



## RESOLUTION 2022-009

### AUTHORIZING THE CITY MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT FOR THE WASHINGTON COUNTY OLDER ADULTS NUTRITION PROGRAM FOR PROGRAM YEARS 2022-2023

**WHEREAS**, The Older Americans Act (OAA) of 1965 established the Administration on Aging within the Department of Health, Education and Welfare and reauthorized for FY 2020-2024 through P.L. 116-131; and

**WHEREAS**, the 1972 creation of Title VII of the OAA authorized funds for a national nutrition program for the elderly and a further 1973 amendment authorized the distributions of OAA funds for multipurpose senior centers; and

**WHEREAS**, the OAA is considered to be a major vehicle for the organization and delivery of social and nutrition services to older Americans and their caregivers; and

**WHEREAS**, the July 2017 withdrawal of Meals on Wheels from administration of the Marjorie Stewart Senior Community Center ceased the utilization of OAA funds by the Marjorie Stewart Senior Community Center through the loss of Meals on Wheels involvement; and

**WHEREAS**, this Intergovernmental Agreement with Washington County will bring financial support to the City of Sherwood through the older adult nutrition program at the city-administered Marjorie Stewart Senior Community Center; and

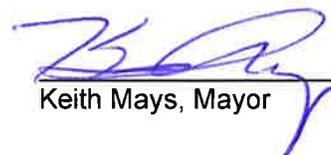
**WHEREAS**, the intergovernmental agreement for Washington County Older Adult Nutrition Services for program years 2022-2023 is attached as Exhibit A.

#### **NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

**Section 1.** The City Manager is authorized to sign an Intergovernmental Agreement for the Washington County Older Adult Nutrition Program for program years 2022-2023 in a form substantially similar to the attached Exhibit A.

**Section 2.** This Resolution shall be effective upon its approval and adoption.

**Duly passed by the City Council this 15th day of February 2022.**

  
\_\_\_\_\_  
Keith Mays, Mayor

Attest:

  
\_\_\_\_\_  
Sylvia Murphy, MMC, City Recorder



# WASHINGTON COUNTY OREGON

Contract No: \_\_\_\_\_

## SERVICES CONTRACT

This contract is between Washington County, a political subdivision of the State of Oregon (“County”), and City of Sherwood (“Contractor”).

**County and Contractor, in consideration of the mutual promises, terms and conditions provided herein, agree to the following:**

### SECTION 1 - PURPOSE AND STANDARD OF SERVICES

- 1.1 This contract sets forth the responsibilities and clarifies the relationship between the County and the Contractor.
- 1.2 All work shall be performed in a professional manner and unless the means or method of performing a task are specified elsewhere in this contract, Contractor shall employ methods that are generally accepted and used in the industry, in accordance with industry standards. County’s authorized representative shall have access to and the right to inspect the work at all times. Defective work shall be corrected at Contractor’s expense.
- 1.3 Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the work in this contract. Unless otherwise specified in this contract, Contractor shall obtain all permits necessary to perform the work. Failure to comply shall constitute a material breach of this contract.

### SECTION 2 - CONSIDERATION

- 2.1 Contractor shall perform the work described in Attachment A, in consideration for which County agrees to pay for the work in the manner as further described in this contract.
- 2.2 The maximum amount payable under this contract is \$ 196,145.00 ; unless otherwise amended. Contractor bears the risk of non-payment for services in excess of the amount stated above without prior County approval; but County reserves the right to ratify and pay for such services in its sole discretion.
- 2.3 If applicable, payments based upon hourly rates or other measurements and provisions for travel expenses are set forth and identified in Attachment A.
- 2.4 Unless otherwise stated in Attachment A, the payment terms are thirty days after invoice approval by the County Contract Administrator.

### SECTION 3 – CONTRACT TERM

- 3.1. The effective date is: January 1, 2022, or upon final signature, whichever is later.
- 3.2. The expiration date is: June 30, 2023, unless otherwise amended.

- 3.3. Passage of the contract expiration date shall not extinguish or prejudice the County's right to enforce this contract with respect to any default or defect in performance that has not been cured.

**SECTION 4 – ADDITIONAL DOCUMENTS AND ATTACHMENTS**

- 4.1 The following documents are incorporated into this contract:

- Solicitation # \_\_\_\_\_.
- Contractor's response dated \_\_\_\_\_.

- 4.2 The following Attachments are incorporated into and made a part of this contract:

- Attachment A – Statement of Work/Schedule/Payment Terms
- Attachment B - Modifications to Contract Terms and Conditions
- Attachment C – Insurance Requirements Summary Form
- Attachment D - Federal Certifications
- Attachment E – State Insurance Program Requirements
- Attachment F – Business Associate Agreement
- Attachment G – PREA Policy Agreement
- Attachment J - Catalog of Federal Domestic Assistance
- Attachment Other – Prevailing Wage Standards
- Attachment Other - Attachment B-1 Modificatons to Contract Terms
- Other - Attachment Requirements for Agreements Funded by Federal Funds

- 4.3 In the event there is a conflict between the documents comprising this contract, the following order of precedence shall apply: the terms and conditions in the body of this contract, as modified by Attachment B, Attachment C, Attachment D, Attachment E, Attachment J and Prevailing Wage Standards; Attachment A; the remaining attached items checked in section 4.2; the Solicitation; and Contractor's response.

**SECTION 5- COUNTY CONTRACT ADMINISTRATOR**

Contract Administrator Name: Bobbie Hoke

Telephone: 503-846-3046

Email: bobbie\_hoke@co.washington.or.us

Address: 155 N. 1st Ave. Mailstop: 44

City/State/ZIP: Hillsboro, OR 97124

### CONTRACT TERMS AND CONDITIONS

1. **Subcontracts and Assignment.** Contractor shall not enter into any subcontracts for any of the work required by this contract or assign or transfer any of its interest in this contract, without the prior written notice to County. County shall have 10 working days to object. The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.
2. **Third Party Beneficiaries.** County 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 unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this contract.
3. **Written Notice.** Any notice of change, termination, or other communication having a material effect on this contract shall be upon the County Contract Administrator and the Contractor Contact Person and served in one of the following manners: a) In-person delivery; or b) deposited in the U.S. Mail under certified or registered handling, postage prepaid. Except as provided in this contract, it is agreed that fifteen calendar days shall constitute reasonable notice for the exercise of any right in the event that applicable law specifically requires such notice.
4. **Governing Law/Venue/Attorney Fees.** 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 County and Contractor that arises from or relates to this contract shall be brought and conducted solely and exclusively within the Circuit Court of Washington County for the State of Oregon; provided, however, if a Claim is 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. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Each party shall be responsible for its own costs and attorney fees for any claim, action suit or proceeding, including any appeal.
5. **Remedies Cumulative.** All rights and remedies of County and Contractor shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of County according to law.
6. **Severability/Waiver.** County and Contractor 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. 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 of this contract.
7. **Public Contracting Statutes.** ORS 279B.220 through 279B.235 and 279C.500 through 279C.870, as applicable, are incorporated herein by reference.
8. **Independent Contractor.**
  - 8.1 Contractor shall perform the work required by this contract as an "Independent Contractor." Although County reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, the County cannot and will not control the means or manner of the Contractor's performance. The Contractor shall comply promptly with any requests by County relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this contract. Contractor is responsible for determining the appropriate means and manner of performing the work.
  - 8.2 Contractor represents and warrants that Contractor is not an employee of the County, is not currently employed by the Federal Government, meets the specific independent Contractor standards of ORS 670.600, and is not an "officer", "employee", or "agent" of the County, as those terms are used in ORS 30.260 et. seq.
  - 8.3 Contractor is solely responsible for payment of any federal, state or local taxes applicable to any payments paid to Contractor under this Agreement including, but not limited to, payment of the corporate activity tax imposed under HB 3427 (2019 Oregon legislative session). Contractor may not include its federal, state or local tax obligations as part of the cost to perform under this Agreement. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this Agreement.

8.4 Contractor agrees to immediately provide County notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without County's written consent, any obligation of Contractor to indemnify County for any actions under this contract.

9 **Environmentally Preferred Products/Material Safety Data Sheets.** Whenever possible, the Contractor should use environmentally preferable products which present a lesser impact to the public health and the environment than competing products. Contractor agrees, upon execution of this contract, to submit a copy of the relevant material safety data sheet(s) for any chemical substance the Contractor will bring on to the County's premises and use as part of the work described in this contract.

10. **Nondiscrimination.** No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this contract on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age, or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination or suspension in whole or in part by the County.

11. **Termination.**

11.1 This contract may be terminated under the following conditions:

- a. By mutual consent of both parties.
- b. Contractor may terminate this contract upon a material default of County; however, Contractor must provide written notice to the County Contract Administrator and provide County with thirty days to cure the default.
- c. County may at any time terminate, the whole or any part of, this contract for default if Contractor fails to perform any of the provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the County, fails to correct such failures within seven calendar days or such other period as the County may authorize or require.
- d. County may terminate this contract immediately upon declaration of bankruptcy by Contractor or Contractor is taken into receivership.

11.2 Upon receiving a notice of termination issued by County, Contractor shall immediately cease all activities under this contract, unless expressly directed otherwise by County in the notice of termination.

11.3 In the event the Board of Commissioners of Washington County reduces, changes, eliminates, or otherwise modifies the funding for this contract, or if funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services, then County may terminate this contract, in whole or in part, effective upon delivery of written notice to the Contractor, or at such later date as may be established by the County, and Contractor agrees to abide by any such decision.

11.4 In addition to its other rights to terminate, either party may terminate this Agreement, in whole or in part, for convenience upon thirty days' prior notice to the other party. During this thirty-day period, each party shall wind down and cease its services as quickly and efficiently as possible, without performing unnecessary services or activities and by minimizing negative effects on the other party from such winding down and cessation of services.

11.5 The rights and remedies of each party provided in this section, are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

11.6 If this Agreement is terminated under subsections 11.3 or 11.4, County shall be liable only for payment in accordance with the terms of this contract for services satisfactorily rendered prior to the effective date of termination.

11.7 Upon termination, Contractor shall deliver to County all contract documents, information, works-in-progress, and other property that are or would be deliverables had the contract been completed.

12. **Time is of the essence.** Time is of the essence in Contractor's performance of each and every obligation and duty under this contract

13. **Force Majeure.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this contract.
14. **Compliance with Applicable Law.** Contractor and its subcontractor(s) shall comply with all federal, state, and local laws and ordinances applicable to the work performed under this contract including, but not limited to the following, as applicable: Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (Pub L No. 101-336), ORS 659A.142 and all regulations and administrative rules established pursuant to those laws; and all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
15. **Contractor Certification Regarding Debarment, Suspension, Proposed Debarment and other Responsibility Matters.** The Contractor certifies to the best of its knowledge and belief that neither it nor any of its principals:
  - 15.1 Are presently debarred, suspended, proposed for debarment, or declared ineligible from submitting bids or proposals by any federal, state or local entity, department or agency;
  - 15.2 Have within a three-year period preceding this offer, been convicted or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performance of a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, tax evasion, or receiving stolen property;
  - 15.3 Are presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph 15.2 of this certification;
  - 15.4 Have within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal, state or local public agency.
  - 15.5 Are on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>
  - 15.6 Are out of compliance with the tax laws of Oregon and all tax laws of political subdivisions of the State of Oregon, including, but not limited to, ORS 305.620 and ORS chapters 316, 317 and 318. Washington County may terminate the contract if contractor fails to comply with any tax laws during the term of the contract.
16. **Oregon Registration.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this contract.
17. **Use of County Facilities.** Contractor and its employees or agents shall have the right to use only those facilities of County that are necessary to perform the services under this contract and shall have no right of access to any facility of the County without prior approval of County management. County shall have no responsibility for the loss, theft, mysterious disappearance of or damage to equipment, tools, materials, supplies, and other personal property of Contractor or its employees, subcontractors or agents which may be stored on County premises.
18. **Counterparts.** This contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.
19. **Warranties.** Contractor represents and warrants to County that: (a) Contractor has the power and authority to enter into and perform the contract, (b) the contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, and (c) Contractor's performance under the contract shall be in a good and workmanlike manner and in accordance with the professional standards.
20. **Records.** Contractor shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that County and its duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the Contractor that are pertinent to this contract for the purpose of making audits, examinations,

excerpts, copies and transcriptions. In addition, Contractor shall permit authorized representatives of the County to perform site reviews for all Services Delivered by Contractor. All such fiscal records, books, documents, papers, plans, and writing shall be retained by Contractor and kept accessible for a minimum of three years, except as required longer by law, following final payment and termination of this contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this contract, whichever date is later. All subcontracts shall also comply with these provisions. If OMB Circular A-133 is applicable to this Agreement, then Contractor shall supply County with Contractor's DUNS Number.

21. **Work Product.** All work products of the Contractor which result from this contract ("the work products"), except material previously and mutually identified as confidential or proprietary, shall be provided to County upon request and shall be considered the exclusive property of the County. In addition, if any of the work products contain intellectual property of the Contractor that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Contractor hereby grants County a perpetual, royalty-free, fully paid-up, nonexclusive and irrevocable license to copy, reproduce, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so. Such work products include, but are not limited to: databases, templates, file formats, scripts, links, procedures, materials, training manuals and other training materials, specially created key commands, and any other information, designs, plans, or works provided or delivered to the County or produced by Contractor under this contract.
22. **County Policies.** During the performance of this contract, Contractor shall follow County's Affirmative Action Program which is to promote the objectives of the Equal Opportunity Commission's guidelines as set forth in the Equal Opportunity Act of 1972, Oregon State Laws, legal mandates, and Presidential Executive Order 11246 entitled Equal Employment Opportunity as amended by Executive Order 11375 and as supplemented in Department of Labor Regulation 41 CFR part 60. Contractor shall also follow the County Workplace Discrimination, Harassment and Retaliation Prevention Policy, Workplace Violence Prevention Policy, Smoke Free Campus Policy and Personal Information Protection Policy. All subcontracts shall also comply with these provisions.
23. **Indemnification and Hold Harmless.** Contractor shall defend, indemnify and hold harmless the County, its agents, officers, elected officials and employees from and against all claims, demands and judgments (including attorney fees) made or recovered against them including, but not limited to, damages to real or tangible property or for bodily injury or death to any person, arising out of, or in connection with this contract, to the extent such damage, injury or death is caused or sustained in connection with the negligent performance or willful misconduct of Contractor, or its employee, agents or subcontractors. The County agrees to promptly notify Contractor in writing of any such claim or demand to indemnify and agrees to cooperate with Contractor in a reasonable manner to facilitate the defense of such claim.
24. **Insurance.** Contractor shall provide insurance coverage and limits as described in the Attachment C Insurance Requirements Summary Form.
25. **Survival.** The terms, conditions, representations, and all warranties contained in this contract shall survive the termination or expiration of this contract.
26. **Amendment.** This contract may only be amended by a written amendment signed by authorized agents of both parties.
27. **Protecting the Federal Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.** The Federal Government suspends or debar Contractors to protect the Federal Government's interests. The Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so. The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000 to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government. A corporate officer or a designee of the Contractor shall notify the Contract Administrator, in writing, before entering into a subcontract with a party that is debarred, suspended or proposed for debarment.
28. **Security of Information**
  - 28.1 The County is required to notify its customers if any electronically stored information or written document that contains personal information has been subject to a security breach. Any Contractor of the County who becomes aware of any potential breach of a document or electronic file containing personal information of client of the County will immediately notify the Contract Administrator, who will work with the County Public Information Officer to notify the affected persons. A breach occurs when any unauthorized individual or entity gains access to personal information or when unintended disclosure of personal information is made, for example loss or theft of a electronic device containing personal information, loss or theft of a paper document

containing personal information, unauthorized access to a network containing personal information, or a document containing personal information being sent to the wrong address.

- 28.2** No County Contractor will print a person's full Social Security Number (SSN) on any document that will be sent through the mail, without a written request from the person whose SSN will be printed on the document, except as required by law. The Contractor will use only the last 4 digits of a SSN on all documents unless there is a compelling business reason to use the entire SSN. If a document contains a full SSN, the Contractor will take steps to protect the document from unauthorized disclosure. Contractors will not provide copies of a document containing a full SSN to anyone other than the person whose SSN is listed on the document, except as allowed by State or Federal law. The Contractor may provide a copy of a document to a third party with the SSN redacted if the document is otherwise allowed to be released. No Contractor will publicly post or display a document containing a full SSN.
- 28.3** Any County Contractor that collects personal information must develop, implement and maintain reasonable safeguards to protect the security and confidentiality of the information. Employees of the Contractor with access to personal information must take reasonable steps to prevent a breach of the information. Reasonable steps include locking file cabinets, monitoring who has access to areas containing personal information, locking computer workstations if leaving the area, and maintaining physical control over files, computer workstations, thumb drives, cds or other media which contains personal information. Contractors must also ensure the proper disposal of documents or other media which contains personal information. Contracting with a document shredding company will be considered proper disposal of paper documents. The Contractor will be responsible for properly disposing of or erasing electronically stored personal information on hard drives, CDs, thumb drives or other devices under their control.
- 29. Performance Standards.** Unless the Contractor is providing architectural, engineering, photogrammetric mapping, transportation planning or land surveying services or related services, as defined in ORS 279C.100, the Contractor must meet the established industry or business performance standards most closely involved in providing the goods or services.
- 30. Remedies.** The consequences of the Contractor's failure to perform the scope of work or to meet the performance standards established by this contract may include, but are not limited to:
- a. Reducing or withholding payment;
  - b. Requiring the Contractor to perform, at the Contractor's expense, additional work necessary to perform the identified scope of work or meet the established performance standards; and
  - c. Declaring a default, terminating the contract and seeking damages and other relief available under the terms of the contract or other applicable law.
- 31. Whole Contract.** THIS CONTRACT CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE CONTRACT BETWEEN THE PARTIES RELEVANT TO THE PURPOSE DESCRIBED HEREIN AND SUPERSEDES ALL PRIOR AGREEMENTS OR PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATION BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS CONTRACT

**SECTION 6 – SIGNATURES**

**FOR CONTRACTOR:**

**By my signature below, I certify that I am authorized to execute this contract on behalf of Contractor.**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Signatory Name

\_\_\_\_\_  
Title

Business Name or DBA(Check Payable to): City of Sherwood

Address: 22560 SW Pine Street

City, State, Zip: Sherwood, OR 97140

Email: CampbellK@SherwoodOregon.gov

CCB Number and/or DUNS Number (if applicable): 055329502

**Contractor Contact Person:**

Contractor Contact Person: Keith D. Campbell Phone: 503-625-4200

Contractor Contact Email: CampbellK@SherwoodOregon.gov

**FOR COUNTY:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Signatory Title

# **ATTACHMENT “A”**

## **ATTACHMENT “A”**

### **Statement of Work/ Payment Terms**

#### **1.0 Statement of Work**

Contractor shall provide Congregate Meals and Site Management at minimum once daily, five days per week to persons who are 60 years of age or older or under 60 with an Alzheimer's or related dementia. Contractor may provide other sources of older adult nutrition such as grab and go, or home delivered meals during the COVID-19 pandemic and during the recovery period until it is safe to reopen the congregate meal site.

#### **1.1 Nutrition Programs Service Description**

Contractor will provide a variety of meal options and services for congregate meal clients which meet the diversity of needs, preferences, and identified health and nutritional needs of Washington County residents. Contractor will provide hot meals or appropriate alternatives at each meal.

#### **1.2 Designated Meal Sites**

Contractor shall provide service and meal site management of one congregate site, established in: Washington County.

##### **1.2.1 Closures**

Contractor shall notify County five (5) working days in advance of any change in operating hours, temporary closure, or relocation of the meal site. In the case of unanticipated closures, Contractor shall immediately notify County.

##### **1.2.2 Pandemic Response**

Contractor may provide other sources of older adult nutrition such as grab and go, or home delivered meals during the COVID-19 pandemic and during the recovery period until it is safe to reopen congregate meal sites. Once congregate meal sites fully reopen, County encourages contractor to serve as many meals on site as possible.

#### **1.3 OAA Congregate Eligibility Criteria**

The congregate program is designed to help increase the nutrient intake and to prevent health deterioration and social isolation of participants.

**1.3.1** Congregate meals will be available to persons who are 60 years of age or older, and their spouses, regardless of age, and to individuals with disabilities who reside at home with and accompany older individuals.

**1.3.2** Congregate meals may also be made available to disabled persons under 60 years of age who reside in housing facilities where congregate meals are served, and which are primarily occupied by persons age 60 and older.

**1.3.3** Area agencies on aging (AAA's) have the authority to establish procedures that allow the option to offer a meal, on the same basis as meals provided to

# ATTACHMENT “A”

participating older individuals, to volunteers, regardless of age, who provide volunteer services during meal hours per OAA Section 339 (2)(H).

## **1.4 Choosing a Site**

Contractor is responsible for finding an appropriate congregate meal site where food can be prepared and from where food can be served. The site also needs to have plenty of space for tables, chairs, and activities.

## **1.5 Site Management**

Site management is important to the success of a comprehensive, safe and vital meal program. A successful program should include, but is not limited to, these components:

- a. Staffing: To be knowledgeable of the aging network system and services, sensitive to aging issues and competent in food service management.
- b. Programming: To provide interactions that meet client interests and needs.
- c. Services Referral: To help clients become familiar with community resources.
- d. Outreach to the Community: To create public awareness of the meal program and other available services.
- e. Volunteer Opportunities: To provide a volunteer program that cultivates purposeful and responsible involvement.
- f. Administrative: To provide consistent and accurate required reporting, monitoring of budget and fundraising activities, and other duties as needed.
- g. Accessibility: Be ADA compliant, have good parking, access to transportation, be easily visible and open to the public, have acoustics that support individual and group conversations, have accessible bathrooms, and be in a safe and well-maintained location.
- h. Inclusion: Provide a welcoming atmosphere that downplays institutionalization, has adequate lighting, be conveniently located to focus populations, have exterior and interior signage in multiple languages, have ground rules and operating agreement, and have a policy to address bias and discrimination.

### **1.5.1 Food Service, Sanitation, and Safety**

Contractor shall comply with all applicable federal, state and local code regulations relating to the public health, safety, and welfare of food preparation as required in all stages of food service operation.

### **1.5.2 Criminal History Checks**

Contractor shall comply with OAR 407-007-200 through OAR 407-007-0370, OAR 407.007, ORS 181a.195 through 181a.200, and ORS 443.004 pertaining to Criminal Records and Abuse Checks and will conduct background checks for all employees and volunteers.

### **1.5.3 Participant Input**

Contractor will establish a means of soliciting participant input on appropriate matters relating to Congregate Program services. Information may be obtained through focus groups, advisory councils, suggestion boxes, or surveys. Suggestions may come from food production staff, site managers, home-

# ATTACHMENT "A"

delivered meal drivers, and food purveyors. Contractor will develop a procedure for addressing and documenting this input, inform County of incident reports which may involve the County, and provide annual survey results to county.

## **1.5.4. Washington County Partnership**

Contractor will include Washington County logo or name in appropriate marketing materials, indicating support by County. This includes website, newsletters, fundraisers, and center promotional signage.

## **1.6 Food and Menu Planning**

Oregon State Community Services and Supports Unit (CSSU) encourages every attempt to include the key nutrients and recommendations that influence chronic disease and the health of older Oregonians when developing menus for the senior nutrition programs. Oregon CSSU also acknowledges that a number of variables affect the ability to fulfill all nutrient requirements.

### **1.6.1 Provision of Food**

Contractor has the option of either cooking their own meals on site or contracting with a restaurant(s). If contractor uses restaurant(s), then contractor will be responsible for locating, and contracting with, the restaurant(s) to provide nutritionally and culturally appropriate meals for consumers participating in the congregate meal program. Contractor shall ensure that their kitchen or the restaurant(s) follow applicable federal, state and local code and regulations relating to the public health, safety, and welfare of food preparation as required in all stages of food service operation. Contractor shall ensure that all meals served meet OAA and Oregon Nutrition Standards.

### **1.6.2 Nutritionally Appropriate Meals**

Menu standards are developed to sustain and improve client's health through the provision of safe and nutritious meals using specific guidelines, which must be considered in menu planning. To help ensure that menus will address the nutritional needs of the older adult, menu planning should be designed to:

- a. Include a variety of foods, especially fruits, vegetables, and whole grains.
- b. Avoid too much total fat, saturated fat, trans fat and cholesterol. Encourage mono and poly unsaturated fats.
- c. Include foods with adequate complex carbohydrates and fiber. Avoid too much refined carbohydrates and added sugars.
- d. Encourage nutrient dense foods.
- e. Avoid too much sodium by using salt free herbs and spices, cooking from scratch, and utilizing less processed and manufactured foods.
- f. Provide an appropriate number of calories to help maintain ideal body weight.

### **1.6.3 Culturally Appropriate Meals**

Culturally appropriate meals will provide nutrition in accordance with OAA and Oregon Nutrition Standards while adhering to traditional seasonings, cooking

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styles, food choices and religious preferences that are suitable for the communities served.

## **1.7 NAPIS Documentation and Reporting**

Contractor will make every effort to obtain the minimum required NAPIS data, which includes the OAA Nutrition Risk from each meal site participant and submit NAPIS intake forms for new meal site participants to County monthly.

**1.7.1** The NAPIS data should be updated annually on each participant. Clients who decline to provide NAPIS data may not be denied service.

**1.7.2** Contractor shall work with County to ensure all reporting requirements requested at the County, State and Federal level are met.

## **1.8 Meal Donations**

Voluntary contributions shall be allowed and may be solicited if the method of solicitation is non-coercive OAA Section 315(b)(1). The AAA and service providers shall not deny services to any individual who does not contribute to the cost of the service, nor conduct means testing to determine eligibility OAA Section 315(b)(3).

A clearly visible and easy-to-read sign may be posted near the entrance and/or the sign-in area stating the actual cost of the meal, suggested donation and statement that meal recipients under 60 must pay the full cost of the meal.

Volunteers offered the option of a meal on the same basis as meals provided to participating older individuals, should be encouraged to donate towards the cost of their meal.

### **1.8.1. Donations for Congregate Programs**

Contractor will develop a strategy that allows meal participants an opportunity to voluntarily contribute to the cost of the service while protecting the privacy and confidentiality of each participant with respect to whether a contribution was made or not made. Contractor shall set up and maintain confidential donation containers in congregate dining sites to ensure donations remain confidential. Supplemental Nutrition Assistance Program (SNAP) benefits may also be used as donations. Nutrition providers shall clearly inform each meal participant that there is no obligation to contribute and that the contribution for congregate meal(s) is purely voluntary. OAA Section 314(b)(4)(B-C).

## **1.9 Emergency Planning**

Contractor shall have a written emergency plan which describes their organization's actions should an emergency happen at the congregate meal site or in case of site closures due to inclement weather, natural disasters, or other emergency situations. Contractor will provide County with a copy of their emergency planning document annually (every July) for review. The emergency plan shall include, but is not limited to,

## ATTACHMENT "A"

a procedure for contacting emergency services if needed, a plan to communicate with participants in case of closure, and a plan to communicate emergencies/closures to the County.

**1.9.1** Congregate meal participants shall be advised to keep an emergency food shelf at home in case of inclement weather that prevents travel to the congregate site or other such emergencies.

### **2.0 Payment Terms**

Contractor agrees to provide said services to the County and County agrees to compensate Contractor for services rendered. **Said fees for entire contract term January 1, 2022 – June 30, 2023 are not to exceed (NTE) \$196,145.00.**

**For January 1, 2022 – June 30, 2022 total amount contractor can invoice is \$67,145.00.**

<b>OAA C1</b>	<b>\$ 10,145.00</b>
<b>County ARPA</b>	<b>\$ 57,000.00</b>
<b>Total</b>	<b>\$ 67,145.00</b>

**For July 1, 2022 – June 30, 2023 total amount contractor can invoice is \$124,000.00**

<b>OAA C1</b>	<b>\$ 45,000.00</b>
<b>OAA ARPA C1</b>	<b>\$ 79,000.00</b>
<b>Total</b>	<b>\$124,000.00</b>

**2.0.1** Contractor is awarded an additional **\$5,000.00** total to be invoiced for safety and compliance expenses upon reopening of the congregate meal site. Examples of eligible expenditures are PPE, hand sanitizer, sanitizing wipes, etc. These funds are to be billed to the County as they are used for purchasing safety and compliance items. Invoiced expenditures for safety and compliance funds must include receipts and/or documentation of purchases.

**2.0.2** These amounts may vary as a result of future funding. There is no guarantee that the total available funding will be awarded. Number of meals served, and individual needs of participants will affect funding. Program income will be collected by the contractor and reinvested into the nutrition program.

**2.0.3** Contract is funded through State of Oregon/DHS IGA #171495, Older Americans Act Title III C1 funds and OAA ARPA funds which both fall under CFDA #93.045, and through County ARPA dollars with a CFDA #21.027.

**2.0.4** Contractor shall submit monthly invoices based on actual nutrition service costs incurred and on administrative costs but each monthly invoice shall not be for more than 1/6 of the total amount for January 1, 2022 – June 30, 2022 or for more than 1/12 of the total amount for July 1, 2022 – June 30, 2023.

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**2.0.5** Meal funds shall be paid by the County to the Contractor as a per meal reimbursement rate of \$8.00. Contractor is allowed to bill for administrative costs on top of the \$8.00 per meal rate. However, administrative costs shall not exceed 20% of total meal cost per invoice period. For example, if contractor bills \$4000 per month for meals, they cannot bill for more than \$800 in admin costs for that same month. Administrative costs are to include space rent, staff time, technology, mileage, etc.

**2.0.6** Older Americans Act (OAA) rules stipulate that OAA III C-1 and OAA ARPA C1 shall comprise no more than 85% of Nutrition Program funding. Contractor must match all OAA funds, cash or in-kind, by a multiplier of .1182. County agrees to accept monthly documented volunteer hours for required OAA in-kind match. Also, any administrative costs not covered by the allowed 20% can be used to meet the in-kind requirements of the OAA. No match is required of County ARPA funding.

**2.07** Invoices and supportive billing documentation shall be sent to County in one of three ways:

By Mail to:

Washington County DAVS  
Attention: Accounts Payable  
155 N. First Ave., MS 44  
Hillsboro, OR 97124

Or by fax to:  
503-846-3065

Or by secure email to:  
davsinfo@co.washington.or.us

**2.1 Monthly Statements**

Contractor agrees to submit a completed monthly invoice to County by the 15th of the following month on a form provided by or approved by County. County agrees to make payments to Contractor on a Net 30-day basis of date in which invoice was received unless pre-payment arrangements have been negotiated.

**2.2 Records, Reporting, and Administrative Requirements**

The Older Americans Act Section 307(a)(7)(A) requires assurance of fiscal control and fund accounting procedures to ensure proper disbursement of, and accounting for, federal funds paid to contract or grant recipients. Contractor shall adhere to the required methodologies as outlined in the OAA, as stated in the Oregon Congregate and Home-Delivered Nutrition Program Standards.

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**2.2.1** Contractor will establish a record and reporting system to compile program and fiscal information to facilitate internal and external monitoring and evaluation.  
Contractor will submit monthly reports to County in a format agreed to by County.

**2.3 Fiscal Audits**

Contractor will comply 2 CFR part 200 subpart F audit requirements and will provide audit report to County annually.



## ATTACHMENT B

### MODIFICATION(S) TO STANDARD TERMS AND CONDITIONS

The following sections of the Standard Contract Terms and Conditions are modified as follows:

The Standard Contract Terms and Conditions are modified as follows:

**32. Use of Funds and Compliance with the ARPA Act.** Contractor understands and agrees funds provided under this Contract are an allocation from the American Rescue Plan (“ARPA”), signed into law on March 11, 2021 and Coronavirus State and Local Fiscal Recovery Funds (“Fiscal Recovery Funds”). Contractor understands and agrees that any services provided by this Contract will adhere to official federal guidance issued or to be issued as to what constitutes a necessary expenditure. Contractor has reviewed the guidance established by the U.S. Department of the Treasury and warrants and represents that all services and expenditures will meet the required guidance. Contractor agrees it will not use Fiscal Recovery Funds for services or expenditures not provided between March 3, 2021 and December 31, 2024 and Fiscal Recovery Funds not expended by December 31, 2026 shall be returned to the County.

**33. Fund Record Keeping.** Contractor shall keep records and retain documentation of all services provided and all uses of the Fiscal Recovery Funds, including but not limited to invoices and/or sales receipts, as may be applicable, in a manner consistent with §200.333 *Retention requirements for records of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Such documentation shall be produced to the County upon request and may be subject to audit.

**34. Disbursements Remain Subject to Recovery.** All disbursements and payments under this Agreement, remain subject to recovery from Contractor, in accordance with Recovery of Funding section below:

**34.1 Notice of Underexpenditure, Overexpenditure, or Misexpenditure.** If County finds there has been an underexpenditure, overexpenditure or misexpenditure of moneys disbursed under this Agreement, County shall provide Contractor with written notice thereof, with a detailed spreadsheet providing supporting data of an under, over or misexpenditure, and County and Contractor shall engage in the process described in the Recovery of Underexpenditure, Overexpenditure or Misexpenditure section below.

**34.2 Recovery of Underexpenditure, Overexpenditure or Misexpenditure.**

(a) Contractor’s Response. Contractor shall have 90 calendar days from the effective date of the notice of underexpenditure, overexpenditure or misexpenditure or from the date of receipt of the notice, whichever is later, to pay County in full or notify County that it wishes to engage in the appeals process set forth in the Appeals Process section below. If Contractor fails to respond within that 90 calendar-day time period, Contractor shall promptly pay the noticed underexpenditure, overexpenditure or misexpenditure.

(b) Appeals Process. Upon receipt of the final notice, if Contractor notifies County that it wishes to engage in the Appeals Process, Contractor and County shall engage in non-binding discussions to give the Contractor an opportunity to present reasons why it believes that there was no underexpenditure, overexpenditure or misexpenditure, or that the amount of the underexpenditure, overexpenditure or misexpenditure was different than the amount identified by County, and to give County the opportunity to

reconsider its notice. Contractor and County may negotiate an appropriate apportionment of responsibility for the repayment of an underexpenditure, overexpenditure or misexpenditure. At Contractor request, County will meet and negotiate with Contractor in good faith concerning appropriate apportionment of responsibility for repayment of an underexpenditure, overexpenditure or misexpenditure. In determining an appropriate apportionment of responsibility, Contractor and County may consider any relevant factors. An example of a relevant factor is the extent to which either party contributed to an interpretation of a statute, regulation or rule prior to the expenditure that was officially reinterpreted after the expenditure. If County and Contractor reach agreement on the amount owed to County, Contractor shall promptly repay that amount to County by issuing payment to County. If County and Contractor are unable to agree to whether there has been an underexpenditure, overexpenditure or misexpenditure or as to the amount owed, the parties may agree to consider further appropriate dispute resolution processes, including mediation and arbitration.



## **ATTACHMENT B-1**

### MODIFICATION(S) TO STANDARD TERMS AND CONDITIONS

The following sections of the Standard Contract Terms and Conditions are modified as follows:

Section 23 is replaced with the following:

**23. Indemnification and Hold Harmless.**

Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party



## ATTACHMENT C

### INSURANCE REQUIREMENTS SUMMARY FORM

Contractor shall provide insurance coverage and limits as described below. All insurance carried by Contractor must be primary to and non-contributory with any insurance, including any self-insurance carried by the County. A waiver of subrogation in favor of the County shall be required on General Liability, Worker's Compensation and Automobile Liability coverage.

**It is strongly advised that contractors give this information to their insurance agent to verify that all requirements can be met.**

1. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Contractor shall at all times carry a Commercial General Liability insurance policy for Bodily Injury, Property Damage, and Personal Injury. This insurance shall include contractual liability coverage for the indemnity provided under this contract. The policy shall name Washington County, its agents, officers, elected officials and employees, as an **ADDITIONAL INSURED by separate endorsement.**

Not Required.

**COMMERCIAL GENERAL LIABILITY INSURANCE** with limits of not less than:

\$500,000 / \$1,000,000

\$1,000,000/\$2,000,000

\$2,000,000 / \$4,000,000

Other: \$ \_\_\_\_\_ each occurrence / aggregate for Bodily Injury and Property Damage.

**ADDITIONAL INSURED ENDORSEMENT** not required.

2. **AUTOMOBILE LIABILITY INSURANCE.** Contractor shall at all times carry Automobile Liability Insurance for Bodily Injury and Property Damage for Contractor's vehicles, whether owned, hired, or non-owned, which includes coverage for Washington County, its agents, officers, elected officials and employees.

Not required.

**AUTOMOBILE LIABILITY INSURANCE** with a combined single limit per accident, or the equivalent of not less than:

\$1,000,000

\$2,000,000

Other: \$ \_\_\_\_\_ each accident for Bodily Injury and Property Damage for Contractor's vehicles whether owned, hired, or non-owned.

No requirement in excess of that required under state law.

Automobile Liability Additional Insured Endorsement is not required.

3. **PROFESSIONAL LIABILITY INSURANCE** Contractor shall at all times carry a Professional Liability/Errors and Omissions type insurance policy.

Not required.

**PROFESSIONAL LIABILITY INSURANCE** with limits of not less than:

\$1,000,000/\$2,000,000

\$1,000,000/\$3,000,000

\$2,000,000/\$4,000,000

Other: \$ \_\_\_\_\_ each occurrence (or each claim if coverage is afforded on a claims made basis)/aggregate to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract.

4.  **WORKERS' COMPENSATION INSURANCE.** Contractor shall comply with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. No Workers' Compensation Insurance has been or will be obtained by the County for Contractor or Contractor's employees and subcontractors. Contractor shall provide and maintain workers' compensation coverage for its employees, officers, agents or partners as required by applicable workers' compensation laws including employers' liability with limits not less than \$500,000/ \$500,000/ \$500,000.

OTHER: \$ \_\_\_\_\_

5. **OTHER COVERAGE(S) REQUIRED**

A.  **POLLUTION OR ASBESTOS LIABILITY INSURANCE** with limits of not less than

\$1,000,000

Other: \$ \_\_\_\_\_ each occurrence (or each claim if coverage is afforded on a claims made basis)

AND

\$1,000,000

Other: \$ \_\_\_\_\_ in the annual aggregate to cover damages due to Bodily Injury, Property Damage and Environmental Damage resulting from "sudden accidental" or "gradual" pollution and related cleanup costs.

B.  **EMPLOYEE DISHONESTY AND MONEY AND SECURITIES** with a limit of not less than \$ \_\_\_\_\_ each occurrence to cover Theft, Disappearance and Destruction of cash or negotiable securities in the care, custody or control of the contractor for County or on behalf of County clients.

C.  **CYBER LIABILITY INSURANCE** with limits of not less than

\$1,000,000

Other: \$ \_\_\_\_\_ each occurrence to cover data losses caused by cyber attacks, viruses, other threats, paper transactions, crisis services and lawsuits that result from data breaches or your failure to protect sensitive information.

- D.  **PHYSICAL ABUSE AND MOLESTATION INSURANCE** with limits of not less than  
 \$1,000,000  
 Other \$ \_\_\_\_\_ each occurrence to cover actual or threatened physical abuse, mental injury, sexual molestation, or negligent employment, supervision, investigation, reporting to proper authorities or retention of any person for whom the Contractor is responsible for, including but not limited to Contractor and Contractor's employees and volunteers. Coverage can be provided by a separate policy or as an endorsement to the general or professional liability policies.
- E.  **PRODUCTS COMPLETED OPERATIONS HAZARD ADDITIONAL INSURED ENDORSEMENT** naming Washington County, its agents, officers, elected officials and employees with respect to liability for Bodily Injury and Property Damage.
- F.  **BUILDER'S RISK** \$ \_\_\_\_\_ Contractor to provide the additional coverage types and limits required on large construction projects, as outlined by the Risk Manager. The coverage requirements remain in place through the duration of the construction project. If the Builder's Risk policy renews annually during the construction project, any significant changes require County Risk Manager approval prior to implementation. The County is to receive copy of new policy with the approved changes and will attach to the original contract terms. Contractor with proof of payment and cost for coverage may be reimbursed at cost with no mark-up for the Builder's Risk coverage.
- G.  **OTHER** (describe coverage and limits):  
Accept that City County Insurance Services (CIS) cannot offer the Waiver of Subrogation on liability coverages.

**NOTES:**

**Extended Reporting Coverage ("Tail Coverage").** For Professional Liability/Errors & Omissions Insurance written on a "claims made" basis and for any other required liability insurance provided on a "claims made" basis, Contractor shall provide "tail" coverage at the completion of the contract for a duration of thirty-six (36) months or continuous "claims made" liability coverage for thirty-six (36) months following contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided the retroactive date of the coverage is on or before the effective date of the contract.

**Maximum Deductible/Retention.** Any deductible or retention must be disclosed on the certificate of insurance and no deductible or retention may exceed \$25,000 without the prior written consent of the County. Contractor is responsible to pay any amounts within the deductible or retention amount.

**Additional Insureds.** The County, its agents, officers, elected officials and employees must be named as additional insureds with respect to Contractor's services to be provided under this Contract. All liability insurance policies, with the exception of professional and/or workers compensation policies, must be endorsed to show this additional coverage.

**Insurance Certificates.** Contractor shall deliver to the County, prior to the commencement of work, a certificate of insurance evidencing all policies required by this contract including additional insured provisions afforded by the policy. This requirement can be satisfied by providing a copy of the coverage form and/or the endorsement(s). Further, it is an affirmative obligation upon the Contractor to advise the Contract Administrator within two business days of any substantive change of any insurance policy or endorsement set out herein, and failure to do so shall be construed to be a breach of this contract.

**Subcontractor Insurance.** Contractor shall require and verify that all of its subcontractors of any tier provide insurance coverage and limits identical to the insurance required of the Contractor under this contract, unless the requirement is expressly modified or waived by the County.



## **ATTACHMENT E**

### **STATE INSURANCE PROGRAM REQUIREMENTS**

1. In addition to the requirements of Section 24 of the Standard Contract Terms and Conditions, Contractor agrees 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 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 Contractor or any of the officers, agents, employees or subcontractors of 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 Contractor from and against any and all Claims.
  
2. As part of the requirements of Section 25(7) of the Standard Contract Terms and Conditions, Contractor shall, also name the State of Oregon, its officers, employees and agents as Additional Insureds with respect to Contractor’s activities to be performed under this Contract. Coverage must be primary and non-contributory with any other insurance or self insurance.



**BUSINESS ASSOCIATE AGREEMENT**  
 **ATTACHMENT F - BUSINESS ASSOCIATE AGREEMENT**

Washington County (“Covered Component”) and Contractor (“Business Associate”) have entered into one or more agreements (“Services Agreement”) pursuant to which Business Associate is providing services to Covered Component that require the disclosure and use of Protected Health Information (“PHI”) as defined by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). This agreement (“Agreement”) sets forth the terms and conditions pursuant to which PHI that is provided by, or created, transmitted, maintained or received by, the Business Associate from or on behalf of Covered Component, will be handled between Business Associate and Covered Component and with third parties during the term of each Services Agreement and after its termination.

ARTICLE 1. Terms

- 1.1 Terms used, but otherwise not defined, in this Agreement shall have the same meaning as those terms in 45 CFR Parts 160, 162 and 164 (HIPAA Regulations), and as amended.
- 1.2 Individual. “Individual” shall mean the person who is the subject of the PHI.
- 1.3 Protected Health Information (PHI), as defined in the Privacy Rule, shall mean any PHI received, used, created, transmitted, maintained or disclosed by Business Associate from or on behalf of Covered Component or to provide a service to the Covered Component.
- 1.4 Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.

ARTICLE 2. Obligations and Activities of Business Associate

Business Associate shall:

- 2.1 Not create, receive, maintain, use or disclose PHI other than as permitted or required by this Agreement or as provided by law. Business Associate shall create, transmit, receive, maintain, use or disclose only the minimum necessary PHI to fulfill its obligations to Covered Component or as otherwise imposed by law.
- 2.2 Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 (Security Rules) with respect to electronic protected health information, to prevent use or disclosure of the PHI other than as provided for by this Agreement.
- 2.3 Mitigate, to the extent practicable and without unreasonable delay, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate, its subcontractors or agents in violation of this Agreement or HIPAA regulations.

- 2.4 Report to Covered Component any use or disclosure of PHI or other data and security breaches by Business Associate or its subcontractors not provided for by this Agreement or permitted under HIPAA regulations of which it becomes aware. Report must:
- 2.4.1 Be in writing and provide an individual's contact information if needed for Covered Component's follow up communications,
  - 2.4.2 Be made to Covered Component without unreasonable delay and no later than five (5) calendar days after discovery of the breach. A breach is considered discovered as of the first day on which the breach is known, or reasonably should have been known, to Business Associate, subcontractor of Business Associate, or any employee, officer or agent of Business Associate, other than the individual committing the breach,
  - 2.4.3 Include the Individuals whose unsecured PHI has been, or is reasonably believed to have been, the subject of a breach and the types of PHI involved,
  - 2.4.4 Include the date of the breach and date of discovery of the breach,
  - 2.4.5 Include description of what Business Associate is doing to investigate the breach, to mitigate loss, and to protect against any further or future breaches,
  - 2.4.6 Provide all information necessary for Covered Component to notify impacted Individuals under 45 CFR 164.404 without unreasonable delay after Business Associate's discovery of the breach, and
  - 2.4.7 Provide any and all information, including preparation of reports or notices, needed for Covered Component to provide notification required under 45 CFR 164.406 and 164.408, as required or requested by Covered Component.
- 2.5 Ensure that any agent, including a subcontractor, to whom it provides PHI agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to such information.
- 2.6 Provide Covered Component with access to PHI in a designated record set, at the request of Covered Component, within five (5) business days of request or, as reasonably directed by Covered Component, to an Individual to meet the requirements under 45 CFR § 164.524 and applicable state law. Business Associate must forward any request for access received directly from Individual to Covered Component within two (2) business days of receipt.
- 2.7 Make any amendment(s), or add a statement of disagreement from the Individual, to PHI in a designated record set that the Covered Component directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Component or an Individual. Such amendment(s) shall be made within thirty (30) calendar days of the request of the Covered Component or Individual. Business Associate must forward any request for amendment received directly from Individual to Covered Component within two (2) business days of receipt. Any approval or denial of amendment of PHI maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Component.
- 2.8 To the extent that Business Associate is to carry out one or more of Covered Component's obligations under Subpart E of 45 CFR Part 164 (Privacy Rules), comply with the requirements of Subpart E that apply to the Covered Component in the performance of such obligations.
- 2.9 Make internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI, available to the Secretary or Covered Component within the time frame designated by the Secretary or Covered Component, for purposes of determining compliance with HIPAA regulations. Business

Associate shall provide to Covered Component a copy of any documentation that Business Associate provides to the Secretary at the same time as providing such documentation to the Secretary.

- 2.10 Document such disclosures of PHI and information related to such disclosures as are required for Covered Component to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528 and provide an accounting within fifteen (15) business days of direction to do so from Covered Component. Business Associate must forward any request for accounting of disclosures received directly from Individual to Covered Component within two (2) business days of receipt.
- 2.11 Forward to Covered Component within two (2) business days of receipt of any request for restrictions or confidential communications under 45 CFR 164.522 received directly from Individual. Business Associate must process any agreed upon request in the time and manner specified by Covered Component.
- 2.12 Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic protected health information that it creates, receives, maintains, or transmits on behalf of Covered Component pursuant to Subpart C of 45 CFR Part 164 (Security Rules).
- 2.13 Ensure that any agent, including a subcontractor to whom it provides electronic protected health information agrees to implement reasonable and appropriate safeguards to protect it.
- 2.14 Report to Covered Component, any Security Incident of which it becomes aware. Notwithstanding the foregoing, Security Incidents shall not include, without limitation, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.
- 2.15 Comply and require its subcontractors and agents to comply with each applicable requirement of the HIPAA Electronic Transactions Rule under 45 CFR Parts 160 and 162 and of any operating rules adopted by the U.S. Department of Health and Human Services (HHS) with respect to the standard transactions if Business Associate conducts in whole or part electronic transactions on behalf of Covered Component for which HHS has established standards.
- 2.16 Shall defend and indemnify Covered Component from all civil actions and monetary penalties imposed as a result of a breach or violation of HIPAA by Business Associate and shall reimburse Covered Component for all of Covered Components costs associated with notification requirements of HIPAA because or related to a breach by Business Associate.

### ARTICLE 3. Permitted Uses and Disclosures by Business Associate

- 3.1 Business Associate is authorized to create, receive, maintain, transmit, use or disclose PHI for the express purpose(s) described in the underlying Services Agreement, provided that nothing in this Agreement authorizes Business Associate to create, receive, transmit, maintain, use or disclose PHI in violation of HIPAA Regulations or any more stringent state law provisions.
- 3.2 Except as otherwise allowed for in this Article 3, Business Associate may not use or disclose PHI in a manner that would violate Subpart E of CFR Part 164 (Privacy Rules) if done by Covered Component.
- 3.3 Except as otherwise limited in this Agreement, Business Associate may use and disclose PHI:

3.3.1 For the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

3.3.2 For the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains, in writing, reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person immediately notifies, in writing, the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

3.3.3 For Data Aggregation services relating to health care operations of Covered Component as required by Covered Component.

- 3.4 Business Associate may use or disclose PHI as Required by Law.
- 3.5 Business Associate assures Covered Component that Business Associate will safeguard all PHI according to the terms of this Agreement and HIPAA Regulations.
- 3.6 Business Associate may use and disclose PHI to de-identify information in accordance with 45 CFR § 164.514 if included in the Services Agreement.

#### ARTICLE 4. Obligations of Covered Component

- 4.1 Upon request by the Business Associate, Covered Component shall provide Business Associate with a copy of its Notice of Privacy Rights, and any amendments, to the extent that they may affect Business Associate's creation, maintenance, transmission, receipt, use or disclosure of PHI.
- 4.2 Covered Component shall notify Business Associate of any restrictions, changes in, or revocation of, permission by Individual to receipt, use or disclosure of PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

#### ARTICLE 5. Permissible Requests by Covered Component

- 5.1 Covered Component shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Subpart E of CFR Part 164 (Privacy Rules) if done by Covered Component unless the Business Associate will use or disclose PHI for data aggregation or management and administrative activities of Business Associate.

#### ARTICLE 6. Term and Termination

- 6.1 Term. This Agreement shall be effective upon execution, and shall terminate when the Services Agreement terminates or on the date either party terminates for cause as authorized in Section 6.2 of this Agreement.
- 6.2 Termination for Cause. Upon the Covered Component's or Business Associate's knowledge of a material breach by the other party, the Covered Component or Business Associate may either:
  - a. Provide an opportunity for the breaching party to cure the breach or end the violation and terminate this Agreement and the Services Agreement(s) if the breaching party does not cure the breach or end

the violation within ten (10) business days. The breaching party shall notify, in writing, the actions taken to cure the breach or end the violation; or

- b. Immediately terminate this Agreement and the Services Agreement(s) if the breaching party has breached a material term of this Agreement and cure is not feasible..

### 6.3 Effect of Termination

- a. Except as provided in paragraph (b) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Component, or created or received by Business Associate on behalf of Covered Component. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate and subcontractors or agents shall retain no copies of the PHI.
- b. In the event that Business Associate determines that returning or destroying the PHI is infeasible, and Covered Component agrees, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.
- c. If it is infeasible for the Business Associate to obtain, from a subcontractor or agent, any PHI in the possession of the subcontractor or agent, the Business Associate shall require the subcontractor or agent to agree to extend any and all protections, limitations, and restrictions contained in this Agreement to the subcontractor's or agent's use and/or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible

## ARTICLE 7 Miscellaneous

- 7.1 Amendment. Covered Component and Business Associate shall take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Component to comply with the requirements of the HIPAA Regulations and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- 7.2 Survival. The respective rights and obligations of Business Associate under Section 6.3 of this Agreement shall survive the termination of this Agreement.
- 7.3 Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Component to comply with the HIPAA Regulations.
- 7.4 Other Laws. Nothing herein shall be construed as authorizing either party to fail to comply with any other applicable law relating to health care records, as provided in the preemption provisions of 45 CFR 160. §§ 201-.205.

BUSINESS ASSOCIATE

COVERED COMPONENT

Name: City of Sherwood

Name: Washington County

By: \_\_\_\_\_  
Authorized Signature

By: \_\_\_\_\_  
Authorized Signature

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

22560 SW Pine Street  
Address

Sherwood, OR 97140  
City, State, Zip

CampbellK@SherwoodOregon.gov                      055329502  
Email    CCB Number and/or  
DUNS Number (if applicable)

<u>FOR WASHINGTON COUNTY USE ONLY</u>	
County Contract Administrator: <u>Bobbie Hoke</u>	Phone: <u>503-846-3046</u>
Contract Administrator Email: <u>bobbie hoke@co.washington.or.us</u>	

## **ATTACHMENT J - Contractor**

**Required for all Agreements that are funded in whole or in part by Federal Grant Funds  
Clauses required in non-Federal entity's contracts  
Source: 2 CFR Part 200, Appendix II**

**Catalog of Federal Domestic Assistance (CFDA) number(s) of federal funds to be paid through  
this Agreement: 93.045**

### **AUDIT CLAUSES**

Recipient shall comply with the following applicable provisions below.

#### **Audits/Costs**

- A. Recipients receiving federal funds in excess of \$750,000 from all sources in the Recipient's fiscal year are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Subrecipient, if subject to this requirement shall at Recipient's own expense submit to County a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted to County the annual audit of any subrecipients(s), contractor(s), or subcontractor(s) of Subrecipient responsible for the financial management of funds received under this Agreement.
- B. Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If Subrecipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform and audit, costs for performance of that audit shall not be charged to the grant.
- C. Subrecipient shall save, protect and hold harmless County from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Agreement. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subrecipient and the County.

#### **Maintenance of Financial Records**

Recipient must maintain auditable financial records per generally accepted accounting principles and in accordance with OAR 309-013-0075 through 0220 and in sufficient detail to permit County or the State to verify how any payments received under this Agreement were expended.

#### **Access to Records**

Recipient agrees to permit a program reviewer or an auditor of the Federal, State, or County government or their agents to have access to records and financial statements as may be necessary. Access to records by the County or State may be with notice or without notice. Any refunds to or disallowances by the Federal Government, the

## **Attachment J**

State, or the County resulting from audits shall be the sole responsibility of Recipient for payment to the Federal Government, the State, or the County.

### **Cost Principles**

The parties agree to comply with any applicable cost principles established for determining the allowable costs incurred as set forth in 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), OR circulars superseded by 2 CFR 200 (OMB Circular A-87 (State and Local Governments), OMB Circular A-122 (Nonprofit Organizations), OMB Circular A-21 (Institutions of Higher Learning), 45 CFR Part 74 (Appendix E Hospitals), FAR 48 Subpart 31.2 (For profit Organizations). The parties further agree to comply with, as applicable, the administrative standards for grants set forth in 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

### **Financial Reports**

Recipients determined to be sub-recipients of Federal funds who receive Federal awards during the current contract year from County shall provide County with a Financial Report prepared in accordance with generally accepted accounting principles upon which an independent certified public accountant has expressed an opinion. Such report shall account for funds received during the County's fiscal year, July 1 through June 30, or any part of the County's fiscal year occurring during the term of this Agreement. The report must be submitted within six months of the Recipient's fiscal year end. If the Recipient is unable to meet the deadline, they may request, in writing, an extension of up to three months. Failure to provide County with the annual Financial Report may result in withholding of payments due to the Recipient or termination of this agreement. If the Recipient has a different fiscal year from the County, then the report shall account for funds received during the Recipient's fiscal year.

### **Expenditure Records**

Recipient shall document the expenditure of all funds paid to Recipient under this Agreement. Unless applicable federal law requires Recipient to utilize a different accounting system, Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit County to verify how the funds paid to Recipient under this contract were expended.

## Attachment J

### Clauses required in non-Federal entity's contracts

#### Source: 2 CFR Part 200, Appendix II

Recipient shall comply with all applicable provisions below.

- (A) **Administrative, contractual, or legal remedies** are addressed in County Contract Agency General Conditions (Sections 4, 5, 7, 8, 11, 13, 24, 25, and 31) as well as other applicable provisions in the Agreement and Attachments
- (B) **Termination provisions** are addressed in County Contract Agency General Conditions (Section 11) as well as other applicable provisions in the Agreement and Attachments
- (C) **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- (D) **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** If required by the federal funding source and if this Agreement is a prime construction contract in excess of \$2,000, Recipient shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5 “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). If this section applies, Recipient must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Recipient must pay wages not less than once a week. If applicable, the County will place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation. The decision to award a Contract is conditioned upon the acceptance of the wage determination. If applicable, the County will place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation. If applicable, Recipient must accept the wage determination. If applicable, County will report all suspected or reported violations by Recipient to the Federal awarding agency. If applicable, Recipient must comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each Recipient is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. If applicable, County will report all suspected or reported violations by Recipient to the Federal awarding agency.
- (E) **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** If the amount of this contract exceeds \$100,000 and involves the employment of mechanics or laborers Recipient shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR

## Attachment J

Part 5). Under 40 U.S.C. 3702 of the Act, if applicable, Recipient shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**(F) Rights to Inventions Made Under a Contract or Agreement.** If the funding for this Contract meets the definition of “funding agreement” under 37 CFR 401.2(a) and Contract is a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under this Agreement, Recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the federal awarding agency.

**(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387).** If the amount of this contract exceeds \$150,000 Recipient shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**(H) Debarment and Suspension (Executive Orders 12549 and 12689).** *Addressed in County Contract Agency General Conditions (Sections 15 and 28) as well as other applicable provisions in the Agreement and Attachments.*

**(I) 2 CFR Section 200.322 Procurement of recovered materials.** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) By signing this Agreement, the Recipient certifies, to the best of the Recipient's knowledge and belief that:**

## Attachment J

1. No federal appropriated funds have been paid or will be paid, by or on behalf of Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Recipient shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
5. No part of any federal funds paid to Recipient under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
6. No part of any federal funds paid to Recipient under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive Order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
7. The prohibitions in subsections 5 and 6 of this section shall include any activity increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
8. No part of any federal funds paid to Recipient under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation

## Attachment J

shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

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1. CFDA Number: 93.045

CFDA Name: Special Programs for the Aging, Title IIC

Amount \$ 196,145.00

2. Federal Award Identification:

i. Contractor name (must match DUNS name):

City of Sherwood

ii. Contractor DUNS number: 055329502

**ATTACHMENT R  
COVID-19 RESPONSE**

**Required for all Agreements that are funded in whole or in part by Federal Grant Funds  
Clauses required in non-Federal entity's contracts  
Source: 2 CFR Part 200, Appendix II**

**Catalog of Federal Domestic Assistance (CFDA) number(s) of federal funds to be paid through  
this Agreement: 21.027**

**Contractor or Sub-Recipient Determination - Washington County determines that:**  
 Recipient is a sub-recipient;                      OR                       Recipient is a contractor

**AUDIT CLAUSES**

Recipient shall comply with the following applicable provisions below.

**Audits/Costs**

- A. Recipients receiving federal funds in excess of \$750,000 from all sources in the Recipient's fiscal year are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Subrecipient, if subject to this requirement shall at Recipient's own expense submit to County a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted to County the annual audit of any subrecipients(s), contractor(s), or subcontractor(s) of Subrecipient responsible for the financial management of funds received under this Agreement.
- B. Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If Subrecipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform and audit, costs for performance of that audit shall not be charged to the grant.
- C. Subrecipient shall save, protect and hold harmless County from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Agreement. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subrecipient and the County.

**Maintenance of Financial Records**

Recipient must maintain auditable financial records per generally accepted accounting principles and in accordance with OAR 309-013-0075 through 0220 and in sufficient detail to permit County or the State to verify how any payments received under this Agreement were expended.

## **Attachment R**

### **Access to Records**

Recipient agrees to permit a program reviewer or an auditor of the Federal, State, or County government or their agents to have access to records and financial statements as may be necessary. Access to records by the County or State may be with notice or without notice. Any refunds to or disallowances by the Federal Government, the State, or the County resulting from audits shall be the sole responsibility of Recipient for payment to the Federal Government, the State, or the County.

### **Cost Principles**

The parties agree to comply with any applicable cost principles established for determining the allowable costs incurred as set forth in 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), OR circulars superseded by 2 CFR 200 (OMB Circular A-87 (State and Local Governments), OMB Circular A-122 (Nonprofit Organizations), OMB Circular A-21 (Institutions of Higher Learning), 45 CFR Part 74 (Appendix E Hospitals), FAR 48 Subpart 31.2 (For profit Organizations). The parties further agree to comply with, as applicable, the administrative standards for grants set forth in 2 CFR 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

### **Financial Reports**

Recipients determined to be sub-recipients of Federal funds who receive Federal awards during the current contract year from County shall provide County with a Financial Report prepared in accordance with generally accepted accounting principles upon which an independent certified public accountant has expressed an opinion. Such report shall account for funds received during the County's fiscal year, July 1 through June 30, or any part of the County's fiscal year occurring during the term of this Agreement. The report must be submitted within six months of the Recipient's fiscal year end. If the Recipient is unable to meet the deadline, they may request, in writing, an extension of up to three months. Failure to provide County with the annual Financial Report may result in withholding of payments due to the Recipient or termination of this agreement. If the Recipient has a different fiscal year from the County, then the report shall account for funds received during the Recipient's fiscal year.

### **Expenditure Records**

Recipient shall document the expenditure of all funds paid to Recipient under this Agreement. Unless applicable federal law requires Recipient to utilize a different accounting system, Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit County to verify how the funds paid to Recipient under this contract were expended.

## Attachment R

- I. **Contractor (Recipient) shall comply with all applicable provisions below.**
- (A) **Administrative, contractual, or legal remedies** are addressed in County Contract Agency General Conditions (Sections 4, 5, 7, 8, 11, 13, 24, 25, and 31) as well as other applicable provisions in the Agreement and Attachments
- (B) **Termination provisions** are addressed in County Contract Agency General Conditions (Section 11) as well as other applicable provisions in the Agreement and Attachments
- (C) **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- (D) **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** If required by the federal funding source and if this Agreement is a prime construction contract in excess of \$2,000, Recipient shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5 “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). If this section applies, Recipient must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Recipient must pay wages not less than once a week. If applicable, the County will place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation. The decision to award a Contract is conditioned upon the acceptance of the wage determination. If applicable, the County will place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation. If applicable, Recipient must accept the wage determination. If applicable, County will report all suspected or reported violations by Recipient to the Federal awarding agency. If applicable, Recipient must comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each Recipient is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. If applicable, County will report all suspected or reported violations by Recipient to the Federal awarding agency.
- (E) **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** If the amount of this contract exceeds \$100,000 and involves the employment of mechanics or laborers Recipient shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, if applicable, Recipient shall compute the wages of every

## Attachment R

mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- (F) **Rights to Inventions Made Under a Contract or Agreement.** If the funding for this Contract meets the definition of “funding agreement” under 37 CFR 401.2(a) and Contract is a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under this Agreement, Recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the federal awarding agency.
- (G) **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387).** If the amount of this contract exceeds \$150,000 Recipient shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (H) **Debarment and Suspension (Executive Orders 12549 and 12689).** *Addressed in County Contract Agency General Conditions (Sections 15 and 28) as well as other applicable provisions in the Agreement and Attachments.*
- (I) **2 CFR Section 200.322 Procurement of recovered materials.** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- (J) **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) By signing this Agreement, the Recipient certifies, to the best of the Recipient's knowledge and belief that:**
- a. No federal appropriated funds have been paid or will be paid, by or on behalf of Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a

## Attachment R

Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Recipient shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c. The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
- d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- e. No part of any federal funds paid to Recipient under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
- f. No part of any federal funds paid to Recipient under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive Order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g. The prohibitions in subsections e and f of this section shall include any activity increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h. No part of any federal funds paid to Recipient under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use

## Attachment R

of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

### II. FEMA Required Language:

(A) To be eligible for FEMA assistance under the County's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or construction change must be allowable, allocable, within the scope of the County's grant or cooperative agreement, and for the completion of project scope. All changes to this Agreement to alter the method, price or schedule of work must be approved by written amendment to this Agreement signed by both parties.

(B) Access to Records: In addition to any other term or condition regarding access to records in this Agreement, Contractor agrees to provide the FEMA administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcripts. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Contractor agrees to provide the FEMA Administrator or his/her authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

(C) Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(D) Contractor acknowledges that FEMA financial assistance will be used to fund this Agreement only and can be used for no other purposes. Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(E) The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the County, Contractor, or any other party pertaining to any matter resulting from this Agreement.

(F) Contractor acknowledges that 31 USC Chapter 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Agreement.

III. HIPAA Compliance. If the work performed under this Contract is covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Contractor agrees to perform the work in compliance with HIPAA.