



Contract Number 178164

**STATE OF OREGON
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

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This Contract is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as "ODHS," and

**Dynamic Life Inc
7754 Kayla ~~Rae~~ Street NE
Keizer, OR 97303**

→ 7754 Kayla Shae St. NE

Attention: Nathan Webber

Telephone: 503-949-9901

E-mail address: ~~nathan@dynamiclife.vyz~~

hereinafter referred to as "Contractor."

*nathan@dynamiclifepnw.org and
john@dynamiclifepnw.org*

Work to be performed under this Contract relates principally to ODHS'

Office of Child Welfare Programs

District 4 Administration

118 SE 2nd Avenue

Albany, OR 97321

Contract Administrator: Belit Burke or delegate

Telephone: 503-947-5389

E-mail address: belit.burke@dhs-oha.state.or.us

1. **Effective Date and Duration.** This Contract shall become effective on the date this Contract is approved in writing by the Oregon Department of Justice, provided it is (i) when required, approved in writing by the Oregon Department of Administrative Services, and (ii) is signed by all parties, regardless of the date of the parties' signatures. Unless extended or terminated earlier in accordance with its terms, this Contract shall expire on **December 31, 2023**. Contract termination shall not extinguish or prejudice ODHS' right to enforce this Contract with respect to any default by Contractor that has not been cured.

2. **Contract Documents.**

a. This Contract consists of this document and includes the following listed exhibits which are incorporated into this Contract:

- (1) Exhibit A, Part 1: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Insurance Requirements

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

b. This Contract and the documents listed in Section 2., "Contract Documents", Subsection a. above, shall be in the following descending order of precedence: this Contract less all exhibits, Exhibits B, A, C.

3. **Consideration.**

a. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is **\$1,299,999.96**. ODHS will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract for completing the Work, and will not pay for Work performed before the date this Contract becomes effective or after the termination or expiration of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

b. Payments to Contractor shall be subject to ORS 293.462, and shall be made in accordance with the payment schedule and requirements in Exhibit A, Part 2., "Payment and Financial Reporting."

c. ODHS will only pay for completed Work under this Contract. For purposes of this Contract, "Work" means the tasks or services and deliverables accepted by ODHS as described in Exhibit A, Part 1, "Statement of Work."

4. **Contractor or Subrecipient Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, ODHS' determination is that:

☐ Contractor is a subrecipient ☐ Contractor is a contractor ☒ Not applicable

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

5. **Contractor Data and Certification.**

- a. **Contractor Information.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Contractor Name (exactly as filed with the IRS): Dynamic Life Inc.

Street address: 388 State St.
City, state, zip code: Salem, OR 97301
Email address: nathan@dynamiclifepnw.org
Telephone: (503) 503-949-9901 Fax: ()

Is Contractor a nonresident alien, as defined in 26 U.S.C. § 7701(b)(1)?

(Check one box): ☐ YES ☒ NO

Business Designation: (Check one box):

☐ Professional Corporation	☒ Nonprofit Corporation	☐ Limited Partnership
☐ Limited Liability Company	☐ Limited Liability Partnership	☐ Sole Proprietorship
☐ Corporation	☐ Partnership	☐ Other

Contractor Proof of Insurance. Contractor shall provide the following information upon submission of the signed Contract. All insurance listed herein and required by Exhibit C must be in effect prior to Contract execution.

Professional Liability Insurance Company: Hamilton Select Insurance

Policy #: AMHS254119 Expiration Date: 8/30/23

Commercial General Liability Insurance Company: Hamilton Select Insurance

Policy #: AMHS254119 Expiration Date: 8/30/23

Automobile Liability Insurance Company: Progressive Commercial

Policy #: 961595014 Expiration Date: 9/14/23

Workers' Compensation: Does Contractor have any subject workers, as defined in ORS 656.027? (Check one box): ☐ YES ☒ NO If YES, provide the following information:

Workers' Compensation Insurance Company: _____

Policy #: _____ Expiration Date: _____

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

- (1) Contractor is in compliance with all insurance requirements in Exhibit C of this Contract, and notwithstanding any provision to the contrary, Contractor shall deliver to the ODHS Contract Administrator (see page 1 of this Contract) 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;

- (2) 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;
- (3) The undersigned is authorized to act on behalf of Contractor and represents and warrants that Contractor has complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of Oregon. 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 Oregon. For the purposes of this Section, “tax laws” includes: (i) All tax laws of Oregon, 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 Oregon 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 Oregon 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.

Contractor acknowledges that the Oregon Department of Administrative Services will report this Contract to the Oregon Department of Revenue (DOR). The DOR may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including: (i) garnishing the Contractor’s compensation under this Contract; or (ii) exercising a right of setoff against Contractor’s compensation under this Contract for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the DOR collects debts;

- (4) The information shown in Section 5.a., “Contractor Information” above is Contractor’s true, accurate and correct information;
- (5) To the best of the 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;
- (6) Contractor and Contractor’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (7) Contractor 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” currently found at: <https://www.sam.gov/SAM>;
- (8) Contractor is not subject to backup withholding because:
 - (a) Contractor is exempt from backup withholding;
 - (b) 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
 - (c) The IRS has notified Contractor that Contractor is no longer subject to backup withholding; and
- (9) Contractor’s Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided is true and accurate. If this information changes, Contractor shall provide ODHS with the new FEIN or SSN within 10 days.

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

**CONTRACTOR: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO
NECESSARY STATE APPROVALS.**

6. **Signatures.** This Contract 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 Contract and any amendments so executed shall constitute an original.

Dynamic Life Inc

By:


Authorized Signature
CEO / FOUNDER
Title

Nathan L. Weldon
Printed Name
1/27/23
Date

State of Oregon, acting by and through its Oregon Department of Human Services

By:

Shirley Vollmuller
Authorized Signature
ODHS Child Welfare Business Manager
Title

Shirley Vollmuller
Printed Name
2/3/2023
Date

Approved by the Department of Administrative Services:

Exempt per OAR 125-246-0170(2)
Authorized Signature Title Date

Approved for Legal Sufficiency:

Approved via email by Jeffrey Wahl
Department of Justice
1/25/2023
Date

EXHIBIT A

Part 1 Statement of Work

1. Purpose:

- a.** The purpose of this Contract is for the development, implementation, and testing of a 12-month pilot project that creates a mobile child caring organization to provide community-based skills coaching services to Children and Families.
- b.** In the provision of all services, ODHS values fairness, equity, inclusion, accessibility, diversity and transparency and ODHS values the voices, experiences, cultures, intellect and uniqueness of the Children and Families that are served.

ODHS' Child Welfare has a vision that all children experience safe, stable, healthy lives and grow up in the care of a loving family and community. ODHS is part of a larger statewide social safety-net system that works to support Families and communities. This safety net not only works during a life-threatening crisis but well beforehand, when small interventions can make an enormous difference in their lives.

To achieve this vision, ODHS, its contractors, and public and private partners (collectively "Partners") will need to work together to support Families and communities in a myriad of ways. This may include, but is not limited to, the following:

- (1) Providing economic support;
- (2) Enhancing parenting skills;
- (3) Helping people with their housing needs and employment goals;
- (4) Providing health and behavioral services;
- (5) Helping treat alcohol and substance use disorders; and
- (6) Ensuring Child safety and Family well-being.

ODHS and its Partners will help Families access resources within their natural support networks and the service provider community. This partnership will help Families address their own underlying needs and resolve the most common causes of stress and trauma linked to Child maltreatment.

2. Goals and Objectives:

- a.** The goals of mobile child caring organizations are to bring community-based skills coaching services to Children and Families that are intended to: prevent placement disruption and services to Clients in their current placement, prevent removal from their biological Family, or to assist in transition to the next placement. These services are intended to maintain the safety of Clients who have high behavioral or mental health needs, or both, that are at risk of disrupting their current placement or living at home and are at risk of coming into ODHS

custody. By bringing these services to the Child and Family the goal is to reduce trauma, which often times results in additional escalated behavior, by teaching both parents and Children skills targeting behavior and behavior management.

- b.** The objective of this pilot project is to create a mobile child caring organization model that can be duplicated by other providers in the state. The model will include:

 - (1) All required trainings for Contractor staff operating a mobile child caring organization;
 - (2) Best practice with developmentally and age-appropriate curricula to include coaching, parent education, and other skills building to enhance the development of Children;
 - (3) Logistical best practices for working in home settings and community settings;
 - (4) Completion of a report in partnership with ODHS' Office of Reporting, Research, Analytics and Implementation (ORRAI);
 - (5) A check list of criteria and requirements other providers would need in order to become a mobile child caring organization using the Contractor's model.

At the end of the pilot's 13-week service delivery period ODHS will have the ability to either solicit for this service model or expand the pilot to other areas of the state for additional testing.

3. Definitions. For purposes of this Exhibit A, Part 1, "Statement of Work" only, capitalized terms shall have the following meaning:

- a.** "Child" means an individual under 21 years of age who qualifies for Child Welfare services provided by ODHS.
- a.** "Client" means the Child(ren) receiving services under this Contract.
- b.** "Family" means, at a minimum but not to the exclusion of siblings as defined in ORS 419A.004 or other persons living in the same household with the Client, the Client and:

 - (1) The Client's parent as defined in ORS 419A.004;
 - (2) The Client's guardian appointed pursuant to ORS chapter 125; or
 - (3) A person who has a caregiver relationship as defined in ORS 419B.116 with the Client.
- c.** "ODHS Caseworker" means ODHS Child Welfare staff. Although Contractor will coordinate aspects of an individual Client's case management responsibility with one primary ODHS Caseworker, there are circumstances where the term "ODHS Caseworker" will also include ODHS supervisors, managers or technical staff, and can include ODHS Child Welfare workers with experience in other child welfare disciplines, such as Child Protective Services, foster care, family-based services,

residential services or adoptions, among others.

- d. **“Resource Family”** means a family for a Child who provides out of home care. This term includes resource parents, resource-to-adopt families, and kinship caregivers. A resource home is where a Resource Family lives.

4. **Services to be Provided.** Contractor shall develop and implement a mobile child caring organization that provides community-based skills coaching services to Children and Families. Once the mobile child caring organization is developed and implemented, Contractor shall test the program through a 13-week pilot project by delivering the required services through the newly created mobile child caring organization.

- a. **Program Development and Implementation.** Due no later than September 30, 2023, Contractor shall:

- (1) Create a mobile child caring organization to provide community-based skills coaching services to Children and Families as outlined in Section 4.b. below. Services required to be performed to Children and Families under this Contract are to be provided in the home of the Children and Families or other designated locations as determined by ODHS and may not be performed in a traditional office setting.
- (2) Create and implement a structured approach to onboarding staff.
- (3) Create and implement required trainings for Contractor staff providing services under this Contract. Services provided under this Contract must be provided by Contractor staff with the following qualifications:
 - (a) Must be 18 years of age or older;
 - (b) Must be able to pass a background check as set forth in Exhibit A, Part 3, “Special Provisions”;
 - (c) Must finish Contractor’s “Dynamic Life” training within 90 days of start of Contract; and
 - (d) Education and Training:
 - i. Required Minimum: Have an Associate of Arts degree in social services or related field or at least 2 years of related experience.
 - ii. Preferred:
 - A. Have a Bachelor of Science or Master of Arts degree in social services; or
 - B. Have a Bachelor of Science or Master of Arts degree in a non-related field and have four years’ experience working with families with high needs.
- (4) Work with ODHS and ODHS’ Licensing Unit to work towards obtaining a Mobile Child Caring Organization license.
- (5) Work with ODHS’ ORRAI to complete reports.

- (6) Create a best practice for Contractor staff providing services in in-home and community settings in order to provide the best mobile service environment possible.
 - (7) Create best practices and developmentally and age-appropriate curriculums for working with children and families who need skills building, parent education, or a structured approach to utilizing an existing behavior plan, or any combination thereof.
 - (8) Create a check list of criteria or requirements other providers would need in order to become a mobile child caring organization using the Contractor's model.
 - (9) Create, in partnership with ODHS, a standardized evaluation tool that includes both a pre and post assessment that Contractor shall utilize to demonstrate each Client's progress in the program as a result of the services provided.
- b. Start-up Costs.** ODHS will provide a one-time start-up payment to Contractor upon execution of this Contract and a completed invoice pursuant to Exhibit A, Part 2., "Payment and Financial Reporting". Contractor shall use the start-up funds only for costs that are directly associated with program development and implementation pursuant to Section 4.a. of this Exhibit A, Part 1, "Statement of Work". Start-up funds must be spent within 60 calendar days of receipt of the funds. Contractor shall prepare and submit a report to ODHS no later than 60 calendar days after receipt of the funds that describes and documents in detail how the start-up funds were utilized including an itemized list of actual costs. Contractor shall provide original receipts to ODHS upon request. Any remaining start-up funds, not spent within 60 calendar days of receipt of the funds, must be returned to ODHS within 75 calendar days of receipt of the funds.
- c. Program Delivery.** Beginning October 1, 2023, Contractor shall provide the following services through its newly created and implemented mobile child caring organization for a 13-week pilot period.
- (1) **In-Kind Services.** Contractor shall provide ODHS with 1092 hours of in-kind services providing services to Clients during this 13-week period.
 - (2) **Culturally Responsive Services.** Services shall be provided in a culturally responsive manner. Culturally responsive services are general services that have been adapted to honor and align with the belief, practices, culture and linguistic needs of diverse client populations and communities whose members identify as having a particular cultural or linguistic affiliation by virtue of their place of birth, ancestry or ethnic origin, religion, preferred language, or language spoken at home. Culturally responsive services also refer to services provided in a way that is culturally responsive to the varied and intersecting biological, social, and cultural categories such as gender identity, class, ability, sexual orientation, religion, caste, and other axes of identity.

- (3) **Referral and Authorization Procedure.** Clients will be referred to Contractor by ODHS for services based on a service plan to be developed using a strengths/needs-based continuum model of service that is developed collaboratively by the Family, the Client's relatives and extended family, other Client support systems, the court, ODHS, and other appropriate community partners.
- (a) Contractor shall be available to ODHS, at no cost to ODHS, for a brief consultation to determine the appropriateness of the service request and to determine schedule availability.
 - (b) ODHS will refer Clients to Contractor utilizing an ODHS and Contractor agreed upon referral form. The referral will be accompanied by a copy of the Client's supervision plan. Contractor shall initiate contact with the ODHS Caseworker to schedule services with Clients immediately upon receipt and acceptance of the referral.
 - (c) Contractor shall not provide services until ODHS issues a referral and Contractor receives a current copy of Client's supervision plan from the ODHS Caseworker or a written statement from the ODHS Caseworker that there are no current safety issues.
 - (d) Contractor shall request and obtain from the ODHS Caseworker any behavior support plans or professional assessments on the Client that Contractor judges to be necessary to provide safe, responsible, and ethical services. Requested documents can be sent by fax, secure e-mail, or USPS to Contractor.
- (4) **Services to be provided to Clients:**
- (a) In collaboration with the referring ODHS Caseworker, Contractor shall develop a list of goals and service objectives for each Client to achieve. Contractor shall communicate the list of goals and service objectives to the Client and their parents.
 - (b) Contractor shall provide supervision to Clients, even when the Family, Resource Family, or ODHS staff are present.
 - (c) Contractor shall coach Clients in addressing needs or actions which would put Client's current or temporary placement at risk and may utilize strategies to create calm environments.
 - (d) Contractor shall assist as appropriate, the Client's Family, Resource Family, or ODHS staff in learning how to best support the Client in their current developmental stage.
 - (e) Contractor shall assist with arrangements for transportation to have Clients who are approved for transportation services transported to residential care or sub-acute care by secure medical transport.

- (f) Contractor shall provide transportation services pursuant to Section 4.b.(4)(i) of this Exhibit A, Part 1, “Statement of Work” in order to facilitate Client’s participation in services to include Client appointments.
- (g) At any time when Contractor receives a request for any other type of service(s) not required to be provided under this Contract for a Client Contractor is already providing services for under this Contract, Contractor shall contact the ODHS Contract Administrator for assistance.
- (h) Contractor shall provide Door-to-Door service to all Clients receiving transportation services under this Contract, pursuant to Section 4.b.(4)(i) of this Exhibit A, Part 1, “Statement of Work”. “Door-to-Door” service means observing the Client from the home or building’s exit to vehicle and from vehicle to the home or building’s entry and shall obtain an acknowledgement from the care provider designated by ODHS assuming responsibility of the Clients. Pick-up and drop-off points for the transport of a Client shall be reasonably near the exit or entry to be used by the Client and shall always be within clear sight of the driver. Contractor shall provide the support necessary to any Client to be transported successfully and safely to and from service sessions which shall include Door-to-Door service and may also include Hand-to-Hand or other methods to assist vulnerable Clients in the successful and safe transport process. “Hand-to-Hand” service means that a Client shall be escorted at all times necessary to assure that the Client is under the supervision of an adult, including substitute care providers, school staff designated for that purpose by the school, or other persons designated by ODHS for that purpose.
- (i) **Client Transportation.** Contractor shall provide Client transportation services as needed in order to facilitate Client’s participation in services and appointments. ODHS strongly prefers that all Client transportation services be provided using Contractor’s vehicles; however, Contractor may provide these services through its employees’ private vehicles. All vehicles and drivers providing transportation under this Contract are subject to the conditions below. Prior to performing Client transportation services for ODHS Clients, Contractor shall provide the ODHS Contract Administrator a written certification that all drivers performing Client transportation services under this Contract meet all of the requirements listed below.
 - i. Insurance: Contractor shall obtain and maintain Commercial Automobile Liability insurance at the liability limits described in Exhibit C “Insurance Requirements” throughout the term of this Contract.

- ii. Driver Standards. Contractor shall ensure any person performing transportation services under this Contract meets all of the following requirements.
 - A. Is currently and legally licensed to operate the transporting vehicle according to the laws and regulations of the State of Oregon;
 - B. Does not have the following criminal history:
 - I. Has been convicted or currently under the investigation of a crime in the category of homicide;
 - II. Has been convicted or currently under the investigation of a crime related to a sexual offense; or
 - III. Currently has a pending or unresolved criminal charge as a result of a crime committed within the past two years.
 - C. Has not been convicted of a crime:
 - I. Listed in ORS 342.143(3)(a)(A), (B) or (C);
 - II. Involving sexual offenses;
 - III. In the past two years, involving child abuse, or child neglect;
 - IV. In the past two years, involving offenses against persons, violence, threat of violence, or theft;
 - V. Involving activity in the past two years, in drugs or alcoholic beverages, including driving under the influence of intoxicants; or
 - VI. Been convicted of a crime that bears a substantial relation to the functions and duties under the terms and conditions of the Contract.
 - D. Has not had a driver's license suspended by the Oregon Division of Motor Vehicles, or a similar agency in another state, for a cause involving the unsafe operation of a motor vehicle or because of sanctions against a driving record, within the past two years;
 - E. Has not had driving privileges revoked or suspended as a habitual offender under ORS

809.600, or a substantially similar provision in another state, within the past two years; or

- F. Does not have a driving record that has an accumulation of 31 points based on the point system established in OAR 581-053-0050(3)(G), within the past two years.
- G. Driver shall:
 - I. Not consume any alcoholic beverage regardless of its alcoholic content or any drug that may affect the ability to operate a vehicle safely within eight hours prior to providing transportation services;
 - II. Refrain from smoking, this includes the use of e-cigarettes and vaping products, or the use of any tobacco product at any time while providing transportation services;
 - III. Secure any articles in the passenger compartment of the transporting vehicle likely to cause injury to the occupants in the event of an accident, sudden stop or emergency evasive action;
 - IV. Ensure vehicle is sufficiently fueled prior to providing transportation services under this Contract and refrain from refueling the vehicle while transporting ODHS Clients and their families;
 - V. Provide adequate lighting, ventilation, and heating in the transporting vehicle appropriate to the environment;
 - VI. Not carry, nor shall the vehicle transport, guns, knives, mace, pepper spray or weapons of any type, or any potentially hazardous material when providing transportation services; nor shall the Contractor allow any mace, pepper spray or weapons of any type to be stored in any vehicles used to transport ODHS clients and their families; and
 - VII. Have telephonic means available and follow all applicable laws regarding use of telephonic devices while driving. Telephonic device shall be used for contacting emergency assistance. Drivers

are prohibited from use of a cell phone or other telephonic or electronic device not specifically designed for use while driving while providing transportation services under this Contract.

- H. If a driver is in violation of any provision listed above, or, to the best of the Contractor's knowledge is currently under investigation of such actions, the Contractor shall immediately remove each such driver from providing any transportation services under this Contract.
- iii. Vehicle Standards. Contractor shall ensure vehicles meet the following standards when being used for transportation services under this Contract:
 - A. Vehicle is fully registered and licensed according to the laws of the State of Oregon, and is in good and safe operating condition that meets or exceeds the applicable minimum standards, rules, and laws for vehicle safety;
 - B. Vehicle has a clean and uncluttered passenger compartment;
 - C. Vehicle has a properly installed child-safety seat, booster seat, or other device required by law or rule for the transport of children that shall be utilized as required by rule or law, if a child is being transported; and
 - D. Vehicle has seat belts that are properly installed and maintained and used by all occupants of the vehicle at all times the vehicle is in operation.
- (j) **Emergencies, Medical.** In the event of a Client mental health crisis, the Contractor shall engage in the mental health protocol indicated in the Client's safety or supervision plan, including the utilization of mental health crisis supports. Contractor shall call 911 if a Client's behavior is a threat to themselves or others. If the Client needs to go to the hospital or emergency room the Client shall be transported by police vehicle, ambulance, or secure medical transport. Any emergencies or incidents shall be followed up with a written report e-mailed to the ODHS Caseworker within 24 hours. Any child safety issues shall be communicated immediately to the ODHS Caseworker.

- (k) **Behavior Intervention and Use of Physical Restraints:**
- i. Contractor shall utilize a nationally recognized nonviolent crisis intervention system for defusing escalating behavior and safely managing physically aggressive behavior.
 - ii. Only Contractor and its staff who have been trained in a nationally recognized nonviolent crisis-intervention system shall use physical restraint and only when physical restraint is necessary as a last resort to prevent a Client from inflicting harm to self or others. The restraint shall be conducted within the parameters of the nationally recognized system in which the Contractor and its staff are trained.
 - iii. Contractor and its staff shall only place a Client in a physical restraint if the Client's behavior poses a reasonable risk of imminent serious bodily injury to the Client or others and less restrictive interventions would not effectively reduce that risk.
 - iv. Contractor shall report each use of physical restraint within 24 hours.
 - v. Contractor and its shall not place a Client in a restraint as a form of discipline, punishment or retaliation or for the convenience of Contractor or its staff.
- (l) **Absences.** If one unplanned absence occurs on the part of a Client, Contractor shall immediately inform all participants that all remaining sessions have been temporarily suspended pending a short phone consultation with ODHS, and if approved by ODHS, the sessions will be rescheduled and may proceed again.
- (m) **Contractor Requested Discharge of Client:**
- i. Contractor may request a Client to be discharged from services, either on an emergency basis or within a 30 day period, if they meet either of the following criteria:
 - A. Client is psychiatric instable requiring hospitalization; or
 - B. Client is physically aggressive leading to detention.Neither of these circumstances necessitate an automatic discharge request.
 - ii. Contractor shall consult with the ODHS Caseworker prior to discharging a Client.

5. Contractor Evaluations.

- a.** Contractor shall participate in evaluation activities as designed by Contractor and ODHS. Evaluation activities include, but are not limited to, the following:
 - (1) Participating in group contracted provider meetings;
 - (2) Participating in periodic site visitations;
 - (3) Participating in regular contract monitoring meetings with the Contract Administrator or designee to discuss the following: review of Contract terms and conditions and Contract compliance; fiscal review and funds management; caseload management and Contract utilization; case notes review; specific concerns based on the ODHS Caseworker feedback; service quality, etc.;
- b.** When Contract compliance issues are identified, the actions taken depend on the severity of the issue. Initially, the Contract Administrator will work informally with Contractor to address the compliance issues. If the compliance issues cannot be addressed informally, or in the event of a major failure, safety, or security concern; the Corrective Action Plan process below will be utilized:
 - (1) The ODHS Contract Administrator will collaborate with Contractor to develop a Corrective Action Plan, to include a resolution timeframe.
 - (2) During the Corrective Action Plan timeframe, the ODHS Contract Administrator will conduct a follow-up review with Contractor to determine if the Corrective Action Plan is being followed and the compliance issues are being adequately corrected within the required timeframe.
- c.** Not adequately correcting the compliance issues by the required Corrective Action Plan timeframe will result in consequences pursuant to Exhibit B, “Standard Terms and Conditions”, Section 25., “Contractor’s Failure to Perform.”.

6. Incident Reports.

- a.** Critical Events are defined as events that are considered likely to cause complaints, generate concerns, or come to the attention of the media, law enforcement agencies, first responders, CPS, or other regulatory agencies. When applicable to the safety of the Client, Critical Events shall be reported immediately to the Oregon Child Abuse Hotline (1-855-503-SAFE (7233)). Contractor shall notify the Client’s ODHS Caseworker or designee and the ODHS Contract Administrator, either verbally or via e-mail, any time a Child Protective Services (CPS) report is made; this notification must occur within 24 hours. Examples of Critical Events requiring immediate notification include, but are not limited to, the following:
 - (1) Allegations of abuse or neglect involving a program staff or Clients in Contractor’s care;

- (2) Clients requiring emergency medical care or treatment;
 - (3) Motor vehicle accident involving a Client;
 - (4) Disturbance or evacuation of a Client (riot, bomb threat, or police response of any nature);
 - (5) Law enforcement involvement of any kind;
 - (6) Reporting of a Client who have absconded from placement or considered a runaway;
 - (7) Suicidal behavior or significant self-harm behaviors;
 - (8) Death of a Client;
 - (9) Serious injury or illness of a Client;
 - (10) Use of physical restraint;
 - (11) Act of physical aggression that results in injury;
 - (12) Damage to physical property; and
 - (13) Suspected abuse or neglect of a Client
- b.** Contractor staff shall report all incident reports to Contractor, the referring ODHS Caseworker or designee, and the ODHS Contract Administrator immediately (within one business day). Incident reports shall include:
- (1) Name of the Client;
 - (2) The OR-Kids case number;
 - (3) The ODHS Caseworker's name and branch;
 - (4) The date, time, location, and type of incident or crisis intervention;
 - (5) The duration of any physical restraints employed in the context of the incident a description of the child's activity that necessitated the use of restraint, the specific attempts to de-escalate the situation before using physical restraint and the length of time the physical restraint was applied. The report must include the time the restraint started and the time it was terminated, the debriefing completed with the staff and child involved in the physical restraint, and the documentation of a review by the executive director, program director, or designee
 - (6) Name of Contractor staff involved in the incident or crisis intervention and the names of any witnesses;
 - (7) Description of the incident or crisis intervention including the precipitating factors, preventative efforts employed, and description of the circumstance during the incident;
 - (8) Physical injuries to the Client or others resulting from the incident or crisis intervention including information regarding any follow-up medical care, treatment, or first aid applied;

- (9) Documentation showing that any necessary reports were made to the appropriate regulatory agency, any other entity required by law to be notified, the Client's ODHS Caseworker, and as applicable the Client's parent, guardian, or legal custodian;
- (10) Documentation indicating the date that a copy of the incident report was submitted to the Client's ODHS Caseworker;
- (11) Action or intervention taken by the program staff;
- (12) Any follow-up recommendations for the Client or Contractor's staff;
- (13) Any follow-up recommendations conducted by Contractor or its provider's supervisory staff, and ODHS administrative personnel; and
- (14) Contractor's review of the incident or crisis intervention.

7. Reporting Requirements:

- a. Monthly Reports.** Contractor shall submit monthly reports with each invoice that describes the following:
 - (1) The progress made with onboarding staff, development of employee training guides, and lessons learned since the last monthly report;
 - (2) The progress made on the development of curriculum, what new curriculum have been evaluated, and lessons learned since the last monthly report; and
 - (3) Information related to challenges, barriers, successes, and lessons learned since the last monthly report.
- b. Best Practice Model:** Contractor shall submit to the Contract Administrator no later than December 31, 2023 the best practice model developed by Contractor as a product of this pilot.
- c.** Beginning October 1, 2023 with the 13-week program delivery pilot, in addition to the monthly report above, Contractor shall also submit the following:
 - (1) **Monthly Reports.** Contractor shall create a monthly written report, on a form prescribed and obtained by ODHS, that describes the goals addressed during the day with each Client, a narration of what Contractor observed, the intervention Contractor offered to the Client, and Client's response to the intervention offered. Contractor shall submit monthly reports to the referring ODHS Caseworker, via email no later than the 10th day of the following month services were provided.

8. Specifications or Performance Standards. ODHS requires that the Contractor meets the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services.

EXHIBIT A

Part 2 Payment and Financial Reporting

1. Payment Provisions.

a. As consideration for the services provided by Contractor during the period specified in Section 1., **Effective Date and Duration**, of this Contract, ODHS will pay to Contractor, a maximum not-to-exceed amount as specified in Section 3., **Consideration** of this Contract, to be paid as follows:

- (1) Upon execution of this Contract, and a completed and submitted invoice, ODHS will disburse a one-time payment to Contractor for start-up costs in the amount of **\$300,000.00** to be spent pursuant to Exhibit A, Part 1, "Statement of Work", Section 4.b., "Start-up Costs".
- (2) ODHS will pay Contractor at the rate of **\$83,333.33 per month** upon ODHS' receipt and approval of Contractor's completed invoice and reporting requirements as described in Exhibit A, Part 1, "Statement of Work".

b. Contractor Invoice:

- (1) Contractor shall submit signed invoices on a form that has been created by Contractor, to ODHS' Contract Administrator, no more than monthly, at the address specified on page 1 or to any other address as ODHS may indicate in writing to Contractor. Contractor's claims to ODHS for overdue payments on invoices are subject to ORS 293.462.
- (2) Invoices must include the following information:
 - (1) Contractor name;
 - (2) Invoice number;
 - (3) Date of invoice;
 - (4) This Contract number;
 - (5) A detailed description of services performed, the dates the services were performed, all deliverables delivered during the period of the invoice, quantity of service provided if billing by unit rate, the rate or rates for the services performed, and the total cost of each service being invoiced; and
 - (6) The total amount due and the payment address.

2. **Travel and Other Expenses.** ODHS will not reimburse Contractor for any travel or additional expenses under this Contract.

EXHIBIT A

Part 3 Special Provisions

1. Confidentiality of Information.

a. Client Information:

- (1) All information as to personal facts and circumstances obtained by the Contractor on the client (“Client Information”) shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Contract. Nothing prohibits the disclosure of information in summaries, statistical, or other forms which does not identify particular individuals.
- (2) The use or disclosure of Client Information shall be limited to persons directly connected with the administration of this Contract. Confidentiality policies shall be applied to all requests from outside sources.
- (3) If Contractor, or any of its officers, directors, employees, agents, or subcontractors receives or has access to confidential Social Security Administration (SSA), or 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:
 - (a) With respect to SSA records:
 - i. Provide a current list of employees and employees of any agent or subcontractor with access to SSA records;
 - ii. Adhere to the same security requirements as employees of ODHS;
 - iii. Abide by all relevant Federal laws, restrictions on access, use, disclosure, and the security requirements contained within ODHS’ agreement with SSA;
 - iv. Provide its employees and agents the same security awareness training as ODHS employees; and
 - v. Include the provisions of this Section 1.a.(3)(a) in any subcontract.
 - (b) With respect to Federal Tax Information (FTI), as defined in IRS Publication 1075:
 - i. Contractor and its officers, directors and employees with access to, or who use FTI provided by ODHS must meet

the background check requirements defined in IRS Publication 1075;

- ii. 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;
 - iii. 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;
 - iv. No work involving FTI furnished under this Contract will be subcontracted without prior written approval of the IRS;
 - v. Maintain a list of employees who are authorized access to FTI. Such list will be provided to ODHS and, upon request, to the IRS reviewing office; and
 - vi. Include the provisions of this Section 1.a.(3)(b) in any subcontract.
- (c) 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.
- (d) Contractor may be subjected to periodic and ongoing security reviews to ensure compliance with the requirements of Section 1.a.(3).
- (4) Except as prohibited by Section 1.a.(3) above, ODHS, Contractor and any subcontractor will share information as necessary to effectively serve ODHS clients.

b. Non-Client Information:

- (1) Each Party acknowledges that it and any of its officers, directors, employees and agents may, in the course of performing its responsibilities under this Contract, be exposed to or acquire information that is confidential to the other Party. To the extent permitted by law, any and all information of any form provided to a Party or its officers, directors, employees and agents in the performance of the Contract that reasonably could at the time of its disclosure be understood to be confidential shall be deemed to be confidential information of the originating Party (“Confidential Non-Client Information”).

- (2) Confidential Non-Client Information shall be deemed not to include information that:
- (a) Is or becomes (other than by disclosure by the Party acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure;
 - (b) Is furnished by the originating Party to others without restrictions similar to those imposed on the receiving Party under this Contract;
 - (c) Is rightfully in the receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure by the originating Party under this Contract;
 - (d) Is obtained from a source other than the originating Party without the obligation of confidentiality;
 - (e) Is disclosed with the written consent of the originating Party; or
 - (f) Is independently developed by the receiving Party's officers, directors, employees and agents who can be shown to have had no access to the Confidential Non-Client Information.
- (3) Nondisclosure. The receiving Party shall hold all Confidential Non-Client Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; and shall not sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Non-Client Information to third parties; shall not use Confidential Non-Client Information for any purposes whatsoever other than as contemplated by this Contract or reasonably related thereto; and shall advise any of its officers, directors, employees and agents that receive or have access to the Confidential Non-Client Information of their obligations to keep Confidential Non-Client Information confidential. These confidentiality obligations do not restrict disclosure of information otherwise qualifying as Confidential Non-Client Information if the receiving Party can show that either of the following conditions exists: (i) the information was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, in which case the receiving Party shall notify the originating Party of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given; or (ii) the disclosure was required to respond to a request for the information made under the Oregon Public Records Law, ORS 192.311 to 192.478. The receiving Party shall notify the originating Party of a public records request five days prior to the disclosure.
- c. Upon request and pursuant to the instructions of ODHS, 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.** “Client” means any individual, family or provider:
- (1) For whom ODHS must provide Services and incidental or specialized Goods, in any combination thereof (“Services and Incidental Supplies”), according to state, federal law, rule, and policy. Those Services and Incidental Supplies include but are not limited to treatment, care, protection, and support without regard to the proximity of the services being provided;
 - (2) Who in fact receives and utilizes services provided by ODHS primarily for that individual's or family's benefit;
 - (3) Who is under the custody, care, or both of ODHS; or
 - (4) Who provides direct care or Services and is a proxy or representative of the non-provider Client.

2. Amendments.

- a.** Subject to Section 2.c. below, ODHS reserves the right to amend or extend this Contract under the following general circumstances:
- (1) ODHS may extend the Contract for additional periods of time up to a total Contract period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on ODHS’ satisfaction with performance of the work or services provided by the Contractor under this Contract.
 - (2) ODHS may periodically amend any payment rates throughout the life of the Contract proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if ODHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature. In addition, ODHS may periodically amend any payment rates throughout the life of the Contract to meet current market conditions.
- b.** ODHS further reserves the right to amend the Statement of Work for the following:
- (1) Programmatic changes, additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Contract or previous amendments to the Contract;
 - (2) Implement additional phases of the Work; or
 - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules, which, in part or in combination, govern the provision of services provided under this Contract.
- c.** Upon identification, by any party to this Contract, of any circumstance which may require an amendment to this Contract, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in

writing and be signed by all parties to the Contract before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, "Standard Terms and Conditions", Section 24. "Amendments; Waiver; Consent." of this Contract.

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

- a.** Contractor shall comply with, and cause its employees, agents and subcontractors 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: Children (ORS 419B.005 through 419B.045).
- b.** Contractor shall immediately make reports of suspected abuse of persons who are members of the classes established in Section 3.a. above to Oregon's Statewide Abuse Reporting Hotline: 1-855-503-SAFE (7233) or local law enforcement, as a requirement of this Contract. The Contractor does not need to know abuse occurred, just suspect abuse, to be required to report.
- c.** In addition to the requirements of Sections 3.a. and 3.b. above, if law enforcement is notified regarding a report of child abuse, neglect, or threat of harm, Contractor shall also notify the local referring ODHS' caseworker 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, Contractor shall also notify the local Aging and People with Disabilities Office of ODHS within 24 hours.
- d.** If known, the abuse report must 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.

4. Background Checks. Background Checks for Employees and Volunteers.

- a.** The Contractor shall ensure that all employees, volunteers and subcontractors who perform services under this Contract, or who have access to any information about clients served under this Contract, are approved by ODHS' Background Check Unit in accordance with Oregon Administrative Rules (OAR) 407-007-0200 through 407-007-0370.
- b.** In addition to potentially disqualifying conditions under OAR 407-007-0290, all employees, volunteers, and subcontractors who perform services under this Contract are subject to OAR 407-007-0290(11)(b).

- c. An employee, volunteer, or subcontractor may be hired on a preliminary basis, in accordance with the requirements and limits described in OAR 407-007-0315, prior to final approval by ODHS' Background Check Unit. An employee, volunteer, or subcontractor hired on a preliminary basis shall not have unsupervised contact with individuals receiving services under this Contract and shall only participate in the limited activities described in OAR 407-007-0315. An employee, volunteer, or subcontractor hired on a preliminary basis must be actively supervised at all times as described in OAR 407-007-0315.
 - d. Any current employee hired for a new position with the Contractor to perform services under this Contract, or any current employee, volunteer, or subcontractor who will have access to any information about clients served under this Contract must be approved by ODHS' Background Check Unit at the time the employee, volunteer, or subcontractor accepts the new position or Work. Notwithstanding the requirements of paragraph c. of this Section, a current employee or volunteer who accepts a new position with the Contractor to perform services under this Contract, may be hired for the new position on a preliminary basis without active supervision in accordance with the limits and requirements described in OAR 407-007-0315.
 - e. There are only two possible fitness determination outcomes of a background check: approval or denial. If the employee, volunteer, or subcontractor is denied, she or he may not have contact with ODHS clients under this Contract and may not have access to information about ODHS clients. Employees, volunteers, or subcontractors who are denied do have the right to contest the denial. The process for contesting a denial is described in OAR 407-007-0330.
 - f. For purposes of compliance with OAR 407-007-0200 through 407-007-0370, the Contractor is a "Qualified Entity", as that term is defined in OAR 407-007-0210, and must comply with all the provisions pertaining to Qualified Entities contained in OAR 407-007-0200 through 407-007-0370.
 - g. The criminal records check procedures listed above also apply to Contractor, its owners, managers, and board members regardless if any individual has access to ODHS clients, client information or client funds. Contractor shall establish a personal personnel file and place each criminal records check in named file for possibility of future ODHS review and shall be maintained pursuant to Exhibit B, "Standard Terms and Conditions", Section 14, "Records, Maintenance, Access."
5. **Equal Access to Services.** Contractor shall provide equal access to covered services for both males and females under 18 years of age, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270.
 6. **Media Disclosure.** The Contractor will not provide information to the media regarding a recipient of services purchased under this Contract without first consulting the ODHS office that referred the child or family. The Contractor will make immediate contact with the ODHS office when media contact occurs. The ODHS office will assist the Contractor with an appropriate follow-up response for the media.
 7. **Nondiscrimination.**

- a.** The Contractor must provide services to ODHS 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.** Contractor certifies that Contractor has a written policy and practice that meets the requirements described in ORS 279A.112 for preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material term of this Contract, to maintain such policy and practice in force during the entire Contract term.
- c.** 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 ODHS to terminate this Contract for cause.
- d.** 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.

EXHIBIT B

Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Contract 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 ODHS or any other agency or department of the State of Oregon, or both, and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Contract.
2. **Compliance with Law.** Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor and the Contract. ODHS' performance under the Contract is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein. This Section shall survive expiration or termination of this Contract.
3. **Independent Contractor.**
 - a. Contractor is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
 - b. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Contract, represents and warrants that Contractor's Work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS Chapter 244 and that no statutes, rules or regulations of the State of Oregon or federal agency for which Contractor currently performs work would prohibit Contractor's Work 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.
 - c. 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, ODHS 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 workers' compensation benefits from compensation paid to Contractor under this Contract, except as a self-employed individual.

- d. Contractor shall perform all Work as an Independent Contractor, as defined in ORS 670.600. ODHS reserves the right (i) to determine and modify the delivery schedule for the Work, and (ii) to evaluate the quality of the Work Product, however, ODHS 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 Work.

4. **Representations and Warranties.**

- a. **Contractor's Representations and Warranties.** Contractor represents and warrants to ODHS that:

- (1) Contractor has the power and authority to enter into and perform this Contract;
- (2) The obligations set forth in this Contract, when executed and delivered, shall be valid and binding obligations of the Contractor enforceable in accordance with its terms;
- (3) 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 Work in a professional manner and in accordance with the highest standards prevalent in Contractor's industry, trade or profession;
- (4) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; and
- (5) Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

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

5. **Time is of the Essence.** Contractor agrees that time is of the essence under this Contract.

6. **Funds Available and Authorized; Payments.**

- a. Contractor shall not be compensated for Work performed under this Contract by any other agency or department of the State of Oregon or the federal government. ODHS certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within ODHS' current biennial appropriation or limitation. Contractor understands and agrees that ODHS' payment for Work performed is contingent on ODHS receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.
- b. **Payment Method.** Payments under this Contract will be made by Electronic Funds Transfer (EFT). Upon request, Contractor shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Contractor shall maintain at its own expense a single financial

institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Contract. Contractor shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or the Contractor elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the Contractor shall provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any payment under this Contract until receipt of the correct EFT designation and payment information from the Contractor.

7. **Recovery of Overpayments.** IF BILLINGS UNDER THIS CONTRACT, OR UNDER ANY OTHER CONTRACT BETWEEN CONTRACTOR AND ODHS, RESULT IN PAYMENTS TO CONTRACTOR TO WHICH CONTRACTOR IS NOT ENTITLED, ODHS, AFTER GIVING WRITTEN NOTIFICATION TO CONTRACTOR, MAY WITHHOLD FROM PAYMENTS DUE TO CONTRACTOR SUCH AMOUNTS, OVER SUCH PERIODS OF TIME, AS ARE NECESSARY TO RECOVER THE AMOUNT OF THE OVERPAYMENT, UNLESS CONTRACTOR PROVIDES A WRITTEN OBJECTION WITHIN 14 CALENDAR DAYS FROM THE DATE OF THE NOTICE. ABSENT TIMELY WRITTEN OBJECTION, CONTRACTOR HEREBY REASSIGNS TO ODHS ANY RIGHT CONTRACTOR MAY HAVE TO RECEIVE SUCH PAYMENTS. IF CONTRACTOR PROVIDES A TIMELY WRITTEN OBJECTION TO ODHS' WITHHOLDING OF SUCH PAYMENTS, THE PARTIES AGREE TO CONFER IN GOOD FAITH REGARDING THE NATURE AND AMOUNT OF THE OVERPAYMENT IN DISPUTE AND THE MANNER IN WHICH THE OVERPAYMENT IS TO BE REPAID. ODHS RESERVES ITS RIGHT TO PURSUE ANY OR ALL OF THE REMEDIES AVAILABLE TO IT UNDER THIS CONTRACT AND AT LAW OR IN EQUITY INCLUDING ODHS' RIGHT TO SETOFF.

8. **Ownership of Work Product.**

- a. **Definitions.** As used in this Section 8, and elsewhere in this Contract, the following terms have the meanings set forth below:
- (1) "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Work.
 - (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than ODHS or Contractor.
 - (3) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to ODHS pursuant to the Work.
- b. **Original Works.** All Work Product created by Contractor 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 ODHS. ODHS and Contractor agree that all Work Product is "work made for

hire” of which ODHS 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,” Contractor hereby irrevocably assigns to ODHS 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 ODHS' reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in ODHS. Contractor 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 Contractor Intellectual Property, a derivative work based on Contractor Intellectual Property or a compilation that includes Contractor Intellectual Property, Contractor hereby grants to ODHS an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Contractor Intellectual Property and the pre-existing elements of the Contractor Intellectual Property employed in the Work Product, and to authorize others to do the same on ODHS' 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, Contractor shall secure on ODHS' behalf and in the name of ODHS 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 ODHS' behalf.

9. Indemnity.

- a. CONTRACTOR SHALL DEFEND (SUBJECT TO ORS CHAPTER 180), SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON AND ODHS AND THEIR OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEYS FEES, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTIVITIES OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS CONTRACT.
- b. **INDEMNITY FOR INFRINGEMENT CLAIMS.** WITHOUT LIMITING THE GENERALITY OF SECTION 9.a. ABOVE, CONTRACTOR EXPRESSLY AGREES TO DEFEND, INDEMNIFY, AND HOLD ODHS, THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, LOSSES, LIABILITIES, COSTS, EXPENSES, INCLUDING ATTORNEYS FEES, AND DAMAGES ARISING

OUT OF OR RELATED TO ANY CLAIMS THAT THE WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEMS DELIVERED TO ODHS BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR ODHS' USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY; PROVIDED, THAT THE STATE OF OREGON SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS CONTRACT.

10. Default; Remedies; Termination.

a. Default by Contractor. Contractor shall be in default under this Contract if:

- (1) Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
- (2) Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Contract and Contractor has not obtained such license or certificate within 14 calendar days after ODHS' notice or such longer period as ODHS may specify in such notice; or
- (3) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after ODHS' notice, or such longer period as ODHS may specify in such notice; or
- (4) 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.

b. ODHS' Remedies for Contractor's Default. In the event Contractor is in default under Section 10.a. above, ODHS 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:

- (1) termination of this Contract under Section 10.e.(2) below;
- (2) withholding all monies due for Work and Work Products that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;

- (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 7., “Recovery of Overpayment”, of this Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and ODHS may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Contractor was not in default under Section 10.a. above, then Contractor shall be entitled to the same remedies as if this Contract was terminated pursuant to Section 10.e.(1) below.

- c. **Default by ODHS.** ODHS shall be in default under this Contract if ODHS commits any material breach or default of any covenant, warranty, or obligation under this Contract, and such breach or default is not cured within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.
- d. **Contractor's Remedies for ODHS' Default.** In the event ODHS terminates the Contract under Section 10.e.(1) below, or in the event ODHS is in default under Section 10.c. above, and whether or not Contractor elects to exercise its right to terminate the Contract under Section 10.e.(3) below, Contractor's sole monetary remedy shall be: (i) with respect to Work 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 Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by ODHS, less previous amounts paid and any claim(s) that ODHS has against Contractor. In no event shall ODHS be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 10.d., Contractor shall immediately pay any excess to ODHS upon written demand. If Contractor does not immediately pay the excess, ODHS may recover the overpayments in accordance with Section 7., “Recovery of Overpayments”, and may pursue any other remedy that may be available to it.
- e. **Termination.**
 - (1) **ODHS' Right to Terminate at its Discretion.** At its sole discretion, ODHS may terminate this Contract:
 - (a) For its convenience upon 30 days' prior written notice by ODHS to Contractor;
 - (b) Immediately upon written notice if ODHS fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products;
 - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that ODHS' purchase of the Work or Work Products under this

Contract is prohibited, or ODHS is prohibited from paying for such Work or Work Products from the planned funding source; or

(d) Immediately upon written notice to Contractor if there is a threat to the health, safety, or welfare of any ODHS client or recipient of services under this Contract, including any Medicaid Eligible Individual, under its care.

(2) ODHS' Right to Terminate for Cause. In addition to any other rights and remedies ODHS may have under this Contract, ODHS may terminate this Contract immediately upon written notice to Contractor, or at such later date as ODHS may establish in such notice, if Contractor is in default under Section 10.a. above.

(3) Contractor's Right to Terminate for Cause. Contractor may terminate this Contract upon 30 days written notice to ODHS, or at such later date as Contractor may establish in such notice, if ODHS is in default under Section 10.c. above, and ODHS fails to cure such default within 30 calendar days after ODHS receives Contractor's notice or such longer period as Contractor may specify in such notice.

(4) Mutual Termination. The Contract may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.

(5) Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to ODHS all of ODHS' property that is in the possession or under the control of Contractor at that time. This Section 10.e.(5) survives the expiration or termination of this Contract.

(6) Effect of Termination: Upon receiving a notice of termination of this Contract, or upon issuing a notice of termination to ODHS, Contractor shall immediately cease all activities under this Contract, unless in a notice issued by ODHS, ODHS expressly directs otherwise.

11. Stop-Work Order. ODHS may, at any time, by written notice to the Contractor, require the Contractor to stop all, or any part of the work required by this Contract for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, Contractor shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the Work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, ODHS shall either:

- a. Cancel or modify the stop work order by a supplementary written notice; or
- b. Terminate the work as permitted by either the Default or the Convenience provisions of Section 10., "Default; Remedies; Termination."

If the Stop Work Order is canceled, ODHS may, after receiving and evaluating a request by the Contractor, make an adjustment in the time required to complete this Contract and the Contract price by a duly executed amendment.

12. **Limitation of Liabilities.** EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 9., "INDEMNITY", NEITHER PARTY SHALL BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS CONTRACT.
13. **Insurance.** Contractor shall maintain insurance as set forth in Exhibit C, attached hereto.
14. **Records Maintenance, Access.** Contractor shall maintain all financial records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records, books, documents, papers, plans, records of shipments and payments, and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract, in such a manner as to clearly document Contractor's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments, and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract, are collectively referred to as "Records." Contractor acknowledges and agrees that ODHS, 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 to make excerpts and transcripts. Contractor shall retain and keep accessible all Records for the longest of:
 - a. Six years following final payment and termination of this Contract;
 - 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 Contract.
15. **Information Privacy/Security/Access.** If the Work performed under this Contract requires Contractor or, when allowed, its subcontractor(s), to have access to or use of any ODHS computer system or other ODHS Information Asset for which ODHS imposes security requirements, and ODHS grants Contractor or its subcontractor(s) access to such ODHS Information Assets or Network and Information Systems, Contractor shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through 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.
16. **Force Majeure.** No party is responsible for delay or default caused by an event beyond its reasonable control. ODHS may terminate this Contract, without liability to Contractor, upon written notice after reasonably determining the delay or default reasonably prevents performance of this Contract.
17. **Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract.

18. **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 ODHS. This Contract's provisions are binding upon and inure to the benefit of the parties to this Contract and their respective successors and assigns.
19. **No Third Party Beneficiaries.** ODHS and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract 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 Contract. This Section shall survive expiration or termination of this Contract.
20. **Severability.** The parties agree that if any term or provision of this Contract 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 Contract did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Contract.
21. **Notice.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, fax, or mailing the same, postage prepaid to Contractor or ODHS 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 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 fax 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 fax 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.

ODHS: Office of Contracts & Procurement
635 Capitol Street NE, Suite 350
Salem, OR 97301
Telephone: 503-945-5818
Fax: 503-378-4324

This Section shall survive expiration or termination of this Contract.

22. **Headings.** The headings and captions to sections of this Contract have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Contract.
23. **Merger Clause.** This Contract constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, regarding this Contract not specified herein.

- 24. Amendments; Waiver; Consent.** ODHS may amend this Contract to the extent provided herein, the solicitation document, if any from which this Contract arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Contract shall bind either party unless it is in writing and signed by both parties and when required, approved by 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 Contract shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Contract.
- 25. Contractor's Failure to Perform.** Contractor's failure to perform the statement of work specified in this Contract, or to meet the performance standards established in this Contract, may result in consequences that include, but are not limited to:
- a.** Reducing or withholding payment under this Contract;
 - b.** Requiring Contractor to perform at Contractor's expense additional work necessary to perform the statement of work or meet performance standards; or
 - c.** Declaring a default of this Contract and pursuing any available remedies for default, including termination of the Contract as permitted in Section 10., "Default; Remedies; Termination", of this Contract.

EXHIBIT C

Insurance Requirements

Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to ODHS. Coverage must 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.

1. 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.

2. Commercial General Liability:

☒ **Required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State of Oregon. This insurance must 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 must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,00,000.

3. 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 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.

4. Professional Liability:

☒ **Required** ☐ **Not required**

Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per claim. Annual aggregate limit must not be less than \$2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months must be included in the Professional Liability Insurance coverage, or the Contractor shall provide Continuous Claims Made Coverage as stated below.

5. Network Security and Privacy Liability:

☐ **Required** ☒ **Not required**

Contractor shall provide Network Security and Privacy Liability Insurance for the duration of this Contract and for the period of time in which Contractor (or its business associates or subcontractor(s)) maintains, possesses, stores or has access to ODHS or client data, whichever is longer, with a combined single limit of no less than \$_____ per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of ODHS or client data (which may include, but is not limited to, Personally Identifiable Information ("PII"), Payment Card Data and Protected Health Information ("PHI")) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of ODHS data.

6. Physical Abuse and Molestation:

☐ **Required** ☒ **Not required**

Physical Abuse and Molestation Insurance in a form and with coverage that are satisfactory to ODHS covering damages arising out of actual, perceived, or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, training, investigation, reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not limited to Contractor and Contractor's employees and volunteers. Policy endorsement's definition of an insured must include the Contractor, and the Contractor's employees and volunteers. Coverage must be written on an occurrence basis in an amount of not less than \$_____ per occurrence. Any annual aggregate limit must not be less than \$_____. Coverage can be provided by a separate policy or as an endorsement to the Commercial General Liability or Professional Liability policies. The limits must be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, must be treated as a separate occurrence for each victim. Coverage must include the cost of defense and the cost of defense must be provided outside the coverage limit.

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

8. **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 services to be performed under this Contract. Coverage must be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.
9. **Waiver of Subrogation.** Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the ODHS 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 ODHS has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).
10. **Continuous Claims Made Coverage.** If any of the required insurance liability is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of:
 - (i) Contractor's completion and ODHS' acceptance of all services required under this Contract, or
 - (ii) ODHS' or Contractor's termination of this Contract, or
 - (iii) The expiration of all warranty periods provided under this Contract.
11. **Certificate(s) and Proof of Insurance.** Contractor shall provide to ODHS Certificate(s) of Insurance for all required insurance before delivering any goods and performing any services required under this Contract. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) must 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 ODHS has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.
12. **Notice of Change or Cancellation.** The Contractor or its insurer shall provide at least 30 calendar days' written notice to ODHS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

13. **Insurance Requirement Review.** Contractor agrees to periodic review of insurance requirements by ODHS under this Contract and to meet updated requirements as mutually agreed upon by Contractor and ODHS.
14. **State Acceptance.** All insurance providers are subject to ODHS acceptance. If requested by ODHS, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to ODHS' representatives responsible for verification of the insurance coverages required under this Exhibit.