



**Agreement Number 155525**

**STATE OF OREGON  
INTERGOVERNMENTAL AGREEMENT**

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

**Multnomah County  
acting by and through its Health Department  
421 SW Oak Avenue, STE 520  
Portland, OR 97204  
Attention: Neal Rotman  
Telephone: (503) 988-8219  
Facsimile: (503) 988-5870  
E-mail address: [neal.rotman@multco.us](mailto:neal.rotman@multco.us)**

hereinafter referred to as "County."

Work to be performed under this Agreement relates principally to OHA's

**Health Systems Division  
Adult Behavioral Health  
500 Summer Street NE, E86  
Salem, OR 97301  
Agreement Administrator: Michael Oyster or delegate  
Telephone: (503) 945-9813  
Facsimile: (503) 378-8467  
E-mail address: [amhcontract.administrator@state.or.us](mailto:amhcontract.administrator@state.or.us)**

**1. Effective Date and Duration.**

This Agreement, when fully executed by every party, regardless of the date of execution by every party, shall become effective on the date this Agreement has been approved by the Department of Justice or October 1, 2017, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on June 30, 2019. Agreement termination or expiration shall not extinguish or prejudice either party’s right to enforce this Agreement with respect to any default by the other party that has not been cured.

**2. Agreement Documents.**

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

- (1) Exhibit A, Part 1: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Terms and Conditions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: [Reserved]
- (7) Exhibit E: Financial Pages

This Agreement constitutes the entire agreement between the parties on the subject matter in it; there are no understandings, agreements, or representations, oral or written, regarding this Agreement that are not specified herein.

b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits, Exhibits B, A, C, and E.

c. For purposes of this Agreement, “Work” means specific work to be performed or services to be delivered by County as set forth in Exhibit A.

**3. Consideration.**

a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is as set forth in Exhibit E, “Financial Pages.” OHA will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.

b. OHA will only pay for completed Work under this Agreement, and may make interim payments as provided for in Exhibit A.

**4. Contractor or Subrecipient Determination.**

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

- County is a Subrecipient                       County is a Vendor                       Not applicable

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

**5. County Data and Certification.**

**a. County Information.** This information is requested pursuant to ORS 305.385.

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

**County Name (exactly as filed with the IRS):** \_\_\_\_\_

Street address: \_\_\_\_\_

City, state, zip code: \_\_\_\_\_

Email address: \_\_\_\_\_

Telephone: (     ) \_\_\_\_\_ Facsimile: (     ) \_\_\_\_\_

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

Workers' Compensation Insurance Company: \_\_\_\_\_

Policy #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

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

- (1) The County is in compliance with all insurance requirements of this Agreement and notwithstanding any provision to the contrary, County shall deliver to the OHA Agreement Administrator (see page 1 of this Agreement) the required Certificate(s) of Insurance within 30 days of execution of this Agreement. By certifying compliance with all insurance as required by this Agreement, County acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. County may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;
- (2) The County 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 County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County 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. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County;
- (3) The information shown in this Section 5.a., "County Information," is County's true, accurate and correct information;
- (4) To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;

- (5) County and County’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (6) County is not listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal procurement or Non-procurement Programs” found at: <https://www.sam.gov/portal/public/SAM/>;
- (7) County is not subject to backup withholding because:
  - (a) County is exempt from backup withholding;
  - (b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (c) The IRS has notified County that County is no longer subject to backup withholding; and
- (8) County Federal Employer Identification Number (FEIN) provided to OHA is true and accurate. If this information changes, County is required to provide OHA with the new FEIN within 10 days.

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

**COUNTY: YOU WILL NOT BE PAID FOR WORK PERFORMED PRIOR TO NECESSARY STATE APPROVALS.**

- 6. **Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

**Multnomah County acting by and through its Health Department**

**By:**

\_\_\_\_\_

Authorized Signature

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title

\_\_\_\_\_

Date

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

**By:**

\_\_\_\_\_

Authorized Signature

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title

\_\_\_\_\_

Date

**Approved for Legal Sufficiency:**

Approved by Jeffrey J. Wahl, Senior Assistant Attorney General, on September 12, 2017; email in Agreement file.

**OHA Program:**

Approved by Sheryl Derting for Mary Mitchell on September 08, 2017; email in Agreement file.

## EXHIBIT A

### Part 1 Statement of Work

1. **Purpose:** County shall provide Choice Model Services to Individuals who fall within the scope of Multnomah County, or who are members and Individuals assigned to County by OHA to ensure access to services consistent with the clinical needs of the Individual and the purpose of the Choice Model Services. OHA requires that the County meets the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services.
2. **Services to be provided by County shall include:** Where referenced in this Agreement, “Agreement Settlement” means OHA’s reconciliation of amounts OHA actually disbursed to County against amounts that OHA is obligated to pay to County for services provided under this Agreement. Agreement Settlement can occur following the end of a biennial period, upon termination or expiration of this Agreement. County shall provide the following.

a. Service Name: **MHS SPECIAL PROJECTS**

Service ID Code: **MHS 37**

(1) **Service Description**

MHS Special Projects (MHS 37) are Mental Health Services within the scope of ORS 430.630 delivered on a demonstration or emergency basis for a specified period of time. Each special project is specifically described in a separate Exhibit to this MHS 37 Service Description, which Exhibits are incorporated herein by this reference. When Exhibit E, “Financial Pages,” contains a line providing payments for MHS 37 Services, that line will contain a special condition specifying what special project Exhibit to this MHS 37 Service Description applies.

(2) **Performance Requirements**

See specific special project Exhibits to this MHS 37 Service Description.

(3) **Special Reporting Requirements**

See specific special project Exhibits to this MHS 37 Service Description.

(4) **Payment Calculation, Disbursement, and Agreement Settlement Procedures**

See specific special project Exhibits to this MHS 37 Service Description.

Even if the Financial Pages provide payments for MHS 37 Services, OHA shall have no obligation to make any payments or provide payments through this Agreement for any MHS 37 Services (even if payments therefore are made to County) unless a corresponding Special Project Exhibit describing the project is attached to this Service Description.

**Exhibit MHS 37 –Choice Model Services  
to MHS 37 Service Description  
MHS Special Project**

**1. For purposes of this Agreement the following definitions apply:**

- a. Acute Care Psychiatric Facility or Acute Care Psychiatric Hospital** means a hospital that provides 24 hour-a-day psychiatric, multi-disciplinary, inpatient or residential stabilization, care and treatment, for adults ages 18 years of age or older with serious psychiatric disabilities.
- b. Assertive Community Treatment (ACT)** means an evidence-based practice designed to provide comprehensive treatment and support services to Individuals with SPMI. ACT is intended to serve Individuals who have serious functional impairments and who have not responded to traditional psychiatric outpatient treatment. ACT services are provided by a single multi-disciplinary team, which typically includes a psychiatrist, a nurse, and at least two case managers, and are designed to meet the individual needs of each Individual and to help keep the Individual in the community and out of a structured service setting, such as residential or hospital care. ACT is characterized by:
  - (1) Low client to staff ratios;
  - (2) Providing services in the community rather than in the office;
  - (3) Shared caseloads among team members;
  - (4) 24-hour staff availability;
  - (5) Direct provision of all services by the team (rather than referring Individuals to other agencies); and
  - (6) Time-unlimited services.
- c. Behavioral Health Treatment** means treatment for mental illness, substance use disorders, or problem gambling.
- d. County of Responsibility (COR)** means the county in which an Individual most recently maintained a postal address, or if residence is otherwise indeterminate, the county where the Individual was last present before being transported to an acute psychiatric hospital such as where the Individual was placed on a police officer custody, director's custody or transport custody. Incarceration or placement on an involuntary hold, at OSH or a licensed 24-hour facility is not to be used to make this determination. OHA will determine COR if there is a disagreement between counties.
- e. Discharge Plan** means a written document prepared by the contractor beginning at admission and updated through the Discharge Planning process which identifies housing, treatment and other services needed to support the continuity of care necessary to maintain the Individual's stability in the community. This report shall combine information from the Individual, OSH, community providers, recovery plan, and other resources.
- f. Discharge Planning** means a process that begins upon admission to OSH or licensed residential setting and is based on the presumption that with sufficient supports and services, all Individuals can live in an integrated community setting. Discharge planning is developed and implemented through a person-centered planning process in which the Individual has a primary role in creating, and is based on principles of self-determination.

- g. **Exceptional Needs Care Coordination (ENCC)** means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs, including, but not limited to:
  - (1) Facilitating communication between the Individual, family, natural supports and community resources, involved providers and agencies;
  - (2) Organizing, facilitating and participating in interdisciplinary team meetings when the Individual is in the community;
  - (3) Participating in IDTs at OSH by collecting information and sharing Discharge Plan;
  - (4) Providing for continuity of care by creating linkages to and managing transitions between levels of care and transitions for adults with SPMI; and
  - (5) Facilitating all referrals from OSH with the goal of providing oversight and care coordination for Adults with SPMI.
- h. **Face-to-Face** means a personal interaction where both words can be heard and facial expressions can be seen in person or through telehealth services where there is a live streaming audio and video.
- i. **Home and Community-Based Services (HCBS)** means the 1915 (i) state Medicaid plan amendment that allows for the use of Medicaid funding for home-based habilitation, behavioral habilitation, and psychosocial rehabilitation services for qualified Medicaid recipients who have been diagnosed with a mental illness.
- j. **Home CCO** means enrollment in a Coordinated Care Organization (CCO) in a given service area, based upon an Individual’s most recent permanent residency, determined at the time of original eligibility determination or most current point of CCO enrollment prior to hospitalization per enrollment requirements in OAR 410-141-3060.
- k. **“Individual”** or **“Client”** means, with respect to a particular Service, any person who is enrolled in that Service, in whole or in part, with payments provided under this Agreement.
- l. **In-Reach Services** means services delivered by community-based service providers to an Individual while at the Oregon State Hospital (OSH) or acute care psychiatric hospital to:
  - (1) Maintain the Individual’s connection to ongoing services and supports;
  - (2) Assist with stabilization and discharge planning; and
  - (3) Provide transition support for Individuals determined Ready to Transfer from the OSH or determined appropriate for diversion from OSH while in an acute care psychiatric hospital.
- m. **Integrated Setting** means a setting that enables Individuals with disabilities to interact with non-disabled persons to the fullest extent possible. Integrated settings are those that provide Individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities. Integrated settings are:
  - (1) Located in mainstream society;
  - (2) Offer access to community activities and opportunities at times, frequencies and with persons of an Individual’s choosing;
  - (3) Afford Individuals choice in their daily life activities; and
  - (4) Provide Individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible.

- n. **Long-Term Psychiatric Care (LTPC)** means inpatient psychiatric services delivered in an Oregon State-operated Hospital after usual and customary care has been provided in an acute inpatient hospital psychiatric care setting and the Individual continues to require a hospital level of care.
- o. **Oregon State Hospital (OSH)** means any campus of the Oregon State Hospital system.
- p. **Peer Delivered Services** means community-based services and supports provided by peers, and Peer Support Specialists, to Individuals or family members with similar lived experience. These services are intended to support Individuals and families, to engage Individuals in ongoing treatment, and to live successfully in the community.
- q. **Ready To Transition (RTT)** means the date that, consistent with the scope of the order of commitment, OSH has determined that an Individual is no longer in need of hospital-based care as described in OAR 309-091-0035.
- r. **Recovery** means a process of change through which Individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.
- s. **Recovery Plan** means a written document created by the Individual and facilitated by a Peer Support Specialist, or an alternative as determined by the Individual, to help identify the Individual's strengths (e.g. knowledge gained from dealing with adversity, personal or professional roles, talents, personal traits) that can act as resources to the Individual and the Individual's recovery planning team in pursuing personal and treatment goals.
- t. **Serious and Persistent Mental Illness (SPMI)** means the current DSM diagnostic criteria for at least one of the following conditions, as a primary diagnosis for an adult 18 years of age or older:
  - (1) Schizophrenia and other psychotic disorders;
  - (2) Major depressive disorder;
  - (3) Bipolar disorder;
  - (4) Anxiety disorders limited to OCD (Obsessive Compulsive Disorder) and PTSD (Post Traumatic Stress Disorder);
  - (5) Schizotypal personality disorder; or
  - (6) Borderline personality disorder.
- u. **Supported Housing** means permanent housing with tenancy rights and support services that enables Individuals to attain and maintain integrated affordable housing. Support services offered to Individuals living in supported housing are flexible and are available as needed and desired, but are not mandated as a condition of obtaining tenancy. Tenants have a private and secure place to make their home, just like other members of the community, with the same rights and responsibilities. Supported housing enables Individuals with disabilities to interact with individuals without disabilities to the fullest extent possible. Supported housing is scattered site housing. To be considered supported housing under this Plan, for buildings with two or three units, no more than one unit may be used to provide supported housing for tenants with SPMI who are referred by OHA or its contractors, and for buildings or complexes with four or more units, no more than 25% of the units in a building or complex may be used to provide supported housing for tenants with SPMI who are referred by OHA or its contractors. Supported housing has no more



than two Individuals in a given apartment or house, with a private bedroom for each Individual. If two people are living together in an apartment or house, the Individuals must be able to select their own roommates. Supported housing does not include housing where providers can reject Individuals for placement due to medical needs or substance abuse history.

- v. **Voluntary by Guardian** means that an Individual’s legal guardian has signed consent for admission to an acute psychiatric facility, Oregon State Hospital, or licensed residential facility.

## 2. **Service Description**

- a. County shall provide oversight and care coordination for Adults with Serious and Persistent Mental Illness (SPMI) as follows:
  - (1) Facilitate access to quality individualized community-based services and supports so that adults with SPMI are served in the most integrated setting possible;
  - (2) Facilitate effective utilization of services and facility-based care in the community; and
  - (3) Identify anticipated capacity needs across the system and communicate with Coordinated Care Organizations (CCO), Community Mental Health Programs (CMHP), and Oregon Health Authority (OHA).
- b. The County’s service area shall align primarily with the Home CCO and when no CCO is identified or the Home CCO has multiple Choice Contractors, then the service area will align with the County of Responsibility (COR) as follows:
  - (1) Home CCO is the designated service area for Individuals who are:
    - (a) CCO enrolled members; or
    - (b) CCO members at the time of referral to Oregon State Hospital (OSH).
  - (2) COR is the designated service area for Individuals who are:
    - (a) Fee-For-Service Medicaid Eligible;
    - (b) Indigent;
    - (c) Undocumented;
    - (d) Privately insured;
    - (e) Funded through Veterans Administration; or
    - (f) Other as approved by OHA.
- c. **Eligible Service Population**
  - (1) Individuals who meet the following criteria shall be enrolled in Choice Model Services:
    - (a) Have been civilly committed and admitted to OSH under ORS Chapter 426;
    - (b) Have been civilly committed under ORS Chapter 426 and are referred to or at risk of being referred to OSH;
    - (c) Admitted to OSH under Guardian Authorization; secured or non-secure licensed residential facility as defined in ORS 443.400 including licensed programs designated specifically for young adults in transition;

- (d) Are residing in a license adult foster home as defined in ORS 443.705 due to SPMI; or
  - (e) As directed by OHA.
- (2) Individuals who, due to SPMI, meet the following criteria may be enrolled, per County's policies and procedures in Choice Model Services:
- (a) Are placed on outpatient commitment pursuant to ORS 426.127;
  - (b) Are placed in assisted outpatient treatment pursuant to ORS 426.133;
  - (c) Have transitioned from civil commitment pursuant to ORS 426.060 within the past 12 months;
  - (d) Have been found to lack fitness to proceed pursuant to ORS 161.370;
  - (e) Will end jurisdiction within the next six months or ended jurisdiction under the Psychiatric Security Review Board (PSRB) within the past 12 months;
  - (f) Have been determined service eligible through the Department of Human Services (DHS), Aging & People with Disabilities (APD) and Intellectual/Developmental Disabilities (I/DD) Divisions to support the behavioral health service needs of Individuals determined service eligible for APD or I/DD; or
  - (g) Are at risk of meeting the above criteria without supports offered through Choice Model Services.

**d. Eligible Services**

- (1) Exceptional Needs Care Coordination.
- (2) Behavioral health treatment services and supports not funded through other sources including, but not limited to:
  - (a) Medicaid;
  - (b) Medicare;
  - (c) County Financial Assistance Agreements; or
  - (d) Coordinated Care Organization Contracts.
- (3) Activities to remove barriers and facilitate access to integrated services and supports which are not funded through other sources. These activities may include, but are not limited to:
  - (a) Room and board payments;
  - (b) Rental assistance, security deposits, and application fees;
  - (c) Utility payments and deposits;
    - i. For subsections (3)(a), (3)(b), and (3)(c) above, the priority is for Individuals leaving OSH and going into Supported Housing;
  - (d) Prescription or over-the-counter medications and medical supplies not covered by Medicaid or other sources;
  - (e) Transportation;

- (f) Activities to secure and maintain Guardianship Services, including but not limited to:
    - i. Paying the costs of:
      - A. Court hearings to determine the necessity, continuation or termination of a guardianship.
      - B. Guardianship services to make decisions related to overseeing the care and supervision of an Individual.
    - ii. If guardianship is expected to continue beyond a transitional period of time (6 months or less) then other payment options should be sought in order to maintain guardianship services;
  - (g) Activities to secure and maintain representative payee services; or
  - (h) Peer Delivered Services.
- (4) Other services and supports necessary to facilitate provision of services in the most integrated setting and the prevention of admission to higher levels of care.

### 3. Performance Requirements

- a. County shall provide the following services:
  - (1) Exceptional Needs Care Coordination for Individuals enrolled in Choice Model Services to facilitate access to services in the most integrated setting appropriate to the Individual's needs and strengths, including:
    - (a) Care coordination and Discharge Planning for Individuals receiving services in licensed residential programs, even when placed outside the County's service area;
    - (b) Facilitate access to community-based rehabilitative mental health treatment services that are recovery-oriented, culturally responsive, and geographically accessible;
    - (c) Facilitate access to peer delivered services;
    - (d) Serve as the single point of contact for all referrals from OSH to Assertive Community Treatment as described in OAR 309-019-025 through 309-019-0248;
    - (e) Collaborate with acute care psychiatric hospitals to divert Individuals approved for long-term psychiatric care from admission to OSH to community-based services and supports, when indicated to be appropriate;
    - (f) Collaborate with the Department of Human Services (DSH), Aging & People with Disabilities (APD) and Intellectual/Developmental Disabilities (I/DD) Divisions to support the behavioral health service needs of Individuals determined service eligible for APT or I/DD;
    - (g) Coordinate the transition from forensic services for Individuals ending jurisdiction under the Psychiatric Security Review Board within six months and who will be enrolled in Choice Model Services;
    - (h) Coordinate the transition from forensic services for Individuals found to lack fitness to proceed pursuant to ORS 161.370 and who will be enrolled in Choice Model Services; and

- (i) Serve as a resource for community partners and service agencies in locating local community-based behavioral health treatment services and supports.
- (2) Facilitate transition for adults with SPMI out of hospital settings into the most integrated community settings by completing the following:
  - (a) Hold a face-to-face meeting with each Individual within the County's service area being referred to OSH from acute care psychiatric hospitals prior to being referred but no later than 72 hours from the date of approval for long-term psychiatric care to identify services and supports necessary for community-based stabilization, and facilitate access to those services and supports in order to divert Individuals from admission to OSH whenever possible.
  - (b) Hold a face-to-face meeting with each Individual within the County's service area who is civilly committed, and to the extent practical for Voluntary by Guardian, admitted to OSH within seven calendar days of admission.
  - (c) Participate in OSH Interdisciplinary Team (IDT) meetings for each Individual within the County's service area to update the Discharge Plan and to coordinate appropriate community-based services and supports.
  - (d) Arrange, advocate and coordinate appropriate In-Reach Services from CCOs and community providers who are delegated or identified as having responsibility for providing mental health services upon discharge.
  - (e) Facilitate development of a person-centered Discharge Plan within 30 calendar days of admission to OSH.
  - (f) Coordinate and facilitate access to community-based resources of those civilly committed at OSH to support discharge from OSH within 72 hours of being determined RTT whenever possible for Individuals with SPMI who have been civilly committed ensuring that:
    - i. By June 30, 2018, no less than 85% of Individuals shall be discharged within 25 calendar days of being determined RTT; and
    - ii. By June 30, 2019, no less than 90% of Individuals shall be discharged within 20 calendar days of being determined RTT.
    - iii. If not discharged within the above timeframe (i. and ii.) then each Individual shall be discharged no later than 60 calendar days from the date placed on RTT unless waived by OHA in writing prior to discharge.
  - (g) Collaborate with OSH to verify that entitlement enrollments (e.g. Medicaid, Medicare, SSI/SSDI) are in place and active upon discharge.
  - (h) For Individuals not enrolled in Choice Model Services, collaborate and serve as a resource to support Discharge Planning for Individuals:
    - i. Determined services eligible for APD or I/DD;
    - ii. Under the jurisdiction of ORS 161.370 to determine fitness to proceed; or
    - iii. Under the jurisdiction of the Psychiatric Security Review Board.

#### 4. **Special Reporting Requirements**

- a. County shall prepare and electronically submit to [amhcontract.administrator@state.or.us](mailto:amhcontract.administrator@state.or.us) the following written reports using forms and procedures as prescribed on OHA's website, located at <http://www.oregon.gov/oha/amh/Pages/reporting-reqs.aspx>.
- (1) A line-item budget for the term of this Agreement shall be submitted no later than 45 calendar days following execution of this Agreement to OHA for review and approval.
  - (2) Proposed policies and procedures for enrollment in Choice Model Services shall be submitted no later than 45 calendar days following execution of this Agreement to OHA for review and approval.
  - (3) Monthly Choice Model Client Status Reports shall be submitted no later than 45 calendar days following the end of each subject month during the term of the Agreement for review and approval.
  - (4) Quarterly Financial Reports shall be submitted no later than 45 calendar days following the end of each subject quarter.
  - (5) Electronic reports through the Universal ACT Referral Tracking Form as required in OAR 309-019-0248(5).
  - (6) Any other reports as mutually agreed upon between OHA and the County.
- b. Upon OHA's identification of any deficiencies in the County's performance under this Agreement, including failure to submit reports as required, failure to expend available funding, or failure to meet performance requirements, County shall prepare and submit to OHA within 30 calendar days a Corrective Action Plan (CAP) to be reviewed and approved by OHA. The CAP must include, but is not limited to, the following information:
- (1) Reason or reasons for the CAP;
  - (2) The date the CAP will become effective with timelines for implementation;
  - (3) Planned action already taken to correct the deficiencies as well as proposed resolutions to address remaining deficits identified with oversight and monitoring by OHA; and
  - (4) Proposed remedies, short of termination, should County not come into compliance within the timeframe set forth in the CAP.

#### 5. **Payment Calculation, Disbursement, and Agreement Settlement Procedures**

OHA provides payments for Exhibit MHS 37 – Choice Model Services in two different ways, through Part A and Part C payments. The payment type is set forth in Exhibit E, "Financial Pages," in column "Part ABC," in Exhibit MHS 37 lines that contain an "A" for Part A or "C" for Part C payments.

- a. The Part A payments will be calculated and disbursed as follows:
- (1) **Calculation of Payments:** Payments for this special project are intended to be general payments for Exhibit MHS 37 – Choice Model Services provided through this Agreement.

- (2) Disbursement of Payments: Unless a different disbursement method is specified in that line of the Exhibit E, “Financial Pages,” OHA will make payments for Exhibit MHS 37 – Choice Model Services provided under a particular line of the Financial Pages to County in substantially equal monthly payments during the period specified in that line of the Financial Pages, subject to the following:
- (a) OHA may, upon written request of County, adjust monthly payments;
  - (b) Upon amendment to the Financial Pages, OHA shall adjust monthly payments as necessary, to reflect changes in the funding for Exhibit MHS 37 – Choice Model Services provided under that line of the Financial Pages; and
  - (c) OHA may reduce the payments for Exhibit MHS 37 – Choice Model Services delivered under a particular line of Exhibit E, “Financial Pages,” by the amount of one month’s payment per month with missing reporting requirements in accordance with the “Special Reporting Requirements” section above. Upon County’s submission of missing reports, OHA may restore the month of payment that was removed through an Agreement Amendment.

b. The Part C payments will be calculated and disbursed as follows:

- (1) Calculation of Performance Payment: County will qualify for a performance payment at the end of each fiscal year if it was operational, as defined by serving Individuals for a minimum of 180 calendar days per fiscal year and who:
- (a) Meet required performance criteria as shown in the “Performance Requirements” section above to a substantially significant number of Individuals as determined by meeting the discharge criteria listed below of discharging Individuals as follows:
    - i. For the fiscal year ending June 30, 2018, the performance target will be determined using the time frame of January 1, 2018 through June 30, 2018.
      - A. By June 30, 2018, no less than 85% of Individuals will be discharged within 25 calendar days of being determined RTT; and
      - B. By June 30, 2019, no less than 90% if Individuals will be discharged within 20 calendar days of being determined RTT;
    - ii. For the fiscal year ending June 30, 2019, the performance target will be determined using the time frame July 1, 2018 through June 30, 2019.
      - A. 90% of Individuals will be discharged within 20 calendar days of being determined RTT.
    - iii. All reports shall be submitted in accordance with the “Reporting Requirements” section above.

- (2) Disbursement of Performance Payment: The performance payment is based on achievement of the performance criteria in accordance with the “Performance Requirements” section above. Data will be verified by the OSH Avatar system in accordance with the “Special Reporting Requirements” section above, and in alignment with the Oregon Performance Plan data collection based on the Data Specification Sheet 20 (a-e) located at: <http://www.oregon.gov/oha/HPA/CSI-BHP/Pages/Oregon-Performance-Plan.aspx>. Upon OHA’s determination that County met or exceeded the performance criteria, County may prepare and electronically submit a written invoice to [amhcontract.administrator@state.or.us](mailto:amhcontract.administrator@state.or.us) for a performance payment not to exceed the amount specified in that particular line of Exhibit E, “Financial Pages.”
- (3) Agreement Settlement: Agreement Settlement will be used to confirm implementation of the project described herein based on data properly reported in accordance with the “Special Reporting Requirements” section above.
- There is no Settlement on Performance Payments.

## **EXHIBIT A**

### **Part 2 Payment and Financial Reporting**

**1. Payment Provisions.**

OHA agrees to pay County for accomplishing the Work required by this Agreement, as described in Exhibit A, Part 1 “Statement of Work,” and Exhibit E, “Financial Pages.”

**2. Travel and Other Expenses.**

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



## **EXHIBIT A**

### **Part 3**

#### **Special Terms and Conditions**

##### **1. Confidentiality of Client Information.**

- a.** All information as to personal facts and circumstances obtained by the County 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 Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- b.** The use or disclosure of Client Information shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- c.** OHA, County and any subcontractor will share information as necessary to effectively serve OHA clients.

##### **2. Amendments.**

- a.** OHA reserves the right to amend or extend the Agreement under the following general circumstances:
  - (1)** OHA may extend the Agreement for additional periods of time up to a total Agreement 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 OHA’s satisfaction with performance of the work or services provided by the County under this Agreement.
  - (2)** OHA may periodically amend any payment rates throughout the life of the Agreement proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if OHA so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b.** OHA 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 Agreement or previous amendments to the Agreement;
  - (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 Agreement.
- c.** Upon identification, by any party to this Agreement, of any circumstance which may require an amendment to this Agreement, 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 Agreement before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 22. “Amendments,” of this Agreement.

### **3. County Requirements to Report Abuse of Certain Classes of Persons.**

- a.** County shall comply with, and cause all employees to comply with, the applicable laws for mandatory reporting of abuse for certain classes of persons in Oregon, including:
  - (1) Children (ORS 419B.005 through 419B.045);
  - (2) Elderly Persons (ORS 124.055 through 124.065);
  - (3) Residents of Long Term Care Facilities (ORS 441.630 through 441.645); and
  - (4) Adults with Mental Illness or Developmental Disabilities (ORS 430.735 through 430.743).
- b.** County shall 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), as a requirement of this Agreement.
- c.** County shall immediately report suspected child abuse, neglect or threat of harm to DHS' Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 through 419B.045). If law enforcement is notified, the County shall notify the referring DHS caseworker within 24 hours. County shall immediately contact the local DHS Child Protective Services office if questions arise as to whether or not an incident meets the definition of child abuse or neglect.
- d.** County shall report suspected abuse of the elderly or abuse of patients in a medical or care facility immediately to DHS' Aging and People with Disabilities office or to a law enforcement agency.
- e.** If known, the abuse report should contain the following:
  - (1) The name and address of the abused person and any people responsible for their 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.

## EXHIBIT B

### Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. **THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS.** Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** Both parties shall comply with laws, regulations and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and OHA, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Nothing in this Agreement shall require County or OHA to act in violation of state or federal law or the Constitution of the State of Oregon.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that County is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
  - a. County represents and warrants as follows:
    - (1) **Organization and Authority.** County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
    - (2) **Due Authorization.** The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County

may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.

- (3) Binding Obligation. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession.
- (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work.
- (6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

b. OHA represents and warrants as follows:

- (1) Organization and Authority. OHA has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
- (2) Due Authorization. The making and performance by OHA of this Agreement (a) have been duly authorized by all necessary action by OHA and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which OHA is a party or by which OHA may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by OHA of this Agreement, other than approval by the Department of Justice if required by law.
- (3) Binding Obligation. This Agreement has been duly executed and delivered by OHA and constitutes a legal, valid and binding obligation of OHA, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

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

## 5. Funds Available and Authorized Clause.

- a. The State of Oregon's payment obligations under this Agreement are conditioned upon OHA receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow OHA, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than OHA. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. OHA represents that as of the date it executes

this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.

- b. **Payment Method.** Payments under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County 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 Agreement. County shall provide this designation and information on a form provided by OHA. In the event that EFT information changes or the County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the County shall provide the changed information or designation to OHA on a OHA-approved form. OHA is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from the County.

- 6. **Recovery of Overpayments.** If billings under this Agreement, or under any other Agreement between County and OHA, result in payments to County to which County is not entitled, OHA, after giving to County written notification and an opportunity to object, may withhold from payments due to County such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if County objects to the withholding or the amount proposed to be withheld, County shall notify OHA that it wishes to engage in dispute resolution in accordance with Section 19 of this Agreement.

7. **[Reserved]**

8. **Ownership of Intellectual Property.**

- a. **Definitions.** As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:
  - (1) "County Intellectual Property" means any intellectual property owned by County and developed independently from the Work.
  - (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than OHA or County.
- b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, OHA will not own the right, title and interest in any intellectual property created or delivered by County or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that the County owns, County grants to OHA a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 8.b.(1) on OHA's behalf, and (3) sublicense to third parties the rights set forth in Section 8.b.(1).
- c. If state or federal law requires that OHA or County grant to the United States a license to any intellectual property, or if state or federal law requires that OHA or the United States own the intellectual property, then County shall execute such further documents and instruments as OHA may reasonably request in order to make any such grant or to assign

ownership in the intellectual property to the United States or OHA. To the extent that OHA becomes the owner of any intellectual property created or delivered by County in connection with the Work, OHA will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to County to use, copy, distribute, display, build upon and improve the intellectual property.

- d. County shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as OHA may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

**9. County Default.** County shall be in default under this Agreement upon the occurrence of any of the following events:

- a. County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- b. Any representation, warranty or statement made by County herein or in any documents or reports relied upon by OHA to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;
- c. County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or
- d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

**10. OHA Default.** OHA shall be in default under this Agreement upon the occurrence of any of the following events:

- a. OHA fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or
- b. Any representation, warranty or statement made by OHA herein or in any documents or reports relied upon by County to measure performance by OHA is untrue in any material respect when made.

## 11. Termination.

- a. County Termination.** County may terminate this Agreement:
- (1) For its convenience, upon at least 30 days advance written notice to OHA;
  - (2) Upon 45 days advance written notice to OHA, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;
  - (3) Upon 30 days advance written notice to OHA, if OHA is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as County may specify in the notice; or
  - (4) Immediately upon written notice to OHA, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.
- b. OHA Termination.** OHA may terminate this Agreement:
- (1) For its convenience, upon at least 30 days advance written notice to County;
  - (2) Upon 45 days advance written notice to County, if OHA does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of OHA under this Agreement, as determined by OHA in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, OHA may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces OHA's legislative authorization for expenditure of funds to such a degree that OHA will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by OHA in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;
  - (3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that OHA no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
  - (4) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as OHA may specify in the notice;
  - (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or

(6) Immediately upon written notice to County, if OHA determines that County or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.

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

**12. Effect of Termination.**

a. **Entire Agreement.**

(1) Upon termination of this Agreement, OHA shall have no further obligation to pay County under this Agreement.

(2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.

b. **Obligations and Liabilities.** Notwithstanding Section 12.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

**13. Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

**14. Insurance.** County shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

**15. Records Maintenance; Access.** County shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." County acknowledges and agrees that OHA and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

**16. Information Privacy/Security/Access.** If the Work performed under this Agreement requires County or its subcontractor(s) to have access to or use of any OHA computer system or other OHA Information Asset for which OHA imposes security requirements, and OHA grants County or its subcontractor(s) access to such OHA Information Assets or Network and Information Systems, County shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 943-014-0300 through OAR 943-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and



Information System” have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time.

17. **Force Majeure.** Neither OHA nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of OHA or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. OHA may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.
18. **Assignment of Agreement, Successors in Interest.**
  - a. County shall not assign or transfer its interest in this Agreement without prior written approval of OHA. Any such assignment or transfer, if approved, is subject to such conditions and provisions as OHA may deem necessary. No approval by OHA of any assignment or transfer of interest shall be deemed to create any obligation of OHA in addition to those set forth in the Agreement.
  - b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
19. **Alternative Dispute Resolution.** The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
20. **Subcontracts.** County shall not enter into any subcontracts for any of the Work required by this Agreement without OHA’s prior written consent. In addition to any other provisions OHA may require, County shall include in any permitted subcontract under this Agreement provisions to require that OHA will receive the benefit of subcontractor performance as if the subcontractor were the County with respect to Sections 1, 2, 3, 4, 8, 15, 16, 18, 21, and 23 of this Exhibit B. OHA’s consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.
21. **No Third Party Beneficiaries.** OHA and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that County’s performance under this Agreement is solely for the benefit of OHA to assist and enable OHA to accomplish its statutory mission. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
22. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and, when required, the Department of Justice. Such amendment, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.
23. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

24. **Survival.** Sections 1, 4, 5, 6, 8, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24, 25, 26, 28, 29, 30 and 31 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.
25. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or OHA at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day if transmission was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.
- OHA:** Office of Contracts & Procurement  
250 Winter St NE, Room 306  
Salem, OR 97301  
Telephone: 503-945-5818  
Facsimile: 503-378-4324
26. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
27. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
28. **[Reserved]**
29. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim ), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement

amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

- 30. Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.
- 31. Stop-Work Order.** OHA may, at any time, by written notice to the County, require the County to stop all, or any part of the work required by this Agreement 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, County 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, OHA 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 11. "Termination."

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

## **EXHIBIT C**

### **SUBCONTRACTOR INSURANCE**

Local Government shall require its first tier contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Local Government and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OHA. Local Government shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Local Government shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Local Government shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Local Government permit a contractor to work under a Subcontract when the Local Government is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

### **TYPES AND AMOUNTS**

#### **WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

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

#### **COMMERCIAL GENERAL LIABILITY:**

**Required**     **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the OHA. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project, or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

**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.

**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 the Subcontract by the Contractor and Contractor’s subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per occurrence. Annual aggregate limit shall 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 shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

**POLLUTION LIABILITY:**

**Required**    **Not required**

Pollution Liability Insurance covering Contractor’s liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Contractor, all arising out of the Goods delivered or Services (including transportation risk) performed under this Subcontract is required. Combined single limit per occurrence shall not be less than \$\_\_\_\_\_. Annual aggregate limit shall not be less than \$\_\_\_\_\_.

An endorsement to the Commercial General Liability or Automobile Liability policy, covering Contractor’s liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related clean-up cost incurred by the Contractor that arise from the Goods delivered or Services (including transportation risk) performed by Contractor under this Subcontract is also acceptable.

**EXCESS/UMBRELLA INSURANCE:**

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

**ADDITIONAL COVERAGE REQUIREMENTS:**

Contractor’s insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

**ADDITIONAL INSURED:**

The Commercial General Liability insurance and Automobile liability insurance required under the Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Subcontract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Contractor's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

**TAIL COVERAGE:**

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Subcontract, for a minimum of 24 months following the later of (i) Contractor's completion and Local Government's acceptance of all Services required under this Subcontract, or, (ii) The expiration of all warranty periods provided under this Subcontract.

**CERTIFICATE(S) AND PROOF OF INSURANCE:**

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

**NOTICE OF CHANGE OR CANCELLATION:**

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

**INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by OHA under this agreement and to provide updated requirements as mutually agreed upon by Contractor and Local Government.

**STATE ACCEPTANCE:**

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

**EXHIBIT D**

*[Reserved]*

## EXHIBIT E Financial Pages

### MODIFICATION INPUT REVIEW REPORT

MOD#: M0135

CONTRACT#: 155525 CONTRACTOR: MULTNOMAH COUNTY HEALTH DEPT-CHOICE

INPUT CHECKED BY: SD DATE CHECKED: 8/30/17

SE#	FUND	PROJ CODE	CPMS PROVIDER	EFFECTIVE DATES	SLOT CHANGE/TYPE	RATE	OPERATING DOLLARS	STARTUP DOLLARS	ABC	PART IV	S CLIENT	SP#
FISCAL YEAR: 2017-2018												
37	804	BASE	CHOICE CHOICE MODEL SERVICE	10/1/2017 -6/30/2018	/NA		\$1,557,839.07	\$0.00	A		1 Y	1
37	804	BASE	CHOICE CHOICE MODEL SERVICE	10/1/2017 -6/30/2018	/NA		\$81,991.53	\$0.00	C		1 Y	2
TOTAL FOR SE# 37							\$1,639,830.60	\$0.00				
TOTAL FOR 2017-2018							\$1,639,830.60	\$0.00				
FISCAL YEAR: 2018-2019												
37	804	BASE	CHOICE CHOICE MODEL SERVICE	7/1/2018 -6/30/2019	/NA		\$2,077,118.76	\$0.00	A		1 Y	1
37	804	BASE	CHOICE CHOICE MODEL SERVICE	7/1/2018 -6/30/2019	/NA		\$109,322.04	\$0.00	C		1 Y	2
TOTAL FOR SE# 37							\$2,186,440.80	\$0.00				
TOTAL FOR 2018-2019							\$2,186,440.80	\$0.00				
TOTAL FOR M0135 155525							\$3,826,271.40	\$0.00				



OREGON HEALTH AUTHORITY  
Direct Contract

CONTRACTOR: MULTNOMAH COUNTY HEALTH DEPT-CHOICE  
DATE: 08/31/2017

CONTRACT#: 155525  
AMENDMENT#: 000

REASON FOR CONTRACT/AMENDMENT:

MHS Special Projects (MHS 37) and Exhibit MHS 37 Choice Model Services, to  
MHS 37 Service Description.

SPECIAL CONDITIONS:

- 1 These payments are provided for the special project described in  
Exhibit MHS 37 - Choice Model Services.
- 2 These payments are for MHS 37 - Choice Model Services Performance  
Payments.