



**Grant Agreement Number 152027**

**STATE OF OREGON  
INTERGOVERNMENTAL GRANT AGREEMENT**

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

**Yamhill County Health and Human Services  
Attention: Silas Halloran Steiner, Director  
627 NE Evans Street  
McMinnville, OR, 97128  
Telephone: 503.434.7523  
Facsimile: 503.434.4907  
E-mail address: [halloras@co.yamhill.or.us](mailto:halloras@co.yamhill.or.us)**

hereinafter referred to as "Recipient."

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

**OHA Health Systems, Addition Services  
500 Summer Street, NE E86  
Salem, OR 97301  
Agreement Administrator: Nicole Corbin or delegate  
Telephone: 503-945-9722  
E-mail address: [nicole.corbin@state.or.us](mailto:nicole.corbin@state.or.us)**

**1. Effective Date and Duration.**

When this Agreement has been executed by all parties and approved by the Department of Justice, it shall become effective on September 15, 2016 regardless of the date this Agreement has been fully executed by every party. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2017**. 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

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 A, B, and C.

**3. Grant Disbursement Generally.**

The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **\$383,962.00**. 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 all parties. OHA will disburse the grant to Recipient as described in Exhibit A.

**4. Vendor or Sub-Recipient Determination.**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, OHA's determination is that:

- Recipient is a sub-recipient  Recipient is a vendor  Not applicable

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

**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):** Yamhill County

Street address: 535 NE Fifth Street

City, state, zip code: McMinnville, OR 97128

Email address: halloras@co.yamhill.or.us

Telephone: ( 503 ) 434-7523 Facsimile: ( 503 ) 434-4907

Federal Employer Identification Number: 93-6002318

**Proof of Insurance:**

Workers' Compensation Insurance Company: City County Insurance Services (CIS)

Policy #: 16WYAMC Expiration Date: 6/30/17

The above information must be provided prior to Agreement execution. Recipient shall provide proof of insurance upon request by OHA or OHA designee.

b. **Certification.** The 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. The 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. Without limiting the generality of the foregoing, by signature on this Agreement, the Recipient hereby certifies that:

- (1) Under penalty of perjury the undersigned is authorized to act on behalf of Recipient and that Recipient is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620;

- (2) The information shown in this Section 5., Recipient Data and Certification, is Recipient's true, accurate and correct information;
  - (3) 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;
  - (4) Recipient and Recipient's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:  
<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;
  - (5) 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/>; and
  - (6) 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.
- c.** Recipient is required to provide its Federal Employer Identification Number (FEIN) to OHA. By Recipient's signature on this Agreement, Recipient hereby certifies that the FEIN provided to OHA is true and accurate. If this information changes, Recipient is also 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.

**Yamhill County Health and Human Services**

**By:**

\_\_\_\_\_  
Authorized Signature Title *Chair, Board of Commissioners* Date *10/27/16*

**State of Oregon acting by and through its Oregon Health Authority**

**By:**

\_\_\_\_\_  
Authorized Signature Title Date

**Approved for Legal Sufficiency:**

*Via e-mail by Steven Marlowe, AAG* 9/15/16  
Assistant Attorney General Date

**OHA Program Review:**

\_\_\_\_\_  
Authorized Signature Title Date

**Office of Contracts and Procurement:**

\_\_\_\_\_  
Contract Specialist Date

Accepted by Yamhill County  
Board of Commissioners on  
10-27-16 by Board Order  
# 16-441

Approved As To Form  
by *Christian Boenisch*  
Christian Boenisch  
County Counsel  
Yamhill County



## **EXHIBIT A**

### **Part 1 Program Description**

#### **1. Background and Purpose**

Peer Delivered Services (PDS) are a vital part of health care transformation and benefit Oregonians with Substance Abused Disorder, their families and communities. PDS and peer-run organizations (PRO) that are Recovery Centers (as defined below) are essential to link those living with behavioral health conditions to behavioral health services. PDS are an instrumental tool in reforming the health care system to support recovery and wellness within a recovery-oriented system of care (ROSC).

Recipient will develop the capacity to provide enhanced PDS and technical assistance and training for PDS in SUD Recovery. The technical assistance will be provided to regional partners, including behavioral health service programs, health professionals, CMHP or LMHA, Coordinated Care Organizations (CCO), interested consumers, family members, youth (under 17 years) and young adults (18 to 25), and those in recovery from mental health disorders, substance use disorders, and problem gambling within their respective service area.

OHA believes the SUD PDS Facilitating Centers (as defined below) will help promote best practices. PDS are available for the diverse members of the recovering communities. The Facilitating Centers will identify and develop specialized best practices and deliver specialized training and technical assistance for underserved and over represented populations.

Research has demonstrated that PDS improve outcomes. Examples of improved outcomes are as follows:

- When peers are part of hospital-based or residential care, the results include shortened lengths of stay, decreased frequency of admissions, and lower overall future treatment costs,
- When PDS are integrated into behavioral health care treatment teams, patients show favorable results in both health outcomes and cost savings,
- For people diagnosed with both mental illness and substance use disorders, peer-led interventions have shown to significantly reduce substance use, symptoms of emotional distress or disorders, and crisis events,
- PDS programs have shown to increase patients' participation in their treatment; resulting in better healing outcomes and greater levels of empowerment and,
- PDS emphasize developing and living a healthy, recovery-oriented lifestyle. This focus on wellness helps people remain in recovery and in the communities of their choice.

The goal of this Agreement is to enable Recipient to develop Facilitating Centers that will serve as "mentor sites" which will provide ongoing technical assistance and training for programs providing PDS, PRO and Recovery Centers. Facilitating Centers will provide structure and support for developing and sustaining programs providing PDS in substance use disorder recovery, PROs and Recovery Centers. People in recovery will be involved in every aspect of

program design and implementation, creating opportunity for PDS regionally, and statewide, and allowing for greater access to services. Quality PDS statewide are essential for people with substance use disorders.

In performing Program activities below, Recipient must implement industry-recognized standards of best practices.

## 2. Definitions

- **Facilitating Centers** or **SUD PDS Facilitating Centers** serve as “mentor sites” providing ongoing technical assistance and training, for the Recovery Centers. Facilitating Centers provide structure, and support, for developing and sustaining Recovery Centers.
- **Peer** means any individual who has similar life experience, either as a current or former recipient of addictions or mental health services, or as a family member of an individual who is a current recipient, or a former recipient, of addictions or mental health services.
- **Peer Delivered Services** or **PDS** means a continuum of programs and supports provided by individuals, who identify themselves as having behavioral health challenges, and are receiving, or have received, behavioral health care. Peer services can include programs that are Peer-operated (planned, delivered, and administered by people with lived experience), Peer partnerships (shared governance between Peer and non-Peer organizations or staff), and Peer employees – the unique discipline of providing Peer services as a member of the target population.
- **Peer-Run Organization** or **PRO** means organizations that are:
  - Independent - Owned, administratively controlled, and managed by Peers;
  - Autonomous - All decisions are made by the program;
  - Accountable - Responsibility for decisions rests with the program; and
  - Peer – controlled - Governance board is at least 51% Peers.
- **Peer Support Specialist** means a person providing PDS to an individual or family member, with similar life experience. A Peer Support Specialist must be:
  - (a) A self-identified person currently, or formerly, receiving mental health services;
  - (b) A self-identified person in recovery from an addiction disorder, who meets the abstinence requirements for recovering staff in alcohol and other drug treatment programs;
  - (c) A self-identified person in recovery from problem gambling; or
  - (d) A family member of an individual who is a current or former recipient of addictions or mental health services.
- **Peer Wellness Specialist** means an individual who is responsible for assessing mental health service and support needs of the individual’s Peers, through community outreach,

assisting individuals with access to available services and resources, addressing barriers to services, and providing education and information about available resources and mental health issues, in order to reduce stigmas and discrimination toward consumers of mental health services, and to provide direct services, to assist individuals in creating and maintaining recovery, health and wellness.

- **Recovery** from alcohol and drug problems is a process of change through which an individual achieves abstinence and improved health, wellness, and quality of life.
- **Recovery Centers** are comprised of, and led, by people in Recovery from Substance Use Disorders, as defined in OAR 309-019-0105(97). The Recovery Centers maintain a structured daily schedule of activities where peer support services may be delivered and serve as Recovery resources for the local community.
- **Recovery Oriented System of Care (ROSC)** means person-centered, and self-directed, approaches to care that build on the strengths and resilience of individuals, families, and communities to take responsibility for their sustained health, wellness, and recovery from alcohol and drug problems.
- **Substance Use Disorders (SUD)** means the recurrent use of alcohol or drugs or both causing clinically and functionally significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home. According to the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5), a diagnosis of substance use disorder is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.

### **3. Program Activities**

The allowable Program activities, for which funding to Recipient under this Agreement may be used, are described below. Recipient will establish a Facilitating Center that will provide enhanced Peer Delivered Services (PDS) and technical assistance on PDS to PDS providers and others that support recovery from Substance Use Disorders (SUD) in Yamhill County.

#### **3.1 Training Program Development**

- a. Recipient will secure a Facilitation Center site by November 30, 2016.
- b. Recipient will conduct a needs assessment for each of the identified specialized populations; people using medically assisted treatment, people who have been incarcerated, people without homes and seniors.
- c. Recipient will ensure that each identified specialized population team will work concurrently, and Recipient will conduct at least monthly meetings of all four-population teams, to discuss obstacles, opportunities and information for inclusion in the training and technical assistance materials.
- d. Recipient will develop curriculum for each population, addressing the unique strength and needs of the population served. The various curricula will include self-study technology (web-streaming, video conferencing, etc.) and self-study processes (webinars, interactive study guides, on-line coaching, etc.).
- e. Recipient will develop assessment, and evaluation instruments to evaluate the trainings and the effects of training on services provided.

**(Completion of above activities due: on an ongoing basis from September 2016 through November 30, 2016).**

#### **3.2 Training Program Delivery**

- a. Recipient will recruit and select the first cohort of individuals to participate in the specialized peer support specialists training programs.
- b. Recipient will deliver the specialized peer support specialists training programs to the appropriate participants. Trainers, speakers, panelists, videos must be a majority of people with shared lived experience, and include those from the agency partners serving the identified populations.
- c. Recipient will, using the instruments created per Section 3.1 Training Program Development, collect data and evaluate the impact of the specialized training programs for each identified population.

**(Completion of above activities due: on an ongoing basis from December 1, 2016 through February 28, 2017).**

### **3.3 Refine Trainings and Technical Support**

- a. Recipient will, based upon evaluation and feedback on the training programs, make refinements to each of the training programs including, but not limited to, development of follow-up technical support and mentoring services.

**(Completion of above activities due: on an ongoing basis from February 1, 2017 through May 30, 2017).**

### **3.4 Develop and Deliver Training and Technical Support Tools**

- a. Based on the refinements to the specialized peer support training programs, Recipient will complete a training manual. This should include but is not limited to, a) outreach protocols and support materials; b) written curricula and materials; c) self- study and webinar programs; and d) remote learning participation technology.
- b. Using all materials created to meet the requirements of this Agreement, Recipient will recruit a second cohort for each of the specialized trainings to receive training and evaluate the training and results.  
At least one cohort will use remote learning technologies.

**(Completion of above activities due: on an ongoing basis from June 1, 2016 through June 30, 2017).**

### **3.5 One-day Learning Collaborative Sessions**

Recipient's staff shall attend three one-day learning collaborative sessions in person with OHA, other grant recipients, and stakeholders.

**(Completion of above activity due: as scheduled by OHA).**

### **3.6 Approved Subcontractors**

Per Section 15. of Exhibit B, OHA approves Recipient's use of the following subcontractors to perform Program activities:

Bridgeway Recovery; Champion Team; Harness Technology; Polk County Seniors; Project ABLE; Provoking Hope; and Shogren Consulting

However Recipient is not obligated use those subcontractors and may request OHA's written approval to use other or additional subcontractors per Section 15. of Exhibit B.

#### 4. Reporting Requirements

- a. Recipient’s designated staff shall communicate with OHA by phone or in-person meeting on an agreed upon schedule to provide updates, share successes, and address barriers that may emerge regarding completion of grant agreement activities.
- b. Quarterly written progress reports: Using forms provided by OHA, Recipient shall prepare and submit a written quarterly narrative progress report electronically to the OHA Agreement Administrator via email to [amhcontract.administrator@state.or.us](mailto:amhcontract.administrator@state.or.us) in a format approved by OHA by the following dates:

Quarter	Due
July – September	November 14 <sup>th</sup>
October – December	February 14 <sup>th</sup>
January – March	May 15 <sup>th</sup>
April – June	June 30

The quarterly written progress reports shall outline Recipient’s project successes, project outcomes, barriers encountered, actions to address these barriers, and lessons learned.

- c. Invoices: Using forms provided by OHA, Recipient shall prepare and submit monthly invoices to the OHA Agreement Administrator. See payment provisions in the following section.

## EXHIBIT A

### Part 2 Payment and Financial Reporting

#### 1. Progress Reports and Invoices:

- a. Recipient shall, in an OHA approved format, prepare and submit electronic written quarterly summary Progress Reports as required by Section 4. Reporting Requirements of Exhibit A. part 1.
- b. The Recipient must prepare and submit ten (10) written monthly invoices via email to OHA at amhcontract.administrator@state.or.us in the amount of **\$38,396.20** for each month beginning September 1, 2016 through June 30, 2017. The subject line of each email must indicate that an invoice is attached.

#### 2. Disbursement of Grant Funds

- a. Following OHA's receipt and approval of the monthly invoices required from Recipient by Section 1., subject to Recipient's continuing compliance with the Reporting requirements of this Agreement, and subject to the conditions in Section 4. below, OHA will release a payment of **\$38,396.20** for each monthly invoice.
- b. OHA will not pay any amount in excess of the maximum not-to-exceed amount set forth in section 3. Consideration. Recipient shall submit all invoices no later than sixty (60) days after the date of the expiration or termination of this Agreement.

#### 3. Travel and Other Expenses.

OHA will not reimburse Recipient for any travel or additional expenses under this Agreement.

#### 4. Conditions Precedent to Disbursement. OHA's obligation to disburse Grant funds to Recipient under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- a. OHA has received sufficient funding, appropriations, limitations, allocation, and other expenditure authorizations to allow OHA, in the exercise of its reasonable administrative discretion, to make the disbursement. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.
- b. No default as described in Section 8.a. (Default by Recipient), of Exhibit B has occurred.
- c. OHA has received from Recipient an invoice acceptable to OHA describing Program costs for which reimbursement is requested.

**EXHIBIT B**  
**Standard Terms and Conditions**

**1. Governing Law, Consent to Jurisdiction.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.

**2. Compliance with Law.**

Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement or to the implementation of the project. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. 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 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.

## **6. Ownership of Work Product.**

- a. Definitions.** As used in this Section 6, and elsewhere in this Agreement, the following terms have the meanings set forth below:
- (1) “Recipient Intellectual Property” means any intellectual property owned by Recipient and developed independently from the Work.
  - (2) “Third Party Intellectual Property” means any intellectual property owned by parties other than OHA or Recipient.
  - (3) “Work” means work performed by Recipient under this Agreement.
  - (4) “Work Product” means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual

property rights therein that Recipient is required to deliver to OHA pursuant to the Work.

- b. Original Works.** All Work Product created by Recipient pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a “work made for hire,” shall be the exclusive property of OHA. OHA and Recipient agree that all Work Product is “work made for hire” of which OHA is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not “work made for hire,” Recipient hereby irrevocably assigns to OHA any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon OHA's reasonable request, Recipient shall execute such further documents and instruments necessary to fully vest such rights in OHA. Recipient forever waives any and all rights relating to original Work Product created pursuant to the Work, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- c.** In the event that Work Product is Recipient Intellectual Property, a derivative work based on Recipient Intellectual Property or a compilation that includes Recipient Intellectual Property, Recipient hereby grants to OHA an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Recipient Intellectual Property and the pre-existing elements of the Recipient Intellectual Property employed in the Work Product, and to authorize others to do the same on OHA's behalf.
- d.** In the event that Work Product is Third Party Intellectual Property, a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, Recipient shall secure on OHA's behalf and in the name of OHA an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on OHA's behalf.

This Section, together with any other Section that by its terms is intended to survive, survives the expiration or termination of this Agreement.

- 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.(2)(a).

**c. Termination.**

**(1) Recipient Termination.** Recipient may terminate this Agreement:

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

**(2) OHA Termination.** OHA may terminate this Agreement:

- (a) For its convenience, upon at least 30 days advance written notice to Recipient;
- (b) Upon 45 days advance written notice to Recipient, if OHA does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of OHA under this Agreement, as determined by OHA in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, OHA may terminate this Agreement, immediately upon written notice to Recipient or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces OHA's legislative authorization for expenditure of funds to such a degree that OHA will no longer have sufficient expenditure authority to

meet its payment obligations under this Agreement, as determined by OHA in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;

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

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

## 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, 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 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  
250 Winter St. NE, Room 306  
Salem, OR 97301  
Telephone: 503-945-5818  
Facsimile: 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 Requirements**

**General Requirements.** Recipient shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance as specified in this Exhibit C and meeting all the requirements under this Exhibit C 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 whom the Recipient directly enters into a contract. It does not include a subcontractor with whom the contractor enters into a contract.

1. **Workers' Compensation.** Insurance must be in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).

2. **Professional Liability:**

Required by OHA  Not required by OHA.

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Subcontract, with limits not less than the following, as determined by OHA:

Per occurrence limit for any single claimant:

From commencement of the Agreement term through June 30, 2016: . \$2,048,300.

From July 1, 2016 and every year thereafter, the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.271(4).

Per occurrence limit for multiple claimants:

From commencement of the Agreement term through June 30, 2016: ... \$4,096,600.

From July 1, 2016 and every year thereafter, the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.271(4).

**3. Commercial General Liability:**

Required by OHA  Not required by OHA.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to OHA. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by OHA:

**Bodily Injury/Death:**

Per occurrence limit for any single claimant:

From commencement of the Agreement term through June 30, 2016: ...\$2,048,300.

From July 1, 2016 and every year thereafter, the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.271(4).

Per occurrence limit for multiple claimants:

From commencement of the Agreement term through June 30, 2016: ..\$4,096,600.

From July 1, 2016 and every year thereafter, the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.271(4).

**Property damage or destruction:**

Per occurrence limit for any single claimant:

From commencement of the Agreement term through June 30, 2016: ...\$200,000.

From July 1, 2016 and every year thereafter, the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.273(3).

Per occurrence limit for multiple claimants:

From commencement of the Agreement term through June 30, 2016: ...\$600,000.

From July 1, 2016 and every year thereafter, the adjusted limitation as determined by the State Court Administrator pursuant to ORS 30.273(3).

**4. Automobile Liability:**

Required by OHA  Not required by OHA.

**5. Additional Insured.** The Commercial General Liability insurance and Automobile Liability insurance must include the State of Oregon, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

**6. "Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor 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 Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and Recipient's acceptance of all services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain

“tail” coverage and if the maximum time period “tail” coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and OHA may grant approval of the maximum “tail” coverage period reasonably available in the marketplace. If OHA approval is granted, the contractor shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonably available in the marketplace.

- 7. Notice of Cancellation or Change.** The contractor or its insurer must provide 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).
- 8. Certificate(s) of Insurance.** Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: (i) all entities and individuals who are endorsed on the policy as Additional Insured and (ii) for insurance on a “claims made” basis, the extended reporting period applicable to “tail” or continuous “claims made” coverage.