

**STATE OF OREGON
SERVICES PURCHASE ORDER
FOR PROCUREMENTS NOT EXCEEDING \$150,000**

CONTRACTOR	AGENCY
A.W.A.R.E., Inc. Attention: Geri Wyant 205 East Park Anaconda, MT 59711 Telephone: 406-563-8117 ext. 1014 Email: geri.wyant@aware-inc	Department of Human Services (DHS) Office of Child Welfare, Well Being Treatment Services Contract Administrator: Glenda Marshall 2446 SE Ladd Avenue Portland, OR 97213 Telephone: 503-931-1655 Email: Glenda.r.marshall@dhs.oh.state.or.us DHS Caseworker: Tamra J. Amundson Email: tamra.j.amundson@dhs.oh.state.or.us

Upon Agency signature and delivery to Contractor, this Services Purchase Order constitutes Agency’s offer to purchase from Contractor, under the terms and conditions set forth in this Services Purchase Order, the Services described in Exhibit A. This offer may be accepted solely through Contractor’s commencement of performance of the Services and upon such commencement, this Services Purchase Order shall become a legally binding Contract between Agency and Contractor and the Contract’s terms and conditions shall be those contained in this Services Purchase Order (the “Contract”). If Contractor does not commence performance of the Services on or before 3/29/2019, the offer represented by this Services Purchase Order is and shall be automatically revoked without further Agency action. This Services Purchase Order consists of the documents identified as Contract Documents below.

Working Title

FOCUS Program Services

Effective Date and Duration

The Execution Date of this Contract shall be the date the Contractor begins performance of the Services described in Exhibit A. Unless extended or terminated earlier in accordance with its terms, this Contract shall terminate on 10/31/2019, or upon acceptance of all deliverables, whichever comes first. Contract termination shall not extinguish or prejudice Agency’s right to enforce this Contract, with respect to any breach by Contractor that has not been cured.

Compensation and Payment Methodology

1. **Compensation:** The not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses as set forth herein, is \$ 3,280.00. Agency will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract for performance of the Services, and will not pay for Services performed before the Effective Date or after the termination of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Services subject to the amendment.
2. **Payment Methodology:**
 - A. **Payment Provisions**
 - 1) One-On-One Services will be paid a rate of \$125.00 per hour for a maximum of 24 hours.
 - 2) Non-medical Transportation Services will be paid a rate of \$35.00 per trip for a maximum of eight (8) trips.
 - 3) Contractor Invoice, Completion and Submission:
 - a. Contractor shall submit monthly billings on the approved DHS invoice form located at: <https://apps.state.or.us/Forms/Served/ce0846.xlsm>. Instructions and requirements for completion of the invoice are included on the third tab of the Excel invoice document. Invoices must be submitted with all fields properly populated.
 - b. Email monthly invoices to: FOCUS.Contracts@dhs.oh.state.or.us
 - c. Payment will be made by DHS to the Contractor monthly on or after the first of each month following the month in which Services were performed, subject to receipt and approval by DHS of the Contractor’s invoice and any required reporting as defined in the Statement of Work for this Contract.
 - d. For questions regarding payments please email the local DHS office from which the referral was made. Email addresses may be obtained at: <http://www.oregon.gov/dhs/children/providers-partners/Documents/Local%20Office%20Contract%20List%20for%20Contracted%20Providers.pdf>
 - B. **Travel and other authorized expenses**
 DHS will not allow Contractor to provide Client transportation. Contractor travel expenses are included in a per trip rate in section 2. A. 3) b. above. No other expenses are authorized unless specified in this Contract.
3. **Vendor Only: Catalog of Federal Domestic Assistance (CFDA) #: NA**

Contract Documents

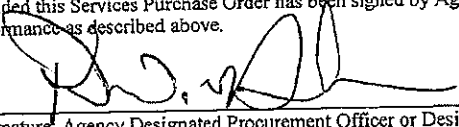
This Contract consists of this document and includes the following listed exhibits unless otherwise specifically noted below:

- (1) Exhibit A: Statement of Work/Special Provisions
- (2) Exhibit B: Standard Terms and Conditions

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| (3) Exhibit C: Insurance Requirements | <input checked="" type="checkbox"/> Required | <input type="checkbox"/> Reserved |
| (4) Exhibit D: Required Federal Terms and Conditions | <input type="checkbox"/> Required | <input checked="" type="checkbox"/> Reserved |

There are no other Contract documents. This document and the applicable Exhibits listed above, shall be in the following descending order of precedence: this document less all Exhibits, Exhibits D, B, A and C.

Provided this Services Purchase Order has been signed by Agency, this Services Purchase Order shall become a binding Contract upon Contractor's commencement of performance as described above.

Signature:  Agency Designated Procurement Officer or Designee

Date: 3/12/19

Exhibit A, Part 1 Statement of Work

The following Statement of Work describes the services to be performed by the Contractor under this Contract (the "Services").

1. Tasks/Schedule:

- A. Contractor shall provide One-On-One Services to Child Or-kids ID [REDACTED] Case [REDACTED]. Contractor shall
- i. Perform Services at the residential facility the Child is currently placed within the Acadia Montana Treatment Center, hereinafter referred to as Program. Obtain Child's contact information from assigned DHS Caseworker.
 - ii. Conduct Face-to-Face contact with the Child a minimum of every 30 days.
 - iii. Monitor, assess and report on the Child's safety and well-being at each contact within the 30-day period.
 - iv. Complete all the following activities at each Face-to-Face contact:
 - a. Have a conversation with the Child;
 - b. Assess the Child's progress and adjustment to the Program;
 - c. Notify the DHS Contract Administrator when Contractor determines that the ongoing safety plan or the living environment is insufficient to ensure the safety of the Child to determine if a protective action plan is necessary to ensure safety; and
 - d. Notify the DHS Contract Administrator when the well-being needs of the Child are not being met by the Program.
 - v. Documentation of all contacts with Child shall include,
 - a. The date, type of contact, location of each contact with the Child and the issues addressed during the contact.

2. Deliverables:

- A. Outcome: This Service will monitor the safety and well-being of the Child.
- B. Updates: Contractor shall provide the DHS Caseworker with immediate verbal updates when significant issues arise during the provision of Service.
- C. Reporting: Contractor shall email all contacts as indicated in Tasks/Schedule A. v. to the Child's DHS Caseworker and Contract Administrator identified in the Agency section on page one of this Contract within two (2) business days of each Face-to-Face contact.

3. Certifications:

Without limiting the generality of the foregoing, by signature on this Contract, the undersigned hereby certifies under penalty of perjury that:

- a. Contractor is in compliance with all insurance requirements of this Contract and notwithstanding any provision to the contrary, Contractor shall deliver to the Agency Contract Administrator (see above) the required Certificate(s) of Insurance within 30 days of execution of this Contract. By certifying compliance with all insurance as required by this Contract, Contractor acknowledges it may be found in breach of the Contract for failure to obtain required insurance. Contractor may also be in breach of the Contract for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Contract;
- b. Contractor 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 Contractor and that pertains to this Contract or to the project for which the Contract work is being performed. Contractor 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. Contractor further acknowledges that in addition to the remedies under this Contract, 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 Contractor;
- c. The undersigned is authorized to act on behalf of Contractor and represents and warrants that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state. Contractor shall, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes: (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions;
- d. To the best of undersigned's knowledge, Contractor 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;
- e. Contractor and Contractor'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: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Page/default.aspx>;
- f. Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that it is no longer subject to backup withholding; and
- g. The Federal Employer Identification Number ("FEIN") or Social Security Number ("SSN") provided to Agency is true and accurate. If this information changes, Contractor is required to provide Agency with the new FEIN or SSN within 10 days.

Exhibit A, Part 2
Special Provisions

1. Confidentiality

- a. Contractor acknowledges that, in the course of performing its responsibilities under this Contract, it may be exposed to or acquire information that is confidential to Agency. For purposes of this Contract, except as set forth below, such confidential information includes all information that Agency provides to Contractor in connection with the performance of this Contract and all information as to personal facts and circumstances obtained by the Contractor on a recipient of Services ("Client") purchased under this Contract ("Confidential Information"). Contractor shall maintain the confidentiality of such Confidential Information and protect it with at least the same degree of care it uses to protect its own confidential information, but in no event less than a reasonable degree of care. Contractor shall use the Confidential Information solely to perform the Services and shall not disclose the Confidential Information to any third party without the prior written consent of Agency
- b. Unless disclosure of the information is otherwise prohibited or restricted by law, Confidential Information shall be deemed not to include information that (1) is or becomes (other than by disclosure by Contractor) publicly known, (2) is furnished by Agency to others without restrictions similar to those imposed by this Contract, (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract, (4) is obtained from a source other than Agency without the obligation of confidentiality, (5) is disclosed with the written consent of Agency, or (6) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.
- c. Upon request and pursuant to the instructions of the Agency, Contractor shall return or destroy all copies of Confidential Information, and Contractor shall certify in writing the return or destruction of all Confidential Information.
- d. If Contractor, or any of its officers, directors, employees, agents or subcontractors, receives or has access to confidential Social Security Administration (SSA), Federal Tax Information (FTI) records in the performance of Work under this Contract, Contractor shall comply, and ensure that all of Contractor's officers, directors, employees, agents and subcontractors comply, with the following provisions:
- (1) With respect to SSA records:
- (a) Provide a current list of the employees and employees of any agent or subcontractor with access to SSA records;
- (b) Adhere to the same security requirements as employees of Agency;
- (c) Abide by all relevant Federal laws, restrictions on access, use, disclosure, and the security requirements contained within Agency's agreement with SSA;
- (d) Provide its employees and agents the same security awareness training as Agency's employees; and
- (e) Include the provisions of Section 1.d.(1) in any subcontract.
- (2) With respect to Federal Tax Information (FTI), as defined in IRS Publication 1075:
- (a) Contractor and its officers, directors and employees with access to, or who use FTI provided by Agency must meet the background check requirements defined in IRS Publication 1075;
- (b) Any FTI made available to Contractor shall be used only for the purpose of carrying out the provisions of this Contract. Contractor shall treat all information contained in FTI as confidential and that information shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited;
- (c) Contractor shall account for all FTI upon receipt and shall properly store all FTI before, during, and after processing. In addition, all FTI related output and products will be given the same level of protection as required for the source material;
- (d) No work involving FTI furnished under this Contract will be subcontracted without prior written approval of the IRS;
- (e) Maintain a list of employees who are authorized access to FTI. Such list will be provided to Agency and, upon request, to the IRS reviewing office; and
- (f) Include the provisions of this Section 1.d.(2) in any subcontract.
- (3) Failure to abide by any of the requirements in this subsection could result in criminal or civil penalties and result in termination of this Contract.
- (4) Contractor may be subject to periodic and ongoing security reviews to ensure compliance with the requirements of Section 1.d.

- (5) Except as prohibited by Section 1.d above, Agency, Contractor and any subcontractor will share information as necessary to effectively serve Agency Clients.

2. Contractor Requirements to Report Abuse.

- a. Contractor shall comply with, and cause its employees to comply with, the applicable laws for mandatory reporting of abuse, including but not limited to abuse of the following classes of persons in Oregon:
- (1) Children (ORS 419B.005 through 419B.045);
- (2) Elderly Persons (ORS 124.055 through 124.065);
- (3) Residents of Long Term Care Facilities (ORS 441.630 through 441.645);
- (4) Adults with Mental Illness or Developmental Disabilities (ORS 430.735 through 430.743).
- b. In addition to the requirements of Section 2.a, if law enforcement is notified regarding a report of child abuse, Contractor shall also notify the local Child Protective Services Office of the Department of Human Services ("DHS") within 24 hours. If law enforcement is notified regarding a report of abuse of elderly, long term care facility residents, adults with mental illness or developmental disabilities, the Contractor shall also notify the local Aging and People with Disabilities Office of DHS within 24 hours. If known, the abuse report should contain the following:
- (1) The name and address of the abused person and any people responsible for that person's care;
- (2) The abused person's age;
- (3) The nature and the extent of the abuse, including any evidence of previous abuse;
- (4) The explanation given for the abuse;
- (5) The date of the incident; and
- (6) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

3. Background Checks.

Contractor shall verify that any employee working with clients referred by DHS has not been convicted of any of the following crimes: child or elderly abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of an employee scheduled to work with DHS' client. Contractor shall establish verification by:

- (1) having the applicant as a condition of employment, apply for and receive a criminal history check from a local Law Enforcement Agency office, which will be shared with Contractor, OR
- (2) Contractor as an employer will contact the local Law Enforcement Agency for a "Montana only" criminal history check on the applicant/employee. Contractor will need to give to local Law Enforcement Agency the applicant's name, birth date and social security number.

Contractor shall determine after receiving the criminal history check, whether the employee has listed convictions, and whether these convictions pose a risk to working safely with DHS clients. If Contractor notes a conviction from any of the above listed crimes on the applicant/employee's record, and Contractor chooses to hire the employee/applicant, Contractor shall confirm in writing, the reasons for hiring the individual.

These reasons shall address how the applicant/employee is presently suitable or able to work with referred DHS clients in a safe and trustworthy manner. Contractor will place this information, along with the applicant/employee's criminal history check, in the employee's personnel file.

The criminal history check procedures listed above also apply to Contractor. Contractor shall establish a personal personnel file and place Contractor's criminal history check in named file for possibility of future DHS review.

4. **Equal Access to Services.** As applicable, Contractor shall provide equal access to Services for both males and females under 18 years of age, including access to appropriate facilities, services and treatment, consistent with the policy set forth in ORS 417.270.
5. **Media Disclosure.** The Contractor will not provide information to the media regarding a Client without first consulting the Agency. The Contractor will make immediate contact with Agency when media contact occurs. Agency will assist the Contractor with an appropriate follow-up response for the media.
6. **Nondiscrimination.**
- a. If applicable, the Contractor must provide services to Agency Clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with

Disabilities Act). Contracted services must reasonably accommodate the cultural, language, and other special needs of Clients.

- b. As required by ORS 279B.235, Contractor must comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. Contractor's compliance with this Section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles Agency to terminate this Contract for cause.
 - c. Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.
7. **Workers Compensation:** All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000. Contractor shall require and ensure that each of its subcontractors complies with these requirements.

Exhibit B

Standard Terms and Conditions

1. STATEMENT OF WORK: Contractor shall perform the Services in accordance with the schedule set forth in the Statement of Work.

2. ACCEPTANCE OF DELIVERED SERVICES: Agency shall accept or reject each deliverable. If Agency rejects the deliverable, then Agency shall give Contractor a written notice of the reasons for the rejection and the method for curing, if any.

3. PAYMENT: (a) Contractor shall send invoices to Agency at Agency's address, including details and at a frequency as agreed upon with Agency. Contractor's invoice shall include at a minimum: the Contract number; Services performed, Service dates, what was delivered, the rates (as applicable), the total amount due, and the payment address. (b) Agency shall pay Contractor, in accordance with the Compensation and Payment Methodology, for Services delivered under this Contract and accepted by Agency. Contractor shall look solely to Agency for payment. Contractor shall not be compensated by anyone else. (c) Contractor agrees that Agency's payment is contingent on Agency receiving enough funding and other expenditure authority to allow the payment. (d) Contractor's claims to Agency for overdue payments on invoices are subject to ORS 293.462.

4. TERMINATION: The parties may terminate this Contract at any time by mutual written consent. Agency may terminate this Contract for its convenience upon written notice to Contractor. Agency or Contractor may terminate this Contract immediately or at a later designated date upon written notice to the other party, if the other party is in breach. Contractor shall stop performance under this Contract as directed by Agency in any written notice of termination delivered to Contractor.

5. RECOVERY OF OVERPAYMENTS: IF BILLINGS UNDER THIS CONTRACT, OR UNDER ANY OTHER CONTRACT BETWEEN CONTRACTOR AND AGENCY, RESULT IN PAYMENTS TO CONTRACTOR TO WHICH CONTRACTOR IS NOT ENTITLED, AGENCY, AFTER GIVING WRITTEN NOTIFICATION TO CONTRACTOR, MAY WITHHOLD SUCH AMOUNTS FROM PAYMENTS DUE TO CONTRACTOR.

6. INDEMNIFICATION: CONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND (SUBJECT TO ORS CHAPTER 180) THE STATE OF OREGON, AGENCY AND THEIR OFFICERS, EMPLOYEES, AGENTS, FROM ALL CLAIMS, SUITS OR ACTIONS OF ANY NATURE ARISING OUT OF OR RELATED TO THE ACTIVITIES OF CONTRACTOR, OR ITS OFFICERS, SUBCONTRACTORS, AGENTS OR EMPLOYEES UNDER THIS CONTRACT.

7. GOVERNING LAW, JURISDICTION, AND VENUE: This Contract is governed by Oregon law, without regard to principles of conflicts of law. Any claim, action, suit, or proceeding between the State of Oregon and the Contractor that relates to this Contract ("Claim") shall be heard exclusively in the Circuit Court of Marion County for the State of Oregon. If the Claim must be brought in a federal forum, then it shall be heard exclusively in the US District Court for the District of Oregon. In no way will this Section or any other provision of this Contract be construed as a waiver by the State of Oregon of any form of defense, sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the US Constitution, or other immunity, from any Claim or from the jurisdiction of any court. Contractor consents to the in personam jurisdiction of these courts.

8. FORCE MAJEURE: No party is responsible for delay or default caused by an event beyond its reasonable control. The Agency may terminate this Contract without liability to Contractor upon written notice after determining the delay or default reasonably prevents performance of this Contract.

9. SUBCONTRACTS; ASSIGNMENT; SUCCESSORS: Contractor shall not assign, transfer, or subcontract rights or responsibilities under this Contract in whole or in part, without the prior written approval of the Agency. This Contract's provisions are binding upon and inure to the benefit of the parties to the Contract and their respective successors and assigns.

10. ACCESS TO RECORDS: Contractor shall maintain all accounting records relating to this Contract according to GAAP. Contractor shall retain its accounting records and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant the State of Oregon and its agencies, the Secretary of State Audits Division, the federal government, and their duly authorized representatives' access to the Records, including reviewing, auditing, copying, and making transcripts.

11. COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS: Contractor shall comply with all federal, state and local laws, regulations, executive orders, and ordinances applicable to the Contract or to the performance of the Services, as such laws, regulations, executive orders, and ordinances may be adopted, amended, or repealed from time to time. These laws, regulations, executive orders and ordinances are incorporated by

reference herein to the extent that they are applicable to this Contract and required by law to be so incorporated. Agency's performance under this Contract is conditioned upon Contractor's compliance with the provisions of ORS 279B.220, 279B.230, and 279B.235 incorporated by reference herein.

12. OWNERSHIP OF WORK PRODUCT: Every invention, discovery, work of authorship and other tangible or intangible item that Contractor is required to deliver to Agency under this Contract (collectively, "Work Product") shall be the exclusive property of Agency. Agency and Contractor agree that all Work Product is "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason any Work Product is not "work made for hire," Contractor hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all such Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, Contractor shall acquire such further rights and execute such further documents and instruments as are necessary to fully vest such rights in Agency. Contractor forever waives any and all rights relating to the Work Product, 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.

13. AMENDMENTS; WAIVER: All amendments to this Contract must be in writing, signed by the both parties. The Agency's failure to enforce any provision of this Contract is not a waiver or relinquishment by the Agency of its rights to such performance in the future or to enforce any other provisions.

14. SEVERABILITY: If a court of competent jurisdiction declares any provision of this Contract to be illegal or in conflict with law, the parties intend that the validity of the remaining terms and provisions not be affected, and that the rights and obligations of the parties be construed and enforced as if the Contract did not contain the particular terms of provision held to be invalid.

15. AWARD TO FOREIGN CONTRACTOR: If Contractor is not registered to do business or has no office in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract. The Agency may withhold final payment under this Contract until Contractor has met this requirement.

16. INDEPENDENT CONTRACTOR: Contractor is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by performance of this Contract, represents and warrants that Contractor's Services to be performed under this Contract create no potential or actual conflict of interest as defined by ORS Chapter 244 and that no statutes, rules or regulations of the State of Oregon or federal agency for which Contractor currently performs work would prohibit Contractor's performance under this Contract. If compensation under this Contract is to be charged against federal funds, Contractor certifies that it is not currently employed by the federal government. Contractor is responsible for all federal and state taxes applicable to compensation paid to Contractor under this Contract, and unless Contractor is subject to backup withholding, Agency will not withhold from such compensation any amounts to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or worker's compensation benefits from compensation paid to Contractor under this Contract, except as a self-employed individual. Contractor shall perform all Services as an independent contractor. Agency reserves the right (i) to determine and modify the delivery schedule for the Services and (ii) to evaluate the quality of the Services and any Work Product, but Agency may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Services. Contractor is an independent contractor as defined in ORS 670.600.

17. BREACH: (a) Contractor breaches this Contract if Contractor: (i) ceases doing business on a regular basis, including but not limited to ceasing to do business as a result of insolvency, receivership, bankruptcy proceedings, or an assignment for the benefit of creditors; (ii) no longer holds a required license or certificate for Contractor's performance; or (iii) commits any material breach under this Contract, (vi) Contractor failed to comply with the tax laws of this state or a political subdivision of this state before the Contractor executed this Contract or fails to comply with the tax laws of this state or a political subdivision of this state during the term of this Contract, and Contractor fails to cure any such breach as Agency may specify in the notice of breach. (b) Agency breaches this Contract if Agency: (i) fails to pay Contractor any amount owed under this Contract; or (ii) commits any material breach under this Contract, and Agency fails to cure any such breach as Contractor may specify in the notice of breach.

18. AGENCY REMEDIES: If Contractor is in breach under Section 17(a), Agency may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to: (a) termination of this Contract under Section 4, (b) reducing or withholding payment for Services or Work Product that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Contractor to perform, at Contractor's expense, additional work necessary to perform the Statement of Work or meet performance standards, (d) suspending Contractor's performance of the Services, (e) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (f) exercise of its right of recovery of overpayments under Section 5 of this Contract or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

19. CONTRACTOR REMEDIES: (a) If Agency is in breach under Section 17(b), and whether or not Contractor elects to exercise its right to terminate the Contract under Section 4, Contractor's sole monetary remedy shall be (i) with respect to Services compensable at a stated rate, a claim for unpaid invoices, time worked within any limits set forth in this Contract but not yet invoiced, authorized expenses incurred and interest within the limits permitted under ORS 293.462, and (ii) with respect to deliverable-based Services, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed and accepted by Agency, less previous amounts paid and any claim(s) that Agency has against Contractor.

20. INTENDED BENEFICIARIES: State and Contractor are the only parties to this Contract and the only parties entitled to enforce the Contract.

21. INFORMATION PRIVACY/SECURITY/ACCESS: If the Services performed under this Contract require Contractor or, when allowed, its subcontractor(s), to have access to or use of any Agency computer system or other Agency Information Asset or Network and Information System for which Agency imposes security requirements, and Agency grants Contractor or its subcontractor(s) access to such Agency Information Assets or Network and Information Systems, Contractor shall comply, and require all subcontractor(s) to which Agency has granted such access to comply, with OAR 407-014-0300 through OAR 407-014-0320, 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 407-014-0305, as such rule may be revised from time to time.

22. MERGER CLAUSE/COUNTERPARTS: This Contract constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representation, oral or written, not specified herein, regarding this Contract. Any amendments to this Contract 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 an amendment so executed shall constitute an original.

23. FUNDS AVAILABLE AND AUTHORIZED: Contractor shall not be compensated for Services performed under this Contract by any other agency of the State of Oregon or the federal government. Agency certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within Agency's current biennial appropriation or limitation. Contractor understands and agrees that Agency's payment for Services performed is contingent on Agency receiving appropriations, limitations, allotments and other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

24. REPRESENTATIONS AND WARRANTIES: Contractor represents and warrants to Agency that: (a) Contractor has the power and authority to enter into and perform this Contract, (b) the obligations set forth herein are valid and binding obligations of Contractor enforceable in accordance with its terms, (c) Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Services in a professional manner and in accordance with the highest standards prevalent in Contractor's industry, trade or profession (d) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Services, and (e) Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

25. NOTICES: Except as otherwise expressly provided in this Contract, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to Contractor or Agency at the address or number set forth in this Contract, or to such other addresses or numbers as either party may indicate pursuant to this section. Any notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any 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 at number set forth in this Contract. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

26. TIME IS OF THE ESSENCE: Contractor agrees that time is of the essence in Contractor's performance of the Services under this Contract.

27. SURVIVAL: In addition to any provisions of this Contract that by their express terms survive termination of this Contract, the confidentiality provisions of Exhibit A and the following provisions of Exhibit B shall remain in effect beyond any Contract termination or full performance: 3, 5, 6, 7, 10, 11, 12, 16, 17, 18, 19, 20, 23, 24, 25, 27 and 28.

28. LIMITATION OF LIABILITIES: THE STATE OF OREGON SHALL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR RELIANCE DAMAGES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO ANY LOST PROFITS, LOST REVENUES, LOST SAVINGS, LOST DATA, OR HARM TO BUSINESS), REGARDLESS OF THE FORSEEABILITY THEREOF, ARISING OUT OF OR RELATED TO THIS CONTRACT. CONTRACTOR HEREBY RELEASES THE STATE OF OREGON AND ITS AGENCIES AND THEIR DIVISIONS, OFFICERS, EMPLOYEES, AGENTS AND MEMBERS FROM ANY SUCH CLAIMS.

EXHIBIT C

Insurance Requirements

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

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

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

COMMERCIAL GENERAL LIABILITY:

Required Not required

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

AUTOMOBILE LIABILITY INSURANCE:

Required Not required

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000.00 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY:

Required Not required

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

EXCESS/UMBRELLA INSURANCE:

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

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

WAIVER OF SUBROGATION:

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

TAIL COVERAGE:

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, 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 this Contract, for a minimum of 24 months following the later of (i) Contractor's completion and Agency's acceptance of all Services required under this Contract, or, (ii) Agency or Contractor termination of this Contract, or, (iii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

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

NOTICE OF CHANGE OR CANCELLATION:

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

INSURANCE REQUIREMENT REVIEW:

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

STATE ACCEPTANCE:

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