

AGREEMENT FOR SCHOOL BASED HEALTH CENTER SERVICES
Yamhill County Health and Human Services and
Michael P. Jaczko, DO
Yamhill Carlton School Based Health Center

THIS AGREEMENT ("Agreement") is made the last date set forth adjacent to the signatures of the parties below by and between **Yamhill County**, a political subdivision of the State of Oregon, acting by and through its Department of Health and Human Services ("County"), and **Michael P. Jaczko, DO**, an individual, located at 348 S. Pine Street, Carlton, OR 97111 (hereinafter "Provider").

RECITALS:

- A. County receives funding from the State of Oregon for the operation of School Based Health Centers (SBHCs) in Yamhill County, including a clinic in Yamhill, Oregon. In providing these services, County desires the assistance of a qualified provider who is knowledgeable and experienced in the management and operation of SBHCs and who can deliver comprehensive physical health, mental health and dental services to school-aged children in accordance with Oregon Health Authority Standards for Certification for SBHCs.
- B. Provider has the capacity and is a qualified and licensed provider able to operate a SBHC and to provide the required services as provided in this Agreement.
- C. County and Provider desire to enter into the Agreement.

AGREEMENT: In exchange for the promises and other consideration set forth below, the parties agree as follows:

Section 1. Effective Date; Initial Term and Renewal. This Agreement is effective for the initial term of August 1, 2015 or when services commence, whichever is later through June 30, 2016, unless sooner terminated as provided in Section 9 below. Upon conclusion of the initial term of this Agreement, this Agreement will automatically be renewed on a year-by-year basis, under the same terms and conditions as set forth herein, unless terminated as provided elsewhere herein.

Section 2. Services; Administrative Support; Facilities. Provider shall provide comprehensive physical health, mental health and dental services to school aged children either directly or through referral sources in accordance with Oregon Health Authority Standards for Certification for SBHCs (the "Services"). Provider shall provide Services within a school setting or on school property and be open three days each week during the school year. Services will include a minimum of ten (10) hours per week comprehensive primary care services from an on-site Primary Care Provider who has an independent scope of practice (MD, DO, ND or NP) and a minimum of ten (10) additional hours of medical or mental health services.

The Yamhill Carlton Clinic building is owned by the Yamhill Carlton School District and is being provided with no monthly rental charge. The school district also currently provides electricity, water, sewer and garbage service, janitorial and facility maintenance services and internet and phone connectivity.

Section 3. Compensation; Monthly Payments. Provider agrees to perform the Services described herein and comply with the terms and conditions of this Agreement. From funds it receives from the Oregon Health Authority, County will pay Provider for performance of Services a maximum amount of \$55,239.00, effective August 1, 2015 through June 30, 2016, unless this amount is modified in a writing

signed by both parties or the Oregon Health Authority modifies its grant award for Yamhill County. Payments for fiscal year 2015-2016 and, subject to Section 1, any renewal terms beyond fiscal year 2015-2016, will be paid in monthly payments following submission of an invoice and statement of service by Provider which will be reviewed and approved by County.

Section 4. Expenditure of Funds. Provider may expend the funds paid to Provider under this Agreement solely on the delivery of the Services, subject to the following limitations (in addition to any other restrictions or limitations imposed by this Agreement):

A. Provider may not expend on the delivery of Services in Section 2 of this Agreement any funds paid to Provider under this Agreement in excess of the amount reasonable and necessary to provide quality delivery of the Services in Section 2 of this Agreement.

B. If this Agreement requires Provider to deliver more than one service, Provider may not expend funds paid to Provider under this Agreement for a particular service on the delivery of any other service.

C. Provider may expend funds paid to Provider under this Agreement only in accordance with 2 CFR (Code of Federal Regulations) Subtitle B with guidance at 2 CFR Part 200 as those regulations are applicable to define allowable costs.

D. Provider shall establish such fiscal control and fund accounting procedures as are necessary to ensure proper expenditure of and accounting for the funds paid to Provider under this Agreement. In particular, but without limiting the generality of the foregoing, Provider shall (i) establish separate accounts for each type of service for which Provider is paid under this Agreement and (ii) document expenditures of funds paid to Provider under this Agreement for employee compensation in accordance with 2 CFR Subtitle B with guidance at 2 CFR Part 200 and, when required by County, utilize time/activity studies in accounting for expenditures of funds paid to Provider under this Agreement for employee compensation. Provider shall maintain accurate property records of non-expendable property, acquired with Federal Funds, in accordance with 2 CFR Subtitle B with guidance at 2 CFR Part 200.

Section 5. Regulations and Duties; Safeguarding Client Information. Provider agrees to comply with all applicable local, state and federal regulations and all provisions of federal and state law relating to Provider's performance of Services under this Agreement. Further, Provider is responsible for all Protected Health Information and ensuring adequate systems are in place. Provider shall maintain the confidentiality of client records as required by applicable state and federal law. Without limiting the generality of the preceding sentence, Provider shall comply with the following confidentiality laws, as applicable: ORS 433.045, 433.075, 433.008, 433.017, 433.092, 433.096, 433.098 and 42 CFR Part 2. Provider shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to County and the OHA for review and inspection as reasonably requested.

Section 6. Alternative Formats of Written Materials. In connection with the delivery of Services, Provider shall:

A. Make available to a client, without charge to the client, upon the client's, County's or the OHA's request, any and all written materials in alternate, if appropriate, formats as required by OHA administrative rules or by OHA written policies made available to Provider.

B. Make available to a client, without charge to the client, upon the client's, County's or the OHA's request, any and all written materials in the prevalent non-English languages in the area served by Provider.

C. Make available to a client, without charge to the client, upon the client's, County's or the OHA's request, oral interpretation services in all non-English languages in the area served by Provider.

D. Make available to a client with hearing impairments, without charge to the client, upon the client's, County's or the OHA's request, sign language interpretation services and telephone communications access services.

For purposes of the foregoing, "written materials" includes, without limitation, all work product and contracts related to this Agreement.

Section 7. Reporting. Provider agrees to prepare and furnish reports and data required by County or the State of Oregon. Provider agrees to, and does hereby grant County the rights to reproduce, use and disclose for County purposes, all or any part of the reports, data, and technical information furnished to County under the Agreement.

Section 8. Monitoring and Access. Provider agrees that the following shall be open for inspection by County, OHA, the Secretary of State's office of the State of Oregon, the Federal Government and their duly authorized representatives at any reasonable time during business hours: a) Services provided under this Agreement by Provider; b) facilities used in conjunction with such Services; c) patient records; d) Provider's policies, procedures and performance data; e) financial records and other similar documents and records of Provider that pertain, or may pertain, to Services provided by Provider under this Agreement. Access shall be provided for purposes of making audits, examinations, excerpts, copies or transcriptions. Provider agrees to retain such records and documents for a period of three years, or such longer period as may be prescribed for records and documents by the state archivist. In addition, Provider agrees to permit authorized representatives of County and OHA to perform site reviews of all services delivered by Provider hereunder.

Section 9. Termination; No Encumbrance or Expenditure After Notice of Termination.

A. Either party may terminate the Agreement on thirty days written notice to the other party. Termination shall not excuse liabilities incurred prior to the termination date.

B. In addition, in the event County no longer receives funds adequate to enable it to continue this Agreement, it will provide written notice of termination of this Agreement to Provider. Upon issuance of notice, this Agreement is terminated. However, any obligations existing at the time of termination will survive termination.

C. Provider shall not make expenditures, enter into agreements, or encumber funds in its possession, or to be transferred by County, after notice of termination or termination as set out above, without prior written approval from County.

Section 10. Independent Contractor. Provider is engaged under this Agreement as an independent contractor and not an agent of the State of Oregon, the Oregon Health Authority or the County, and will be so deemed for purposes of the following:

A. Provider will be solely responsible for payment of any federal or state taxes required as a result of this Agreement.

B. This Agreement is not intended to entitle Provider to any benefits typically granted to County employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this Agreement to Provider are vacation, holiday and sick leave, other leaves with pay, tenure, medical, and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits, except as required by law.

C. Provider is an independent contractor for purposes of the Oregon Workers' Compensation law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this Agreement. If Provider has the assistance of other persons in the performance of this Agreement, Provider

will qualify and remain qualified for the term of this Agreement as a carrier-insured employer or a self-insured employer as provided by ORS 656.403 et seq.

Section 11. Delegation and Reports. Provider shall not delegate the responsibility for providing Services under this Agreement to any other individual or agency without the written approval of County and shall provide County with periodic reports at the frequency and with the information prescribed to be reported by County.

Section 12. Requirements Imposed by Law. The requirements of ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.530 and Article XI, Section 10, of the Oregon Constitution are incorporated into this Agreement by reference.

Section 13. Hold Harmless. To the extent permitted by applicable law, Provider shall defend (in the case of the State of Oregon and the Oregon Health Authority, subject to ORS chapter 180), save and hold harmless County, the State of Oregon and OHA, and their officers, employees, and agents from and against any and all claims, suits, actions, losses, damages, liabilities, costs and expenses of of any nature whatsoever resulting from, arising out of or relating to the operations of Provider, including but not limited to the activities of Provider or its officers, employees, Providers or agents under this Agreement. Furthermore, Provider shall 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, damage, 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 Provider 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 Provider from and against any and all Claims.

Section 14. Insurance. Provider, at its expense, shall obtain the following insurance coverage and keep them in effect during the entire term of this Agreement (except with respect to Professional Liability Insurance, which shall be kept in effect for a period of the term of this Agreement plus two years):

- A. Workers' Compensation Insurance in compliance with statutory requirements;
- B. Commercial General Liability Insurance (including contractual liability and completed operations coverage, and coverage for liability resulting from hazardous substances), on an occurrence basis, with not less than \$1,000,000 per occurrence for bodily injury and property damage liability, with an annual aggregate limit of \$2,000,000;
- C. Professional Liability Insurance, including errors and omissions coverage, covering the provider assigned by Provider to County pursuant to this Agreement, with a per occurrence and aggregate limit of not less than \$1,000,000, to protect against all loss suffered by County or third parties, including financial and consequential loss, caused by error, omission, or negligent acts related to provision of the Services;
- D. Commercial Automobile Liability Insurance, with a combined single limit, or the equivalent of not less than \$1,000,000 per occurrence, for bodily injury and property damage with respect to Provider’s vehicles, whether owned, hired, or non-owned, assigned to, or used by Provider in connection with the Services;

If any of the required insurance policies is on a “claims made” basis, such as professional liability insurance, the Provider 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 the Provider Contract, for a minimum of 24 months following the later of : (i) the Provider’s completion and county’s acceptance of all Services required under the Provider Contract or,

(ii) the expiration of all warranty periods provided under the Provider Contract. Notwithstanding the foregoing 24-month requirement, if the Provider elects to maintain “tail” coverage and if the maximum time period “tail” coverage reasonable available in the marketplace is less than the 24-month period described above, then the Provider may request and OHA may grant approval of the maximum “tail” coverage period reasonable available in the marketplace. If OHA approval is granted, the Provider shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonable available in the marketplace.

The required insurance coverages shall be (i) with insurance companies admitted to do business in the state of Oregon and rated A or better by Best's Insurance Rating, and (ii) acceptable to County. At County's request, Provider shall furnish County with certificates of insurance for each of the required insurance coverages. The certificates of insurance shall indicate (a) the types of insurance coverage, (b) the identity of all persons or entities covered, (c) the amounts of insurance coverage, and (d) the period of insurance coverage. Any required insurance coverage shall provide that it may not be canceled except after at least 30 days written notice to County.

The Commercial General Liability and Commercial Automobile Liability shall (i) name the State of Oregon and the County, its directors, officers, and employees, as additional insureds, and (ii) include a cross-liability and severability of interest clause and a waiver of subrogation clause. In addition, in the event of unilateral cancellation or restriction by Provider's insurance company of any insurance coverage required herein, Provider shall immediately notify County orally of the cancellation or restriction and shall confirm the oral notification in writing within three days of notification by the insurance company to Provider.

Section 15. Confidentiality. Provider acknowledges that it or its agents may, in the course of their performance under this Agreement, be exposed to or acquire information that is the confidential information of County or County clients or patients. Any and all (i) County client or patient information, (ii) information provided by County and marked confidential, (iii) Protected Health Information or EPHI as described or defined in Exhibit A, or (iv) information identified as confidential in a separate writing, that becomes available to Provider or its agents in the performance of this Agreement shall be deemed to be confidential information of County (“Confidential Information”). Any reports or other documents or items, including software, that result from Provider's use of the Confidential Information are also deemed Confidential Information. Provider agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Provider uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information for any purposes whatsoever, except as may be provided elsewhere under this Agreement or in conformance with Exhibit A. Provider agrees that, upon termination of this Agreement or at County's request, Provider will turn over to County all documents, papers and other matter in Provider's possession that embody Confidential Information.

Section 16. Compliance with Applicable Laws; Compliance with Policies; Advisory Committee. Provider certifies, under penalty of perjury, that Provider is not in violation of any federal, state or local tax laws or any federal, state or local laws, codes or regulations applicable to the Services and that Provider shall remain in compliance with all such laws, codes and regulations during the entire term of this Agreement. Provider shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the delivery of services hereunder. Without limiting the generality of the foregoing, Provider expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws governing operation of public health programs, including without limitation, all administrative rules adopted by the OHA related

to public health programs; (c) the Federal Terms and Conditions attached hereto as Exhibit B and incorporated herein by this reference; and (d) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of Services under this Agreement. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including Provider, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. In addition, Provider shall comply, as if it were County thereunder, with the federal requirements set forth in Exhibit G to that certain 2015-2017 Intergovernmental Agreement for the Financing of Public Health Services between County and the OHA dated as of July 1, 2015, which Exhibit G is included in this Agreement as Exhibit B, which is incorporated herein by this reference. For purposes of this Agreement, all references in this Agreement to federal and state laws are references to federal and state laws as they may be amended from time to time. Provider expressly agrees to comply with Yamhill County's SBHC Policies and Procedures. Provider also agrees to participate in and cooperate with the local SBHC Advisory Committee.

Section 17. Settlement of Disputes. Differences between Provider and County will be resolved when possible at appropriate management levels, followed by consultation between boards, if necessary.

Section 18. Subcontracts; Assignment. Provider shall not enter into any subcontracts for any of the Services required under this Agreement without County's prior written consent. This Agreement shall not be assigned by Provider without the prior written consent of County.

Section 19. Renewal. This Agreement may be renewed at the written mutual option of both parties.

Section 20. Non-discrimination. Provider agrees that no person shall, on the grounds of race, color, religion, national origin, sex, marital status, or age, suffer discrimination in the performance of this Agreement when employed by Provider.

Section 21. Waiver; Remedies: County and Provider acknowledge that any breach, violation, or default by either party of the provisions contained in this Agreement might result in damage to the other party. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

Section 22. Governing Law; Jurisdiction; Venue. 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 County and Provider that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Yamhill County for the State of Oregon. PROVIDER, BY EXECUTION OF THIS AGREEMENT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

Section 23. Severability. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions 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.

Section 24. Counterparts. This Agreement may be executed by facsimile and in counterparts, which taken together shall form one legal instrument.

Section 25. Attorney Fees and Costs. In the event an action, suit or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Agreement, each party shall be solely responsible for its own attorney's fees, expenses, costs and disbursements for said action, suit, proceeding or appeal.

Section 26. Entire Agreement; Amendments; Successors bound. This Agreement is the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained in this written Agreement shall be valid or binding. No alterations, changes, or additions to this Agreement shall be made except in a written document signed by both parties. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.

Section 27. Ownership. Provider agrees to execute such further documents and instruments as County or OHA may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

Section 28. Business Associate Clause - HIPAA restrictions. Provider acknowledges that County is subject to the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996, (HIPAA), Pub. Law No. 104-191. Provider hereby agrees to the obligations imposed on "CONTRACTOR" under the Business Associate Amendment attached to this Agreement as Exhibit A.

Section 29. Grievance Procedures. If Provider employs fifteen (15) or more employees to deliver the Services under this Agreement, Provider shall establish and comply with employee grievance procedures. In accordance with 45 CFR 84.7, the employee grievance procedures must provide for resolution of allegations of discrimination in accordance with applicable state and federal laws. The employee grievance procedures must also include "due process" standards, which, at a minimum, shall include:

- A. An established process and time frame for filing an employee grievance.
- B. An established hearing and appeal process.
- C. A requirement for maintaining adequate records and employee confidentiality.
- D. A description of the options available to employees for resolving disputes.

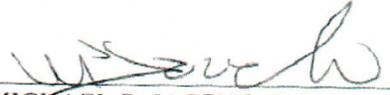
Provider shall ensure that its employees and governing board members are familiar with the civil rights compliance responsibilities that apply to Provider and are aware of the means by which employees may make use of the employee grievance procedures. Provider may satisfy these requirements for ensuring that employees are aware of the means for making use of the employee grievance procedures by including a section in the Provider employee manual that describes the Provider employee grievance procedures, by

publishing other materials designed for this purpose, or by presenting information on the employee grievance procedures at periodic intervals in staff and board meetings.

(signature page follows)

DONE the last date set forth adjacent to the signatures of the parties below.

MICHAEL P. JACZKO, DO


MICHAEL P. JACZKO, DO

Date: 9/24/15

Tax ID No.: 47-5110015

YAMHILL COUNTY, OREGON


Mary Starrett, Vice Chair
Board of Commissioners

Date: 10.15.15


SILAS HALLORAN-STEINER, Director
Department of Health & Human Services

Date: 10/21/15

FORM APPROVED BY:



CHRISTIAN BOENISCH
County Counsel

Date: 10/19/15

Accepted by Yamhill County
Board of Commissioners on
10.15.15 by Board Order
15-421

**EXHIBIT A
BUSINESS ASSOCIATE AGREEMENT**

RECITALS

A. The CONTRACTOR may use and disclose Protected Health Information and Electronic Protected Health Information (“EPHI”) in the performance of its obligations under the Agreement; and

B. The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164, require that COUNTY, as a Covered Entity, obtain satisfactory assurances from its Business Associates, as that term is defined in the Privacy Rule and Security Rule, that they will comply with the Business Associate requirements set forth in 45 CFR 164.502(e) and 164.504(e) and as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”). CONTRACTOR is a Business Associate of COUNTY and desires to provide such assurances with respect to the performance of its obligations under the Agreement; and

C. Both COUNTY and CONTRACTOR are committed to compliance with the standards set forth in the Privacy Rule and Security Rule as amended by the HITECH Act, and as they may be amended further from time to time, in the performance of their obligations under the Agreement.

NOW, THEREFORE, in consideration of mutual and valuable consideration which the parties hereby acknowledge as received, the parties agree as follows:

AGREEMENT

The parties agree that the following terms and conditions shall apply to the performance of their obligations under the Agreement, effective upon execution of this Amendment. Capitalized terms used, but not otherwise defined in this Amendment, shall have the same meaning as those terms in the Privacy Rule and Security Rule.

1. SERVICES. Pursuant to the Agreement, CONTRACTOR provides certain services for or on behalf of COUNTY, as described in the Agreement, which may involve the use and disclosure of Protected Health Information and EPHI. CONTRACTOR may make use of Protected Health Information and EPHI to perform those services if authorized in the Agreement and not otherwise limited or prohibited by this Amendment, the Privacy Rule, the Security Rule and other applicable federal or state laws or regulations. All other uses of Protected Health Information and EPHI are prohibited.

2. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR.

(a) CONTRACTOR agrees to not use or disclose Protected Health Information or EPHI other than as permitted or required by the Agreement as amended by this Amendment, as permitted by the Privacy Rule, the Security Rule or as Required By Law.

(b) CONTRACTOR agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information and EPHI other than as provided for by the Agreement, as amended by this Amendment.

(c) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to

CONTRACTOR of a use or disclosure of Protected Health Information or EPHI by CONTRACTOR in violation of the requirements of the Agreement, as amended by this Amendment.

(d) CONTRACTOR agrees to report to COUNTY, as promptly as possible, any use or disclosure of the Protected Health Information or EPHI not provided for by the Agreement, as amended by this Amendment, of which it becomes aware.

(e) CONTRACTOR agrees to ensure that any agent, including a contract hearing officer or other subcontractor, to whom it provides Protected Health Information or EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, agrees to the same restrictions and conditions that apply through the Agreement, as amended by this Amendment, to CONTRACTOR with respect to such information.

(f) CONTRACTOR agrees to provide access, at the request of COUNTY, and in the time and manner designated by COUNTY, to Protected Health Information and EPHI in a Designated Record Set (the hearing file), to COUNTY or, as directed by COUNTY, to an Individual in order to meet the requirements under 45 CFR 164.524.

(g) CONTRACTOR agrees to make any amendment(s) to Protected Health Information and EPHI in a Designated Record Set that the COUNTY directs or agrees to pursuant to 45 CFR 164.526 at the request of COUNTY or an Individual, and in the time and manner designated by COUNTY.

(h) CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures and any Protected Health Information or EPHI, relating to the use and disclosure of Protected Health Information and EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, available to COUNTY or to the Secretary, within the time and in the manner designated by COUNTY or the Secretary, for purposes of the Secretary determining COUNTY's compliance with the Privacy Rule or Security Rule.

(i) CONTRACTOR agrees to refer requests for disclosures of Protected Health Information and EPHI to the COUNTY for response, except for requests related to conducting the contested case hearing. To the extent CONTRACTOR discloses Protected Health Information or EPHI for purposes not related to conducting the contested case hearing, CONTRACTOR agrees to document such disclosures to the extent such documentation is required for COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(j) CONTRACTOR agrees to provide to COUNTY or an Individual, in time and manner to be designated by COUNTY, information collected in accordance with Section 2(i) of this Amendment, to permit COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(k) CONTRACTOR agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of the COUNTY.

(l) In the event of Discovery of a Breach of Unsecured Protected Health Information, CONTRACTOR shall:

- (i) Notify the COUNTY of such Breach. Notification shall include identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been accessed, acquired or disclosed during such

Breach and any other information as may be reasonably required by the COUNTY necessary for the COUNTY to meet its notification obligations;

- (ii) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been accessed, acquired or disclosed as a result of such Breach;
 - (iii) Where the Breach involves more than 500 individuals, confer with the COUNTY as to the preparation and issuance of an appropriate notice to prominent media outlets within the State or as appropriate, local jurisdictions; and,
 - (iv) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to the Secretary of DHHS of Unsecured Protected Health Information that has been acquired or disclosed in a Breach. CONTRACTOR understands that if the Breach was with respect to 500 or more individuals, such notice to the Secretary must be provided immediately, and therefore, time is of the essence in the obligation to confer with the COUNTY. If the Breach was with respect to less than 500 individuals, a log may be maintained of any such Breach and the log shall be provided to the Secretary annually documenting such Breaches occurring during the year involved.
 - (v) Except as set forth in (vi) below, notifications required by this section are required to be made without unreasonable delay and in no case later than 60 calendar days after the Discovery of a Breach. Therefore, the notification of a Breach to the COUNTY shall be made as soon as possible and CONTRACTOR shall confer with the COUNTY as soon as practicable thereafter, but in no event, shall notification to the COUNTY be later than 30 calendar days after the Discovery of a Breach. Any notice shall be provided in the manner required by the HITECH Act, sec 13402(e) and (f), Public Law 111-5, 45 CFR 164.404 through 164.410 and as agreed upon by the COUNTY.
 - (vi) Any notification required by this section may be delayed by a law enforcement official in accordance with the HITECH Act, sec 13402(g), Public Law 111-5.
 - (vii) For purposes of this section, the terms “Unsecured Protected Health Information” and “Breach” shall have the meaning set forth in 45 CFR § 164.402. A Breach will be considered as “Discovered” in accordance with the HITECH Act, sec 13402(c), Public Law 111-5, 45 CFR 164.404(a)(2).
- (m) CONTRACTOR shall comply with 45 C.F.R. 164.308, 164.310, 164.312 and 164.316 and all requirements of the HITECH Act, Public Law 111-5, that relate to security and that are made applicable to Covered Entities, as if CONTRACTOR were a Covered Entity.
- (n) CONTRACTOR shall be liable to the COUNTY, and shall indemnify the COUNTY for any and all direct costs incurred by the COUNTY, including, but not limited to, costs of issuing any notices required by HITECH or any other applicable law, as a result of CONTRACTOR’s Breach of Unsecured Protected Health Information.

3. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

- (a) General Use and Disclosure Provisions.

(1) Except as otherwise limited or prohibited by this Amendment, CONTRACTOR may use or disclose Protected Health Information and EPHI to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement and this Amendment, provided that such use or disclosure would not violate the Privacy Rule or Security Rule if done by COUNTY or the minimum necessary policies and procedures of COUNTY.

(2) COUNTY has determined that disclosures to CONTRACTOR under the Agreement are necessary and appropriate for COUNTY's Treatment, Payment and Health Care Operations under the HIPAA Privacy Rule and Security Rule and Required By Law under Or Laws 1999, ch. 849 (HB 2525).

(3) All applicable federal and state confidentiality or privacy statutes or regulations, and related procedures, continue to apply to the uses and disclosures of information under this Amendment, except to the extent preempted by the HIPAA Privacy Rule and Security Rule.

(b) Specific Use and Disclosure Provisions.

(1) Except as otherwise limited in this Amendment, CONTRACTOR may use Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR or to carry out the legal responsibilities of the CONTRACTOR.

(2) Except as otherwise limited in this Amendment, CONTRACTOR may disclose Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR, provided that disclosures are Required By Law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.

(3) CONTRACTOR may use Protected Health Information and EPHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

(4) CONTRACTOR may not aggregate or compile COUNTY's Protected Health Information or EPHI with the Protected Health Information or EPHI of other Covered Entities unless the Agreement permits CONTRACTOR to perform Data Aggregation services. If the Agreement permits CONTRACTOR to provide Data Aggregation services, CONTRACTOR may use Protected Health Information and EPHI to provide the Data Aggregation services requested by COUNTY as permitted by 45 CFR 164.504(e)(2)(i)(B), subject to any limitations contained in this Amendment. If Data Aggregation services are requested by COUNTY, CONTRACTOR is authorized to aggregate COUNTY's Protected Health Information and EPHI with Protected Health Information or EPHI of other Covered Entities that the CONTRACTOR has in its possession through its capacity as a CONTRACTOR to such other Covered Entities provided that the purpose of such aggregation is to provide COUNTY with data analysis relating to the Health Care Operations of COUNTY. Under no circumstances may CONTRACTOR disclose Protected Health Information or EPHI of COUNTY to another Covered Entity absent the express authorization of COUNTY.

4. OBLIGATIONS OF COUNTY.

(a) COUNTY shall notify CONTRACTOR of any limitation(s) in its notice of privacy practices of COUNTY in accordance with 45 CFR 164.520, to the extent that such limitation may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI. COUNTY may satisfy this obligation by providing CONTRACTOR with COUNTY's most current Notice of Privacy Practices.

(b) COUNTY shall notify CONTRACTOR of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information or EPHI, to the extent that such changes may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI.

(c) COUNTY shall notify CONTRACTOR of any restriction to the use or disclosure of Protected Health Information or EPHI that COUNTY has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect CONTRACTOR's use or disclosure of Protected Health Information or EPHI.

5. PERMISSIBLE REQUESTS BY COUNTY.

(a) COUNTY shall not request CONTRACTOR to use or disclose Protected Health Information or EPHI in any manner that would not be permissible under the Privacy Rule or Security Rule if done by COUNTY, except as permitted by Section 3(b) above.

(b) COUNTY may conduct a survey of CONTRACTOR with respect to CONTRACTOR's compliance with the terms of this Agreement and applicable law for the establishment of policies and procedures for the safeguarding of any Protected Health Information and EPHI provided to CONTRACTOR by COUNTY. CONTRACTOR shall implement any recommendations of COUNTY resulting from such surveys as may be reasonably necessary to ensure compliance with the terms of this Agreement and applicable law for the safeguarding of any Protected Health Information and EPHI provided to CONTRACTOR by COUNTY.

6. TERM AND TERMINATION.

(a) Effective Date; Term. This Amendment shall be effective on the date on which all parties have executed it and all necessary approvals, if any, have been granted. This Amendment shall terminate on the earlier of (i) the date of termination of the Agreement, or (ii) the date on which termination of the Amendment is effective under Section 6(b).

(b) Termination for Cause. In addition to any other rights or remedies provided in this Agreement, upon either the COUNTY's or CONTRACTOR's knowledge of a material breach by the other party of that party's obligations under this Amendment, the party not in breach shall either:

(1) Notify the other party of the breach and specify a reasonable opportunity in the Notice of Breach to the party in breach to cure the breach or end the violation, and terminate the Agreement and this Amendment if the party in breach does not cure the breach of the terms of this Amendment or end the violation within the time specified;

(2) Immediately terminate the Agreement and this Amendment if the party in breach has breached a material term of this Amendment and cure is not possible in the reasonable judgment of the party not in breach; or

(3) If neither termination nor cure is feasible, the party not in breach shall report the violation to the Secretary.

(4) The rights and remedies provided in this Amendment are in addition to any rights and remedies provided in the Agreement.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this Section 6(c), upon termination of the Agreement and this Amendment, for any reason, the party in breach shall, at the other party's option, return or destroy all Protected Health Information and EPHI received from the other party, or created or received by CONTRACTOR on behalf of COUNTY. This provision shall apply to Protected Health Information and EPHI that is in the possession of CONTRACTOR or agents of CONTRACTOR. CONTRACTOR shall retain no copies of the Protected Health Information or EPHI.

(2) In the event that CONTRACTOR determines that returning or destroying the Protected Health Information or EPHI is infeasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or destruction infeasible. Upon COUNTY's written acknowledgement that return or destruction of Protected Health Information or EPHI is infeasible, CONTRACTOR shall extend the protections of this Amendment to such Protected Health Information and EPHI and limit further uses and disclosures of such Protected Health Information and EPHI to those purposes that make the return or destruction infeasible, for so long as CONTRACTOR maintains such Protected Health Information or EPHI.

7. MISCELLANEOUS.

(a) Regulatory References. A reference in this Amendment to a section in the Privacy Rule, Security Rule, or the HITECH Act means the section in effect as of the effective date of this Amendment or as the Rules may be subsequently amended from time to time.

(b) Amendment; Waiver. The Parties agree to take such action as is necessary to amend the Agreement and this Amendment from time to time as is necessary for COUNTY to comply with the requirements of the Privacy Rule, Security Rule, HIPAA and the HITECH Act. No provision hereof shall be deemed waived unless in writing, duly signed by authorized representatives of the parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this Amendment.

(c) Survival. The respective rights and obligations of CONTRACTOR under Section 6(c), this Section 7(c), and Section 7(e) of this Amendment shall survive the termination of the Agreement and this Amendment.

(d) Interpretation; Order of Precedence. Any ambiguity in this Amendment or the Agreement shall be resolved to permit COUNTY to comply with the Privacy Rule, Security Rule and the HITECH Act. The terms of this Amendment amend and supplement the terms of the Agreement, and whenever possible, all terms and conditions in this Amendment and the Agreement are to be harmonized. In the event of a conflict between the terms of this Amendment and the terms of the Agreement, the terms of this Amendment shall control; provided, however, that this Amendment shall not supercede any other federal or state law or regulation governing the legal relationship of the parties, or the confidentiality of records or information, except to the extent that HIPAA preempts those laws or regulations. In the event of any conflict between the provisions of the Agreement (as amended by this Amendment) and the Privacy Rule or Security Rule, the Privacy Rule and Security Rule shall control.

(e) No Third-Party Beneficiaries. COUNTY and CONTRACTOR are the only parties to this Amendment and are the only parties entitled to enforce its terms. Nothing in this Amendment 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 unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Amendment.

(f) Successors and Assigns. The provisions of this Amendment and the Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns, if any.

(g) Except As Amended. Except as amended by this Amendment, all terms and conditions of the Agreement shall remain in full force and effect.

8. SIGNATURES.

By signing this Amendment, the parties certify that they have read and understood this Amendment, that they agree to be bound by the terms of this Amendment and the Agreement, as amended, and that they have the authority to sign this Amendment.

COUNTY:



By: Mary Starrett

Title: Vice Chair, Board of Commissioners

Date: 10.15.15

CONTRACTOR:

MICHAEL JACZKO D.O.

By: 

Title: MEDICAL DIRECTOR - SPONSOR

Date: 9/24/15

Accepted by Yamhill County
Board of Commissioners on
10.15.15 by Board Order
15-421

Exhibit B

OREGON HEALTH AUTHORITY
2015-2017 INTERGOVERNMENTAL AGREEMENT
FOR THE FINANCING OF PUBLIC HEALTH SERVICES

EXHIBIT C

REQUIRED FEDERAL TERMS AND CONDITIONS

General Applicability and Compliance. Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions as may be amended from time to time, LPHA shall comply and, as indicated, require all Providers and subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to LPHA, or to the Work, 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.** LPHA shall comply and require all Providers to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Services. Without limiting the generality of the foregoing, LPHA expressly agrees to comply and require all Providers 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 law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of 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 Services in violation of 42 USC 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then LPHA shall comply and require all Providers to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then LPHA shall comply and require all Providers 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. LPHA shall include and require all Providers to include in all subcontracts with Providers receiving more than \$100,000, language requiring the Provider to comply with the federal laws identified in this section.

4. **Energy Efficiency.** LPHA shall comply and require all Providers 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 U.S.C. 6201 et seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, the LPHA certifies, to the best of the LPHA's knowledge and belief that: no federal appropriated funds have been paid or will be paid, by or on behalf of LPHA, 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 the United States 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.
 - a. 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 United States Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the LPHA shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - b. The LPHA shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients and Providers shall certify and disclose accordingly.
 - c. 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 section 1352, Title 31 of the U.S. Code as amended. 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.
 - d. No part of any federal funds paid to LPHA 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 or legislative body, except in presentation to 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, except in presentation to the executive branch of any state or local government itself.

- e. No part of any federal funds paid to LPHA 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.
 - f. 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.
 - g. No part of any federal funds paid to LPHA 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 or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
6. **Resource Conservation and Recovery.** LPHA shall comply and cause all Providers 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. LPHA shall comply, and require all Providers to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
 - b. If Recipient expends \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, Recipient shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Recipient expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, 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 DHS within 30 days of completion. If Recipient expends less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, Recipient is exempt from Federal audit requirements for that year.

Records must be available as provided in Exhibit E, "Records Maintenance, Access, and Confidentiality".

- 8. Debarment and Suspension.** LPHA shall not permit any person or entity to be a Provider 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 Non-procurement 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 LPHAs 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. Drug-Free Workplace.** LPHA shall comply and require all Providers to comply with the following provisions to maintain a drug-free workplace: (i) LPHA certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in LPHA's workplace or while providing services to OHA clients. LPHA's notice shall specify the actions that will be taken by LPHA against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about the dangers of drug abuse in the workplace, LPHA's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify OHA within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any Provider to comply with subparagraphs (i) through (vii) above; (ix) Neither LPHA, or any of LPHA's employees, officers, agents or Providers may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the LPHA or LPHA's employee, officer, agent or Provider has used a controlled substance, prescription or non-prescription medication that impairs the LPHA or LPHA's employee, officer, agent or Provider's performance of essential job function or creates a direct threat to OHA clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Agreement.

10. **Pro-Children Act.** LPHA shall comply and require all sub-contractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. section 6081 et. seq.).
11. **Medicaid Services.** To the extent LPHA provides any Service whose costs are paid in whole or in part by Medicaid, LPHA 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. Section 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. Section 1396a(a)(27); 42 CFR 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR 1002.3(a) and 42 CFR 455 Subpart (B).
 - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 489 subpart I.
 - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. LPHA shall acknowledge LPHA'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 Agreement) 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).
12. **ADA.** LPHA shall comply with Title II of the Americans with Disabilities Act (ADA) of 1990 (codified at 42 U.S.C. 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of Services.
13. **Agency-Based Voter Registration.** If applicable, LPHA 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.
14. **Disclosure.**
 - a. LPHA shall comply with the provisions of 42 CFR 455.104 which 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. LPHA shall comply with the provisions of 42 CFR 455.434 which 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. 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.

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) from the Provider, fiscal agent or managed care entity.

- 15. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. The County agrees that it has been provided the following notice:

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any Work developed under a grant, subgrant or agreement 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."

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 agreement under a grant or subgrant.