under this Confidentiality Agreement shall be deemed to be a material default in Grantee's associated Grant agreement with Deschutes County.
- B. Grantee authorizes termination of the associated Grant Agreement by County if County determines Grantee has violated a material term of this Confidentiality Agreement.
- C. Upon conclusion or termination of the uses / project, Grantee shall promptly return or destroy all PHI that Grantee maintains in any form and retain no copies of such information. If the return or destruction of such PHI is not feasible, the obligations under this Confidentiality Agreement shall continue in effect for so long as Grantee retains such information, and any further use or disclosure of such PHI shall be limited to those purposes that make the return or destruction of the PHI infeasible.
- D. To the extent there are any inconsistencies between this Confidentiality Agreement and the terms of any other agreement, either written or oral, between County and Grantee, the terms of this Confidentiality Agreement shall prevail.
- E. Contact Information in the event of HIPAA Data Breach or Termination.

- 1) Except as otherwise expressly provided in this Confidentiality Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing, to Covered Entity or Business Associate at the address or number set forth below or to such other addresses or numbers as either Party may hereafter indicate in writing. Delivery may be by personal delivery, electronic mail, facsimile, or mailing the same, postage prepaid.
- 2) Any communication or notice by personal delivery shall be deemed delivered when actually given to the designated person or representative.
- 3) Any communication or notice mailed shall be deemed delivered five (5) days after mailing. Any notice under this Agreement shall be mailed by first class postage or delivered as follows:

| <u>To Covered Entity:</u> | <u>To Grantee:</u> |
|----------------------------------|----------------------------|
| Attn: ARPA Coordinator | Eric King |
| Deschutes County Finance Dept. | City Manager, City of Bend |
| 1300 NW Wall Street | 710 NW Wall Street |
| Bend, Oregon 97703 | Bend, OR 97703 |
| Phone: 541-388-6538 | Phone: 541.388.5505 |
| Email: dan.emerson@deschutes.org | Email: ekingbendoregon.gov |

IN WITNESS WHEREOF, the Parties hereto have caused this Confidentiality Agreement to be executed, either as individuals, or by their officers, thereunto duly authorized.

CITY OF BEND

DocuSigned by:

Eric King

409FF33EB4E84D3...

Signature: _____

Email: eking@bendoregon.gov

Title: City Manager

Date: 11/16/2022

DESCHUTES COUNTY

Signature: *Eric Krupp*

Email: *eric.krupp@deschutes.org*

Title: *Acting County Administrator*

Date: *11/17/22*

DESCHUTES COUNTY / ARPA GRANT

EXHIBIT F: FEDERAL TERMS AND CONDITIONS

1. BACKGROUND AND GOALS

On March 11, 2021, in response to the ongoing public health COVID-19 pandemic, Congress approved the American Rescue Plan Act (ARPA) which provides State and local governments with financial resources to address the COVID-19 public health emergency and its economic impacts.

ARPA identifies "eligible uses" for ARPA funds. Included are: (a) support public health response, (b) replace public sector revenue loss, (c) investments in water and sewer infrastructure, (d) address negative economic impact to workers, families, small businesses, impacted industries and the public sector, (e) investments in broadband infrastructure, (f) address systemic public health and economic challenges that contribute to inequal impacts due to the pandemic, and (g) premium pay for essential workers bearing the greatest health risks due to service in critical infrastructure sectors.

Federal Funding Information for Subrecipients As Required
By 2 CFR 200.331(a)¹

| 1. Federal Award Identification | |
|--|--|
| (i) Subrecipient Name: | City of Bend |
| (ii) Subrecipient DUNS #: | |
| (iii) Federal Award Identification Number (FAIN): | SLFRP1796 |
| (iv) Federal Award Date: | March 3, 2021 through December 31, 2026 |
| (v) Subaward Period of Performance (Start & End Date): | December 1, 2021 to December 31, 2024 |
| (vi) Federal Funding Obligation | |
| a) Total Amount of Federal Funds Obligated by this Agreement: | \$1,500,000 |
| a.1) | |
| a.2) | |
| a.3) | |
| a.4) | |
| b) Total Amount of Federal Funds Obligated to Subrecipient by Pass-Through Entity (PTE), including this agreement: | \$1,500,000 |
| c) Total Amount of Federal Award committed to Subrecipient by PTE: | \$1,500,000 |
| (vii) Federal Award Project Description: | Coronavirus State and Local Fiscal Recovery Funds - (CSLFRF) |
| (viii) Identify the following: | |
| a) Federal awarding agency | US Department of Treasury |
| b) Pass-Through Entity | Deschutes County |
| c) Contact info for awarding official: | Daniel.Emerson@Deschutes.org |
| (ix) Identify Program Information | |
| a) Catalog of Federal Domestic Assistance (CFDA) #: | 21.027 |
| b) Program Name: | American Rescue Plan |
| c) Is the award Research & Development? (Yes/No) | No |
| d) Indirect Cost Rate for Federal award: | |
| 2. Subrecipient Indirect Cost Rate | |
| Indirect cost rate passed through to subrecipient: | |
| 3. Additional Requirements or Comments (if any) | |

Identify in this section additional conditions concerning closeout of award or required financial/performance reports or any other comments regarding the federal award. If no additional information is necessary, please delete this section or mark N/A.

¹Subrecipient will comply with Federal statutes, regulations and terms and conditions of the Federal award in accordance with 2 CFR 200.331 (a)(2). Subrecipient will permit the pass-through entity and auditors to have access to subrecipient's records and financial statements as necessary for the PTE to meet requirements of 2 CFR 200.331 (a)(5). Subrecipient will also permit the pass-through entity to have access to subrecipient's records for monitoring the activities of the subrecipient, as necessary, to ensure that the subaward is used for the authorized purposes. Such monitoring will include reviewing the financial and performance reports required by the pass-through entity as well as following up and ensuring the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient in order to meet the requirements of 2 CFR 200.331(d).

2. PROJECT ACTIVITIES, SCHEDULE, AND BUDGET

The project uses are described in Exhibit A: Direct and indirect administrative costs are allowed pursuant to the State and Local Fiscal Recovery Funds Compliance and Reporting Guidance, referenced here:

<https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>. Any programs charging administrative costs must be able to establish a direct connection between the administrative cost and COVID-19 related expenses. Any direct administrative costs charged to this ARPA Grant must not be covered by a program's indirect cost rate.

ARPA funds may be used for response(s) to COVID-19 and associated economic impacts that were incurred from March 3, 2021, onward, and must be obligated by no later than December 31, 2024.

Grantee must return to County upon closeout any grant funds that remain unexpended or committed for payment on December 31, 2026. These unexpended funds must be returned no later than **January 15, 2027**.

3. Guidelines and Answers to FAQs

Grantee will expend grant funding in accordance with criteria and guidance established and updated by US Treasury. The links below may be useful:

<https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>

<https://www.whitehouse.gov/american-rescue-plan/>

<https://home.treasury.gov/news/featured-stories/fact-sheet-the-american-rescue-plan-will-deliver-immediate-economic-relief-to-families>

<https://www.opm.gov/policy-data-oversight/pay-leave/arpa/>

<https://www.congress.gov/bill/117th-congress/house-bill/1319>

<https://www.irs.gov/newsroom/tax-credits-for-paid-leave-under-the-american-rescue-plan-act-of-2021-for-leave-after-march-31-2021>

<https://www.federalregister.gov/documents/2021/05/26/2021-11155/notice-of-funds-availability-american-rescue-plan-act-of-2021-section-1005-loan-payment-arpa>

4. REPORTING REQUIREMENTS

Grantee must submit quarterly financial reports to County.

5. DISBURSEMENT PROVISIONS

County will endeavor to disburse the Grant Funds promptly after receipt of signed Grant Agreement.

6. FEDERAL FUNDS

County's funding to Grantee under this Grant Agreement will be paid in whole or in part by funds received from the United States Federal Government. Grantee, by signing this Grant Agreement, certifies neither it nor its employees, contractors, subcontractors or subrecipients who will undertake the funded uses / project are currently employed by an agency or department of the federal government.

7. FEDERAL PROVISIONS

The use of all federal funds paid under this Grant Agreement are subject to all applicable federal regulations, including but not necessarily limited to the provisions identified below.

Grantee must ensure that any further distribution or payment of the federal funds paid under this Grant Agreement by means of any contract, subgrant, or other agreement between Grantee and another party for the performance of any of the activities of this Grant Agreement, includes the requirement that such funds may be used solely in a manner that complies with the provisions of this Grant Agreement.

Grantee must include and incorporate the provisions identified below in all contracts and subgrants that may use, in whole or in part, the funds provided by this Grant Agreement.

Grantee must comply, and ensure the compliance by subcontractors or subrecipients, with 41 U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Grantee must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC § 4712.

In accordance with U.S. Treasury guidance – Grantee is subject to the following provisions, as applicable:

For purposes of these provisions, the following definitions apply:

“**Contract**” means this Grant Agreement or any contract or subgrant funded by this Grant Agreement.

“**Contractor**” and “**Subrecipient**” and “**Non-Federal entity**” mean Grantee or Grantee's contractors or subrecipients, if any.

(A) 2 CFR §200.303 Internal Controls

(B) 2 CFR §§ 200.330 through 200.332 Subrecipient Monitoring and Management

(C) Subpart F – Audit Requirements of 2 CFR §§200.500 through 200.521

- i. Grantee must comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Grant Agreement and applicable state or federal law.
- ii. If Grantee receives federal awards in excess of \$750,000 in a fiscal year, Grantee is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to County within thirty (30) days of completion.
- iii. Grantee must save, protect and hold harmless the County from the cost of any audits or special investigations performed by the federal government with respect to the funds expended under this Grant Agreement. Grantee acknowledges and agrees that any audit costs incurred by Grantee as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Grantee and the County.

(D) System for Award Management. Grantee must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM. The Grantee also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subrecipients"), including restrictions on subawards to entities that do not acquire and provide (to the Recipient) the unique entity identifier required for SAM registration.

(E) Davis Bacon Act (40 U.S.C. sec. 3141-3148)

(F) Anti-Kickback Act (40 U.S.C. sec. 3145)

(G) Contract Work Hours and Safety Standards (40 U.S.C. sec. 3701-3708)

(H) Clean Air Act (42 U.S.C. sec. 7401-7671)

(I) Water Pollution Control Act (33 U.S.C. sec. 1251-1387)

(J) Debarment and Suspension (Executive Orders 12549 and 12689)

(K) Byrd Anti-Lobbying Amendment (31 U.S.C. sec. 1352)

(L) Procurement of Recovered Materials (2 C.F.R. sec. 200.323)

(M) Prohibition on Telecommunications and Video Surveillance Services or Equipment (2 C.F.R. sec. 200.216)

(N) Domestic Preferences for Procurements (2 C.F.R. sec. 200.322)

Certificate Of Completion

Envelope Id: BB44FE1B699C49CF94232D1653455C9F Status: Completed
Subject: Complete with DocuSign: ARPA grant contract 2022-175 City of Bend Homeless Solutions Partnershi...
Source Envelope:
Document Pages: 22 Signatures: 4 Envelope Originator:
Certificate Pages: 5 Initials: 0 Meghan Goss
AutoNav: Enabled 710 NW Wall st.
Envelopeld Stamping: Enabled Bend, OR 97703
Time Zone: (UTC-08:00) Pacific Time (US & Canada) mgoss@bendoregon.gov
IP Address: 98.142.36.35

Record Tracking

Status: Original Holder: Meghan Goss Location: DocuSign
11/16/2022 10:02:54 AM mgoss@bendoregon.gov

Signer Events

Elizabeth Oshel
eoshel@bendoregon.gov
Assistant City Attorney
City of Bend
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by: Elizabeth Oshel
19705434244DME0...
Signature Adoption: Pre-selected Style
Using IP Address: 75.164.150.237

Timestamp

Sent: 11/16/2022 10:08:00 AM
Viewed: 11/16/2022 10:15:26 AM
Signed: 11/16/2022 10:15:50 AM

Electronic Record and Signature Disclosure:
Accepted: 1/7/2022 10:19:20 AM
ID: 78804a74-6635-440d-b82c-b925b94e6d5d
Company Name: City of Bend CMO

Eric King
eking@bendoregon.gov
City Manager
City of Bend
Security Level: Email, Account Authentication (None)

DocuSigned by: Eric King
409FF33EB4E4D3...
Signature Adoption: Pre-selected Style
Using IP Address: 98.142.36.35

Sent: 11/16/2022 10:15:52 AM
Viewed: 11/16/2022 10:18:05 AM
Signed: 11/16/2022 10:18:20 AM

Electronic Record and Signature Disclosure:
Accepted: 7/5/2021 8:13:34 AM
ID: 63024b46-3be6-4515-ad0a-4c02b498e37f
Company Name: City of Bend CMO

In Person Signer Events Signature Timestamp

Editor Delivery Events Status Timestamp

Agent Delivery Events Status Timestamp

Intermediary Delivery Events Status Timestamp

Certified Delivery Events Status Timestamp

Carbon Copy Events Status Timestamp

Amy Fraley
afraley@bendoregon.gov
Security Level: Email, Account Authentication (None)

COPIED

Sent: 11/16/2022 10:18:21 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

| Witness Events | Signature | Timestamp |
|---|------------------|------------------------|
| Notary Events | Signature | Timestamp |
| Envelope Summary Events | Status | Timestamps |
| Envelope Sent | Hashed/Encrypted | 11/16/2022 10:08:00 AM |
| Certified Delivered | Security Checked | 11/16/2022 10:18:05 AM |
| Signing Complete | Security Checked | 11/16/2022 10:18:20 AM |
| Completed | Security Checked | 11/16/2022 10:18:21 AM |
| Payment Events | Status | Timestamps |
| Electronic Record and Signature Disclosure | | |

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Bend (we, us or City) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you may be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below. Paper copies may also be requested from City by contacting Procurement.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

Notices and disclosures may be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we may provide electronically to you through the DocuSign system required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. You can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact the City:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To advise the City of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at dgalanaugh@bendoregon.gov and in the body of such request you must state: your previous email address, your new email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to dgalanaugh@bendoregon.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number.

To withdraw your consent with the City

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;**
- ii. send us an email to dgalanaugh@bendoregon.gov and in the body of such request you must state your email, full name, mailing address, and telephone number.**

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here:
<https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify the City as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by the City during the course of your relationship with the City.