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**AGREEMENT FOR 2015-2016
Newberg School District
My Future My Choice**

THIS AGREEMENT, made and entered into by and between Yamhill County, a political subdivision of the State of Oregon, hereinafter referred to as "COUNTY," acting by and through the Public Health Program of its Health and Human Services Department and Newberg School District, 714 E. 6th Street, Newberg, OR 97132, hereinafter referred to as "CONTRACTOR".

RECITALS:

- A. County's Public Health Program is authorized to obtain, by contract, the services necessary to conduct its operation, pursuant to ORS 430.670; and
- B. Contractor has available, or can cause to be provided, the facilities and staff required for the performance of said services;
- C. County and Contractor desire to enter into this Agreement

AGREEMENT: In exchange for the promises and other consideration set forth below, the parties agree as follows:

Section 1. Effective Date. This Agreement is effective for the period October 1, 2015 through June 30, 2016 unless extended or terminated earlier in accordance with its terms. It is understood by both parties that no commitments have been or are made by either party beyond the termination of the agreement.

Section 2. Contractor's Services. Contractor shall provide the necessary Services to conduct the My Future My Choice program(s) as described in Exhibit "A", attached hereto and by this reference incorporated herein. Contractor understands that this Agreement requires an annual review of the curriculum content and any material changes to the curriculum by the Contractor's School Board or designee such as the Parent Advisory Committee. Services shall be performed in accordance with a schedule approved by the County.

Section 3. Regulations and Duties. County and Contractor agree to comply with the rules and regulations of County, applicable state and federal regulations and all provisions of federal and state law relating to Contractor's performance of Services under this agreement as referenced in the contract between County and the State of Oregon Department of Human Services, hereinafter referred to as "DHS", and marked as Exhibits "B and D", attached hereto and by this reference incorporated herein, as of the effective date of the contract.

Section 4. Reporting. Contractor agrees to prepare and furnish data required by County and DHS, including but not limited to school participation data, quarterly expense reports and detail narrative. Reporting shall be submitted to County not later than April 1, 2016 and June 1, 2016. Contractor agrees to, and does hereby grant County and DHS the right to reproduce, use and disclose for County purposes, all or any part of the data and technical information furnished to County under the Agreement.

Section 5. County Monitoring. Contractor agrees that the following shall be open for inspection by County or its agents, at any reasonable time during business hours: a) Services provided under this

Agreement by Contractor; b) facilities used in conjunction with such Services; c) client records; d) Contractor's policies, procedures and performance data; e) financial records and other similar documents and records of Contractor that pertain, or may pertain, to Services under this Agreement. Contractor agrees to retain such records and documents for a period of seven years, or such longer period as may be prescribed for records and documents by the state archivist.

Section 6. Payment of Contract.

- A. COMPENSATION FOR SERVICES. As compensation for performing Services and other duties required by Section 2, Contractor shall submit a detailed invoice to County for Services provided on forms provided by the DHS My Future My Choice Office, attached as Exhibit C. The narrative report must accompany the invoice with detailed explanation of expenditures. Contractor shall submit the final monthly expenditure report to County under this contract no later than June 20, 2016. The maximum not to exceed amount to be paid under this Agreement shall not exceed \$3,000.
- B. The parties recognize that federal funds are a source used in carrying out this Agreement. All costs charged to the Agreement must comply fully with OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments", or OMB Circular A-122, "Cost Principles for Non-Profit Organizations" and allowable cost standards as outlined in CFR 45 Part 74 and 45 Part 92 as applicable.

Section 7. Termination; No Encumbrance or Expenditure after Notice of Termination.

- A. Either party may terminate the Agreement on thirty days written notice to the other party. Termination shall not excuse liabilities incurred prior to the termination date.
- B. In the event County no longer receives funds adequate to enable it to continue this Agreement, it will provide written notice of termination of this Agreement to Contractor. Upon issuance of notice, this Agreement is terminated. However, any obligations existing at the time of termination may survive termination as agreed between the parties at the time of termination.
- C. Contractor shall not make expenditures, enter into agreements, or encumber funds in its possession, or to be transferred by County, after notice of termination or termination as set out above, without prior written approval from County.

Section 8. Independent Contractor. Contractor is engaged under this Agreement as an independent contractor, and will be so deemed for purposes of the following:

- A. Contractor will be solely responsible for payment of any federal or state taxes required as a result of this Agreement.
- B. This Agreement is not intended to entitle Contractor to any benefits typically granted to County employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this Agreement to Contractor are vacation, holiday and sick leave, other leaves with pay, tenure, medical, and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits, except as required by law.

- C. Contractor is an independent contractor for purposes of the Oregon Workers' Compensation law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this Agreement. If Contractor has the assistance of other persons in the performance of this Agreement, Contractor will qualify and remain qualified for the term of this Agreement as a carrier-insured employer or a self-insured employer as provided by ORS 656.403 et. seq.

Section 9. Delegation and Reports. Contractor shall not delegate the responsibility for providing Services under this Agreement to any other individual or agency without the written approval of County and shall provide County with periodic reports at the frequency and with the information prescribed to be reported by County.

Section 10. Requirements Imposed by Law. The requirements of ORS 279B.220 through 279B.240 and Article XI, Section 10, of the Oregon Constitution are incorporated into this Agreement by reference.

Section 11. Hold Harmless. Contractor shall be responsible for any and all injury to any and all persons or property caused directly or indirectly by reason of any and all activities by Contractor in the performance of this Agreement; and further agrees to indemnify, defend, save and hold harmless the County and its officers, employees and agents including but not limited to the State of Oregon and DHS from and against all claims, suits, actions, losses, damages, liabilities, cost and expenses of any nature whatsoever, including attorneys' fees, resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, subcontractors or agents under this Agreement.

Section 12. Confidentiality. Contractor acknowledges that it or its agents may, in the course of their performance under this Agreement, be exposed to or acquire information that is the confidential information of County or County clients. Any and all (i) client information, (ii) information provided by County and marked confidential, (iii) Protected Health Information or EPHI as described or defined in Exhibit A, or (iv) information identified as confidential in a separate writing, that becomes available to Contractor or its agents in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items, including software, that result from Contractor's use of the Confidential Information are also deemed Confidential Information. Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information for any purposes whatsoever, except as may be provided elsewhere under this Agreement or in conformance with Exhibit F. Contractor agrees that, upon termination of this Agreement or at County's request, Contractor will turn over to County all documents, papers and other matter in Contractor's possession that embody Confidential Information.

Section 13. Settlement of Disputes. Differences between Contractor and County will be resolved when possible at appropriate management levels, followed by consultation between boards, if necessary.

Section 14. Financial Audit. If a financial audit of Contractor concerning this Agreement is conducted by a certified public accountant, Contractor shall furnish County a copy of the audit within ninety (90) days following the termination of the Agreement.

Section 15. Subcontracts; Assignment. Contractor shall not enter into any subcontracts for any of the Services required under this Agreement without County's prior written consent. This Agreement shall not be assigned by Contractor without the prior written consent of County.

Section 16. Renewal. This Agreement may be renewed at the written mutual option of both parties.

Section 17. Non-discrimination. Contractor agrees that no person shall, on the grounds of race, color, religion, national origin, sex, marital status, or age, suffer discrimination in the performance of this Agreement when employed by Contractor.

Section 18. Waiver; Remedies. County and Contractor acknowledge that any breach, violation, or default by either party of the provisions contained in this Agreement might result in damage to the other party. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

Section 19. Governing Law; Jurisdiction; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of law. Any claim, action, suit or proceeding, (collectively "Claim") between County and Contractor that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Yamhill County for the State of Oregon. Contractor, BY EXECUTION OF THIS AGREEMENT CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

Section 20. Severability. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

Section 21. Counterparts. This Agreement may be executed by facsimile and in counterparts, which taken together shall form one legal instrument.

Section 22. Attorney Fees and Costs. In the event an action, suit or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Agreement, each party shall be solely responsible for its own attorney's fees, expenses, costs and disbursements for said action, suit, proceeding or appeal.

Section 23. Entire Agreement. This Agreement is the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained in this written Agreement shall be valid or binding. No alterations, changes, or additions to this Agreement shall be made except in a written document signed by both parties.

(signature page follows)

DONE the last date set forth adjacent to the signatures of the parties below.

NEWBERG SCHOOL DISTRICT

YAMHILL COUNTY, OREGON

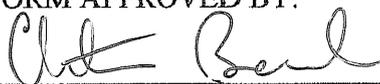
By: 
(signature)
Date: 10/26/15

David Parker
(printed name)

ASST Supt
(title)
PRINCIPAL


ALLEN SPRINGER, Chair
Board of Commissioners
Date: 11-23-15

 11/24/15
SILAS HALLORAN-STEINER, Director
Department of Health and Human Services

FORM APPROVED BY:

CHRISTIAN BOENISCH.
County Counsel

Accepted by Yamhill County
Board of Commissioners on
11-12-15 by Board Order
15-468

EXHIBIT A

Part 1 Definitions

1. “**Age-appropriate**” means curricula designed to teach concepts, information, and skills based on the social, cognitive, emotional, and experience level of students.
2. “**Allowable Costs**” means the costs described in OMB Circular A-87 except to the extent such costs are limited or excluded by other provisions of this Agreement, whether in the applicable Program Element Descriptions, the Special Terms and Conditions, the Financial Assistance Award, or otherwise.
3. “**Balanced**” means instruction that provides information with the understanding of the preponderance of evidence.
4. “**Best practice**” means something has the appearance of success, but has as yet not proved its effectiveness.
5. “**Comprehensive Plan of Instruction**” (as defined by Oregon education statutes) means K-12 programs that emphasize abstinence, but not to the exclusion of condom and contraceptive education. The human sexuality information provided is complete, balanced, and medically accurate. Opportunities are provided for young people to develop and understand their values, attitudes, and beliefs about sexuality as a means of helping young people exercise responsibility regarding sexual relationships as further defined by (2) and (3).
6. “**Culturally Sensitive**” means materials and instruction that respond to culturally diverse individuals, families, and communities in an inclusive, respectful, and effective manner.
7. “**Grant Agreement**” means this Agreement for the Financing of services provided by the “Recipient.”
8. “**Classroom Facilitator**” is an adult who provides support to high school teen leaders during the delivery of lessons 1-5 and 10 and has attended the DHS required Classroom Facilitator Training.
9. “**Teen Leaders**” are high school age students approved by their school to participate in the *My Future-My Choice* Program and teach lessons 1-5 and 10.
10. “**Program Coordinator(s)**” is the person designed by the Recipient to be the primary contact with DHS.

EXHIBIT A
Part 2
Program Description

1. Purpose

Recipient agrees to coordinate implementation and delivery of the *My Future-My Choice* Program with participating schools. *My Future-My Choice* is a voluntary DHS-developed sixth grade sexual health curriculum which meets the requirements of OAR 581-022-1440 to provide age-appropriate sexuality education as an integral part of the health education curriculum.

2. Agreement Objective

To support the efforts of DHS to offer the *My Future-My Choice* curriculum to all interested schools statewide. *My Future-My Choice* is comprehensive, abstinence based, medically accurate, age appropriate sexual health curriculum for middle school students that is based on best practice. It is designed to help youth make healthy choices about their own sexual health as well as help them understand and better handle societal and peer pressures. This Program is not a forum for presenting religious tenets or religious beliefs in relationship to the subject matter.

3. *My Future-My Choice* Recipient Requirements

- a. Designate a Program Coordinator to be the primary contact with DHS,
- b. Ensure the following takes place:
 - (1) Promote *My Future-My Choice* in designated area and share key information with schools regarding curriculum availability, overview, reimbursement components, and school supported Teen Leader option.
 - (2) Communicate with school leadership in designated area as needed regarding overall operations and requirements of the Program including statistical data submission requirements and reimbursement process.
 - (3) Communicate to participating schools regarding curriculum requirements, updates and required trainings.
 - (4) Ensure submission of quarterly invoices and required narrative reports to DHS.

4. Other Program Roles related to the Teen Leader component. The Recipient may choose to provide these roles, or if not provided by the Recipient, communicate requirements to participating schools.

a. Classroom Facilitator

- (1) A trained adult who provides support to high school Teen Leaders during the delivery of lessons 1-5 and 10.
- (2) Commonly the teacher of the class whose school has adopted this Curriculum into their educational program.
- (3) Required to be present in the classroom during all teen-led lessons.
- (4) Must attend the one-day training provided by DHS.

- b. Teen Leader
 - (1) High school age students approved by their school to participate in the *My Future-My Choice* Program.
 - (2) Present lessons 1-5 and 10.
 - (3) Required to attend a one-day training provided by DHS.
- c. Adult Instructor
 - (1) Adult identified and approved by the school to present lessons 6-9.
 - (2) May be the same adult who also delivers lessons 1-5, 10 with or without Teen Leaders
 - (3) May be the classroom teacher or other health educator identified and approved by the school.

5. DHS Roles and Responsibilities:

- a. DHS Program Specialist
 - (1) A designated DHS staff member with expertise in the subject matter who will be a resource and primary contact for this Program.
 - (2) Will communicate with Program Coordinator as necessary to ensure all roles are covered and requirements are met.
 - (3) Will ensure trainings are provided to Teen Leaders and Classroom Facilitators based on agreed time and location.
 - (4) When possible conduct site visits to classrooms to evaluate the effectiveness of the training and potential improvements.

6. Agreement Parties Responsibilities

- a. DHS Responsibilities
 - (1) Provide DHS Program Specialists who will be subject matter expert.
 - (2) Provide technical support and guidance for the overall program operations.
 - (3) Obtain grant funding required to facilitate the *My Future-My Choice* Program.
 - (4) Communicate with the Recipient regarding all operations as needed during implementation and regular operation of the Program.
 - (5) Reimburse program funds up to the not-to-exceed limit of this Agreement.
- b. Recipient Responsibilities
 - (1) Comply with the requirements identified with the Program Description utilizing current materials and procedures.
 - (2) Provide staff to fulfill the roles of Program Coordinator and all related administrative support required for the implementation of this curriculum

- (3) Provide communication concerning all aspects of the Program to support the work of the paid coordinator, volunteer facilitators, Teen Leaders and DHS Program Specialists.
- (4) Communicate with schools as necessary regarding requirements for teen leader option.
- (5) Ensure required school participation data is reported to DHS no later than **April 10, 2014 AND June, 10, 2014.**
- (6) Ensure that participating schools are aware that delivery of curriculum should not directly contradict the federal A-H Definition of Abstinence Education as follows:

**FEDERAL A-H Definition of
Abstinence Until Marriage Education**

A	Has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity.
B	Teaches abstinence from sexual activity outside of marriage as the expected standard for all school age children.
C	Teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems.
D	Teaches that a mutually faithful monogamous relationship in the context of marriage is the expected standard of human sexual activity.
E	Teaches that sexual activity outside of marriage is likely to have harmful psychological and physical effects.
F	Teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society.
G	Teaches young children how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances.
H	Teaches the importance of attaining self-sufficiency before engaging in sexual activity.

7. Reports and Agreement Monitoring

Biannual reporting is required of the Recipient and shall include the following items.

- a. Statistical information from all participating schools capturing the following information.
 - (1) School name; grade level of students receiving this curriculum; type of class; lesson 1 start date; number of males represented; number of females represented; facilitators name; number of Teen Leaders used (if used).
 - (2) Statistical information will be provided using the DHS My Future-My Choice Data Base Form.
 - (3) Reporting shall occur not later than **April 10, 2014 AND July 10, 2014**.
- b. Quarterly fiscal reporting summarizing expense for administrative, staff, supplies and other expenses incurred will be submitted with invoices.
 - (1) Report must be detailed to show allowable costs.
 - (2) Narrative report must accompany the invoice with detailed explanation of expenditures.
 - (3) Reports must be completed using the form provided by the DHS *My Future – My Choice* Office.

8. Agreement Monitoring

- a. Agreement performance will be monitored by DHS Agreement administrator or designee annually.
- b. Monitoring of fiscal operations may also be completed by the DHS Agreement administrator or by any designated auditor as required by law.

EXHIBIT A

Part 3 Reimbursement and Financial Reporting

1. Consideration

a. Reimbursement Provisions:

- (1) DHS will reimburse Recipient for services provided in support of the *My Future-My Choice* Program on a quarterly schedule.
- (2) Recipient shall submit quarterly invoices on an invoice voucher approved by DHS, to the DHS Agreement Administrator or other DHS staff as approved by Agreement Administrator. Invoice vouchers shall be submitted to: Department of Human Services, My Future-My Choice Invoicing, 500 Summer Street, E-48, Salem, OR 97301.
- (3) Invoices shall describe, itemize and explain all expenses incurred as they relate to the *My Future-My Choice* Program and by whom program support was provided for which Recipient claims reimbursement for.

b. Allowable Costs

- (1) Recipient may charge to the Agreement only allowable costs resulting from authorized service delivery during the Agreement funding period.
- (2) Allow ability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. All costs charged to the Agreement, including costs for direct and indirect services, must comply with the applicable Federal cost principles. Allow ability of costs incurred by State and local governments is determined in accordance with the provisions of OMB Circular A-87 "Cost Principles for State and Local Governments." Allow ability of costs incurred by nonprofit organizations is determined in accordance with the provisions of OMB Circular A-122 "Cost Principles for Nonprofit Organizations" and allowable cost standards as outlined in CFR 45 Part 74 and 45 part 92 as applicable.
- (3) In the event that Recipient utilizes equipment, space, personnel or activities or services provided for under this Agreement to provide services to third parties outside the scope of this Agreement, and the cumulative value of such use is projected to, or actually exceeds \$1,000 per year, Recipient shall notify DHS in writing no less than thirty (30) calendar days prior to such use to determine the action to be taken. The approval of the use and disposition of the earned income shall be determined on a case-by-case basis.
- (4) Recipient is liable for any damage, including wear-and-tear, to equipment or space provided for under this Agreement when such damage results from Recipient's utilization of the equipment or space to provide services to third parties outside the scope of this Agreement.

- (5) Indirect costs associated with the administration of the Management Component shall be limited to those reasonable and necessary expenses required to provide the services described herein. Recipient is required to describe the methodology used to calculate the indirect costs. Recipient shall establish, maintain and utilize written procurement procedures. These procedures shall comply with "Allowable Costs" criteria, requirements of this Agreement, and organizational standards.

c. Costs Associated with this Agreement:

- (1) Salaries.
- (2) Benefits.
- (3) Travel/ Transportation.
- (4) Substitute Teacher expenses.
- (5) Teen Leader Training Costs.
- (6) Classroom Incentive items.
- (7) Classroom handouts and materials not provided by DHS.

EXHIBIT A

Part 4 Special Terms and Conditions

1. Confidentiality of Client Information.

- a. All information as to personal facts and circumstances obtained by the Recipient on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, the responsible parent of a minor child, or his or her guardian except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- b. The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- c. DHS, Recipient and any subcontractor will share information as necessary to effectively serve DHS clients.

2. Amendments.

- a. DHS reserves the right to amend or extend the Agreement under the following general circumstances:
 - (1) DHS may extend the Agreement for additional periods of time up to a total Agreement period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on DHS' satisfaction with performance of the work or services provided by the Recipient under this Agreement.
 - (2) DHS may periodically amend any payment rates throughout the life of the Agreement proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if DHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b. DHS further reserves the right to amend the Statement of Work for the following:
 - (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original Program needs that may not have been expressed in the original Agreement or previous amendments to the Agreement;
 - (2) Implement additional phases of the Work; or
 - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Agreement.

- c. Upon identification, by any party to this Agreement, of any circumstance which may require an amendment to this Agreement, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Agreement before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 22 "Amendments" of this Agreement.

3. Equal Access to Services

Recipient shall provide equal access to covered services for both males and females less than 18 years of age, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270.

5. Mandatory Reporting

The Recipient shall immediately report any evidence of abuse, neglect or threat of harm to DHS Child Protection Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 to 419B.045). If law enforcement is notified, the Recipient shall notify the referring DHS caseworker within 24 hours. Recipient shall immediately contact the local DHS office if questions arise as to whether or not an incident meets the definition of child abuse or neglect.

6. Participant Materials Requirement

Recipient shall notify DHS of any additional or modified materials being used for the presentation of the curriculum.

EXHIBIT B
Standard Terms and Conditions

1. Governing Law, Consent to Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding collectively, "Claim" between DHS or any other agency or department of the State of Oregon, or both, and Sub-recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue and waives any claim that such forum is an inconvenient forum.

2. Independent Parties

- a. Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
- b. If Recipient is currently performing work for the State of Oregon or the federal government, Recipient by signature to this Agreement, represents and warrants that Recipient's participation in this Agreement creates no potential or actual conflict of interest as defined by ORS Chapter 244 and that no statutes, rules or regulations of the State of Oregon or federal agency for which Recipient currently performs work would prohibit Recipient's participation under this Agreement. If reimbursement under this Agreement is to be charged against federal funds, Recipient certifies that it is not currently employed by the federal government.

3. Funds Available and Authorized; Payments

- a. Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. DHS certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement within DHS' current biennial appropriation or limitation. Recipient understands and agrees that DHS' future participation in this Agreement is contingent on DHS receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow DHS, in the exercise of its reasonable administrative discretion, to continue to participate in this Agreement.
- b. Reimbursement Method. Reimbursements under this Agreement will be made by Electronic Funds Transfer (EFT), unless otherwise mutually agreed, and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other DHS Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, Recipient must provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Recipient must maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all reimbursement under this Agreement.

Recipient must provide this designation and information on a form provided by DHS. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any payment made using EFT procedures, Recipient will provide the changed information or designation to DHS on a DHS-approved form.

4. Recovery of Overpayments

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

5. Ownership, Acquisition of Property by Recipient

- a. For all purchases made with funds provided under this Agreement acquisition outlay for equipment that will have a useful life beyond the expiration of this Agreement is: 1) any acquisition of a single item costing \$2,500.00 or more, or 2) any acquisition of multiple items in the same month with a combined cost of \$2,500.00 or more.
- b. Acquisition means purchase, lease purchase, lease option, and other equivalent terms. Recipient must ensure that all acquisitions meet all standards of the provisions of 45CFR, Part74.
- c. All equipment acquisition is allowable only when specifically authorized through a formal written request made to, and approved by, DHS in writing prior to the acquisition.
- d. The request shall be made in a format prescribed by DHS and submitted to the DHS Prevention Services Manager, via the designated Program Specialist.
- e. Title to all goods, including software, hardware, equipment, furniture, and fixtures, with a value of \$2,500 or greater, shall be taken in the name of the State of Oregon and written advice of title shall be submitted to DHS within thirty (30) calendar days of acquisition. Recipient shall take custodial responsibility for all property acquired under this Agreement, ensure its safety, and ensure that it is used to carry out the purposes of this Agreement. Recipient shall keep a log of all such equipment.
- f. The value of all acquisitions shall be treated in accordance with the accounting methods under 45 CFR Part74 and part 92 as applicable and Generally Accepted Accounting Principles (GAAP) as consistently applied. Equipment of whatever nature used by Recipient or any subcontractor shall not be claimed as an expense, except pursuant to GAAP and 45 CFR Part 74 principles.
- g. At the termination of this Agreement, disposition of the property acquired, whether purchased wholly or in part with funds provided under the Agreement or purchased with Department of Health and Human Services, Self Sufficiency, Youth Services Program funding shall be completed in accordance with the terms DHS prescribes.

- h. Non-computer property will be returned to the DHS to carry out other activities, other federally assisted programs, or for any other State of Oregon programs as determined by the DHS. DHS will, in connection with the performance of this Agreement provision, provide Recipient with written directions.
- i. Computer equipment will be returned to the DHS to be treated in accordance with data security requirements before it is used by others.

6. Indemnity

RECIPIENT SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON AND DHS AND THEIR OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEYS FEES, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTIVITIES OF RECIPIENT OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.

7. Default; Remedies; Termination

- a. Default by Recipient. Recipient shall be in default under this Agreement if:
 - (1) Recipient institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
 - (2) Recipient no longer holds a license or certificate that is required for Recipient to perform its obligations under the Agreement and Recipient has not obtained such license or certificate within 14 calendar days after DHS' notice or such longer period as DHS may specify in such notice; or
 - (3) Recipient commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform any obligation under this Agreement within the time specified herein or any extension thereof, or so fails to pursue performance of any obligation as to endanger Recipient's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after DHS' notice, or such longer period as DHS may specify in such notice.
- b. DHS' Remedies for Recipient's Default In the event Recipient is in default under Section 7.a., DHS may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:
 - (1) termination of this Agreement under Section 7.e.(2);
 - (2) withholding all or part of monies not yet disbursed by DHS to Recipient;
 - (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief;
 - (4) exercise of its right of recovery of overpayments under Section 4 of this Agreement or setoff, or both.

These remedies are cumulative to the extent the remedies are not inconsistent, and DHS may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Recipient was not in default under Section 7.a., then Recipient shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 7.e.(1).

- c. Default by DHS. DHS shall be in default under this Agreement if DHS commits any material breach or default of any covenant, warranty, or obligation under this Agreement, and such breach or default is not cured within 30 calendar days after Recipient's notice or such longer period as Recipient may specify in such notice.
- d. Recipient's Remedies for DHS' Default. In the event DHS terminates the Agreement under Section 7.e.(1), or in the event DHS is in default under Section 7.c. and whether or not Recipient elects to exercise its right to terminate the Agreement under Section 7.e.(3), Recipient's sole monetary remedy will be a claim for unpaid invoices or for reimbursement or disbursement of funds authorized by this Agreement but not yet invoiced. In no event shall DHS be liable to Recipient for any expenses related to termination of this Agreement or for anticipated profits or loss. If previous amounts disbursed to Recipient exceed the amount due to Recipient under this Section 7.d., Recipient shall immediately pay any excess to DHS upon written demand. If Recipient does not immediately pay the excess, DHS may recover the overpayments in accordance with Section 7., Recovery of Overpayments, and may pursue any other remedy that may be available to it.
- e. Termination.
 - (1) DHS' Right to Terminate at its Discretion. At its sole discretion, DHS may terminate this Agreement:
 - (a) For its convenience upon 30 days' prior written notice by DHS to Recipient;
 - (b) Immediately upon written notice if DHS fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to continue supporting the program; or
 - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that 'DHS's support of the program under this Agreement is prohibited or DHS is prohibited from paying for such support from the planned funding source.
 - (d) Immediately upon written notice to Recipient if there is a threat to the health, safety, or welfare of any DHS client, including any Medicaid Eligible Individual, under its care.
 - (2) DHS' Right to Terminate for Cause. In addition to any other rights and remedies DHS may have under this Agreement, DHS may terminate this Agreement immediately upon written notice to Recipient, or at such later date as DHS may establish in such notice, or upon expiration of the time period and with such notice as provided in Section 7.e.(2)(b) or Section 7.e.(2)(c) below, upon the occurrence of any of the following events:

- (a) Recipient is in default under Section 7.a.(1) because Recipient institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
 - (b) Recipient is in default under Section 7.a.(2) because Recipient no longer holds a license or certificate that is required under the Agreement and Recipient has not obtained such license or certificate within 14 calendar days after DHS' notice or such longer period as DHS may specify in such notice; or
 - (c) Recipient is in default under Section 7.a.(3) because Recipient commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform its obligation under this Agreement within the time specified herein or any extension thereof, and such breach, default or failure is not cured within 14 calendar days after DHS' notice, or such longer period as DHS may specify in such notice.
- (3) Recipient's Right to Terminate for Cause. Recipient may terminate this Agreement with such written notice to DHS as provided in this Section 7.e.(3), or at such later date as Recipient may establish in such notice, if DHS is in default under Section 7.c. because DHS commits any material breach or default of any covenant, warranty, or obligation under this Agreement, fails to perform its commitments hereunder within the time specified or any extension thereof, and DHS fails to cure such failure within 30 calendar days after Recipient's notice or such longer period as Recipient may specify in such notice.
- (4) Mutual Termination. The Agreement may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
- (5) Return of Property. Upon termination of this Agreement for any reason whatsoever, Recipient shall immediately deliver to DHS all of the DHS' property that is in the possession or under the control of Recipient at that time. Upon receiving a notice of termination of this Agreement, Recipient shall immediately cease all activities under this Agreement, unless DHS expressly directs otherwise in such notice of termination.'

8. Notice of Reallocation of Funds

DHS may, at any time, by written notice to the Recipient, require the Recipient to stop all, or any activities under this Agreement under the following conditions:

- a. The funding source is altered, reduced or terminated by the originating agency; or
- b. DHS may, unilaterally for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a modification to the written notice issued by DHS.

Upon receipt of the notice, Recipient shall immediately comply with the written notice and may not incur further costs allocable to the activities affected by the written notice. DHS shall not be financially or otherwise, responsible to reimburse Recipient for any costs incurred by Recipient for its activities affected by the written notice after the date of the written notice.

Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, DHS shall either:

- a. Cancel or modify the written notice by a supplementary written notice; or
- b. Terminate Agreement activities as permitted by either the Default or the Convenience provisions of Section 7., Default; Remedies; Termination.

9. Insurance

Recipient shall maintain insurance as set forth in Exhibit C, attached hereto.

10. Records Maintenance, Access

Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that DHS and the Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for the longer of:

- a. Six years following final payment and termination of this Agreement;
- b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
- c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.

11. Information Privacy/Security/Access

If this Agreement requires or allows Recipient or, when allowed, its subcontractor(s), to have access to or use of any DHS computer system or other DHS Information Asset for which DHS imposes security requirements, and DHS grants Recipient or its subcontractor(s) access to such DHS Information Assets or Network and Information Systems, Recipient shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.

12. Assignment of Agreement, Successors in Interest

- a. Recipient shall not assign or transfer its interest in this Agreement without prior written consent of DHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions as DHS may deem necessary. No approval by DHS of any assignment or transfer of interest shall be deemed to create any obligation of DHS in addition to those set forth in the Agreement.
- b. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.

13. Subcontracts

Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without DHS' prior written consent. In addition to any other provisions DHS may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that DHS will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 5, 6, 9, 10, 11, 12, 13, and 14 of his Exhibit B. DHS' consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.

14. No Third Party Beneficiaries

DHS and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

15. Amendments; Waiver; Consent

DHS may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in writing and signed by both parties and when required, the Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision.

16. Severability

The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

17. Survival

Sections 1, 3, 4, 5, 6, 7, 8, 9, 10, 14, and 17 of this Exhibit B shall survive Agreement expiration or termination, as well as those provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice DHS' right to enforce this Agreement with respect to any default by Recipient that has not been cured.

18. Notice

Except as otherwise expressly provided in this Agreement, required communications between the parties hereto or required notices to be given hereunder shall be given in writing, by personal delivery, facsimile, or mailing the same, postage prepaid, to Recipient or DHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section 19. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. Any communication or notice given by personal delivery shall be effective when actually delivered to the addressee. Notwithstanding the foregoing, to be effective against DHS, any notice transmitted by facsimile must be confirmed by telephone notice to DHS' Office of Contracts and Procurement number listed below or any such telephone number DHS may provide by written notice to Recipient.

DHS: Office of Contracts & Procurement
Department of Human Services
250 Winter St. NE, Room 306
Salem, OR 97301-1080
Telephone: 503-945-5818
Facsimile: 503-378-4324

RECIPIENT: Yamhill County Health Department
Contact Name: Bonnie Corns
412 NE Ford St.
McMinnville, OR 97128
Telephone: 503-434-7525
Facsimile: 503-434-7553
Email Address: cornsb@co.yamhill.or.us

19. Dispute Resolution, Generally.

In the event a dispute arises under this Agreement, either party may notify the other party that it wishes to engage in a dispute resolution process. Upon such notification, the parties shall engage in non-binding discussion to resolve the dispute. If the parties do not reach agreement as a result of non-binding discussion, the parties may agree to consider further appropriate dispute resolution processes, including, subject to Department of Justice and County Counsel approval, binding arbitration. The rights and remedies set forth in the Agreement are not intended to be exhaustive and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies at law or in equity.

20. Merger Clause

This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Agreement.

21. Counterparts

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

Exhibit C

**Services report and Invoice form
DEPARTMENT OF HUMAN SERVICES (DHS)
2015-2016 COST REIMBURSEMENT PAYMENT REQUEST
MY FUTURE-MY CHOICE PROGRAM**

Service Provider	
Billing Address	
Grant Agreement Number	

Service Invoice Billing Cycle	
Monthly Service Dates	Quarterly Services Period
From: _____ To: _____	1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/>

A.	EXPENDITURES	Total DHS billing for current quarter
1.	Program – Personal Services (Salaries and Benefits)	
2.	Program – Services and Supplies	
3.	Program – Other Expenses	
4.	Admin and Indirect costs	
	TOTAL reimbursable funds for this invoice	

B. CERTIFICATE	
PREPARED BY (please print)	PHONE
AUTHORIZED BY	DATE
_____ Signature	
_____ Printed Name	

Please read instructions carefully

Revised 7/2014

Exhibit C
My Future-My Choice Invoice
Detail Narrative
(Attach additional documentation if necessary)

Description	Billed to DHS
1. Personal Services: Salaries and benefits related to program services. Hours and wage for facilitating and training, staff time, etc. (If claiming salary please list number of hours)	
2. Services and supplies. Report services, copy costs and other materials. This includes trainings (List dates), transportation, supplies/materials for implementation.	
3. Other expenses, miscellaneous expenses (Be specific)	
4. Administrative Overhead and Indirect costs. (List percentage)	

July 2014

Exhibit C Form Instructions

INSTRUCTIONS FOR COMPLETION:

- Line 1. Program - **Personal Services:** Report salaries related to program services. Since payroll expenses may vary from month to month, an approximate amount may be listed for each reporting period **except** the final period. **Exact yearly cost must be reported.** Federal guidelines (OMB Circular A-87 and OMB Circular A-133) require the maintenance of adequate time-activity reports for individuals paid from grant funds.
- Line 2. Program - Services and Supplies: Report program services such as teen and adult training expenses and program supplies.
- Line 3. Program - Specific other program expenses
- Line 4. Administrative Overhead and Indirect Costs: Report expenses not directly chargeable as program costs. List percentage used/how cost was determined.

Detail Narrative form with explanation of expenditures MUST BE INCLUDED with ALL invoices submitted.

EXHIBIT D
Required Federal Terms and Conditions

Unless exempt under 45CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Recipient shall comply and, as indicated, cause all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to Recipient, or to the grant activities, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

1. Miscellaneous Federal Provisions

Recipient shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of grant activities. Without limiting the generality of the foregoing, Recipient expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal law governing operation of Community Mental Health Programs, including without limitation, all federal laws requiring reporting of Client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide grant activities in violation of 42 U.S.C. 14402.

2. Equal Employment Opportunity

If this Agreement, including amendments, is for more than \$10,000, then Recipient shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

3. Clean Air, Clean Water, EPA Regulations

If this Agreement, including amendments, exceeds \$100,000 then Recipient shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities.

Violations shall be reported to DHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Recipient shall include and require all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.

4. Energy Efficiency

Recipient shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).

5. Truth in Lobbying

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 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.

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.

6. HIPAA Compliance

As a Business Associate of a Covered Entity, DHS must comply with the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and DHS must also comply with OAR 125-055-0100 through OAR 125-055-0130 to the extent that any grant activities or obligations of DHS related to this Agreement are covered by HIPAA.

Recipient shall determine if Recipient will have access to, or create any protected health information in the performance of any grant activities or other obligations under this Agreement. To the extent that Recipient will have access to, or create any protected health information to perform functions, activities, or services for, or on behalf of, DHS as specified in the Agreement, Recipient shall comply and cause all subcontractors to comply with the following:

- a. **Privacy and Security of Individually Identifiable Health Information.** Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between Recipient and DHS for purposes directly related to the provision of services to Clients which are funded in whole or in part under this Agreement. To the extent that Recipient is performing functions, activities, or services for, or on behalf of DHS, in the performance of any grant activities required by this Agreement, Recipient shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate DHS Privacy Rules, OAR 407-014-0000 *et. seq.*, or DHS Notice of Privacy Practices. A copy of the most recent DHS Notice of Privacy Practices is posted on the DHS web site at: [https://apps.state.or.us/cf1/FORMS/enter form number 2090](https://apps.state.or.us/cf1/FORMS/enter%20form%20number%202090) or may be obtained from DHS.
- b. **Data Transactions Systems.** If Recipient intends to exchange electronic data transactions with DHS or the Oregon Health Authority (DHS) in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Recipient shall execute an EDI Trading Partner Agreement and shall comply with EDI Rules.
- c. **Consultation and Testing.** If Recipient reasonably believes that the Recipient's or DHS' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Recipient shall promptly consult the DHS Information Security Office. Recipient or DHS may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the DHS testing schedule.
- d. Recipient and all subcontractors shall comply with the same requirements for Business Associates set forth in OAR 125-055-0100 through OAR 125-055-0130 as a contractor of a Business Associate.

7. Resource Conservation and Recovery

Recipient shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 *et. seq.*). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

8. Audits

- a. Recipient shall comply and, if applicable, require a subcontractor to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations."
- b. Sub-recipients shall also comply with applicable Code of Federal Regulations (CFR) sections and OMB Circulars governing expenditure of federal funds. State, local and Indian Tribal Governments and governmental hospitals must follow OMB A-102. Non-profits, hospitals, colleges and universities must follow 2 CFR Part 215. Sub-recipients shall monitor any organization to which funds are passed for compliance with CFR and OMB requirements.

9. Debarment and Suspension

Recipient shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

10. Drug-Free Workplace

Recipient shall comply and cause all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) Recipient certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in Recipient's workplace or while providing services to DHS clients. Recipient's notice shall specify the actions that will be taken by Recipient against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, Recipient's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify DHS within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to

comply with subparagraphs (i) through (vii) above; (ix) Neither Recipient, or any of Recipient's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the Recipient or Recipient's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the Recipient or Recipient's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to DHS clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of the Agreement.

11. Pro-Children Act

Recipient shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. section 6081 et. seq.).

12. Medicaid Services

Recipient shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:

- a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR 431.107(b)(1) & (2).
- b. Comply with all disclosure requirements of 42 CFR 1002.3(a) and 42 CFR 455 Subpart (B).
- c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 489 subpart I.
- d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Recipient shall acknowledge Recipient's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
- e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a)(68).

13. Agency-based Voter Registration

If applicable, Recipient shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.

14. Disclosure.

- a. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.
- b. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- d. Recipient shall make the disclosures required by this Section 14. to DHS. DHS reserves the right to take such action required by law, or where DHS has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

- 15. Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Contract, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. The Recipient agrees that it has been provided the following notice:

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any Work developed under a grant, subgrant or contract under a grant or subgrant; and
 - (2) Any rights of copyright to which a recipient, subcontractor or a contractor purchases ownership with grant support.
- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant.

16. Trafficking in Persons

Recipient and Recipient's employees shall not, during the period of time the Grant is in effect: (i) Engage in severe forms of trafficking in persons; (ii) Procure a commercial sex act; or (iii) Use forced labor in the performance of the Grant. Violation of any provision of this subsection may result in termination of the Agreement in accordance with Section 106(g) of the Trafficking Victims Protection Act of 2000(TVPA), as amended (22 U.S.C. 7104(g)).

17. Reducing Text Messaging While Driving

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, dated October 1, 2009, Recipient is encouraged "to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or GOV, or while driving POV when on official Government business or when performing any work for or on behalf of the Government."