

**SECOND AMENDMENT TO AGREEMENT
FOR RESPITE SERVICES
CATHOLIC COMMUNITY SERVICES**

THIS SECOND AMENDMENT ("Amendment #2") is made effective May 1, 2018 by and between Yamhill County, a political subdivision of the State of Oregon acting by and through its Board of Commissioners and its Health and Human Services Department, Behavioral Health Programs ("County") and Catholic Community Services of the Mid-Willamette Valley and Central Coast, an Oregon nonprofit corporation located at 117 NE 5th Street, McMinnville, Oregon 97128 Tax ID #93-0903773 ("Contractor").

RECITALS:

1. County and Contractor are parties to that certain agreement dated as of July 20, 2015 (the "Underlying Agreement"). The Underlying Agreement is memorialized in Yamhill County records as Board Order 15-236. The Underlying agreement was first amended on December 21, 2016, memorialized as Board Order 16-520. Pursuant to the Underlying Agreement, Contractor provides medically necessary services for its clients with serious emotional and/or behavioral challenges. County and Contractor now desire to further amend the Underlying Agreement upon the terms and conditions as more particularly set forth herein below.
2. Capitalized terms not defined herein shall have the meanings attributed to such terms in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein below and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, County and Contractor, intending legally to be bound, hereby agree as follows:

1. Section 2 "Contractor's Services" of the Underlying Agreement as first amended by Amendment #1 is hereby amended to include the following: "Contractor is partnering with Oregon DHS Child Welfare for emergency shelter placements ("Emergency Placements") for youth under DHS care. Emergency placements will be limited to 14 days and Yamhill County referrals for Services under this Agreement will be prioritized over Emergency Placements. Services, ADP and rates will be reviewed in six months to ensure contract deliverables are met with no detrimental impact, fiscally or clinically with the addition of the Oregon DHS Child Welfare contract model.

Contractor hereby represents and warrants that Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Services in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession. Contractor must hold all licenses, certificates, authorizations and other approvals as required by applicable law to deliver the Services under this Agreement."

2. The balance of Section 2 of the Underlying Agreement remains unchanged.
3. Section 3 "Regulations and Duties" of the Underlying Agreement as first amended by Amendment #1 is deleted in its entirety and replaced with the following:
"Regulations and Duties; Compliance with Laws.

A. County and Contractor shall comply with the rules and regulations of County, applicable state and federal regulations, executive orders and ordinances and all provisions of federal and state law relating to Contractor's performance of Services under this Agreement as they may be adopted, amended or repealed from time to time, including but not limited to the following: (i) ORS Chapter 659A.142, 659A.145, 659A.400 to 659A.409 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities and in the conduct of all programs, services and training associated with the delivery of Services under this Agreement; (ii) all state laws related to client rights, OAR 943-005-000 through 943-005-0070, prohibiting discrimination against Individuals with disabilities; (iii) Oregon Health Authority (OHA) rules pertaining to the provision of integrated and coordinated care and services, OAR Chapter 410, Division 141; (iv) all other OHA Rules in OAR Chapter 410; (v) rules in OAR Chapter 309 Divisions 012, 014, 015, 018, 019, 022, 032 and 040, pertaining to the provisions of mental health services; (vi) rules in OAR Chapter 415 pertaining to the provision of Substance Use Disorders services; (vii) state law establishing requirements for Declaration for Mental Health Treatment in ORS 127.700 through 127.737; (viii) 42 CFR 438.6 and 42 CFR 438 E; (ix) ORS 279B.200 through 279B.270; (x) Article XI, Section 10, of the Oregon Constitution; (xi) all state laws requiring reporting of client abuse; and (xii) all other applicable requirements of State civil rights and rehabilitation statutes, rules and regulations, and (xiii) to the extent not already specifically set forth herein, Contractor shall comply with all applicable requirements in Exhibit H "Required Provider Contract Provisions", and any other provisions that must be included to comply with applicable law, or that are required to be included in a provider contract or that are necessary to implement Service delivery in accordance with the applicable Service Descriptions, Specialized Service Requirements and Special Conditions as defined in and under that certain 2017-2019 Intergovernmental Agreement for the Financing of Community Mental Health, Substance Use Disorders and Problem Gambling Services by and between County and the Oregon Health Authority dated as of July 2017, ("2017-2019 IGA") which Exhibit H and 2017-2019 IGA (as applicable) are incorporated herein by this reference. These laws, regulations, executive orders and ordinances are incorporated by reference herein to the extent that they are applicable to this Agreement and required by law to be so incorporated. Contractor agrees that Contractor has complied with the tax laws of the state of Oregon or a political subdivision of the state of Oregon, including ORS 305.620, 305.380(4) and ORS Chapters 316, 317 and 318.

B. Contractor shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

C. Contractor agrees to comply with all laws, rules, regulations, reporting requirements, policies and procedures of Medicare/Medicaid and officially made known by the Centers for Medicare & Medicaid Services and OHA as they pertain to the performance of Services under this Agreement.

D. In compliance with the Americans with Disabilities Act, any written material that is generated and provided by Contractor under this Agreement to Clients or Members, including Medicaid-Eligible Individuals, shall, at the request of such Clients or Members, be reproduced in alternate formats of communication, to include Braille, large print, audiotape, oral presentation, and electronic format. OHA shall not reimburse Contractor for costs incurred in complying with this provision. Contractor shall cause all Subcontractors under this Agreement to comply with the requirements of this provision.

E. All employers, including Contractor, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.

In addition, Contractor shall comply, as if it were County thereunder, with the federal requirements set forth in Exhibit G "Required Federal Terms and Conditions," to the certain 2017-2019 IGA, which Exhibit G and the 2017-2019 IGA (as applicable) is incorporated herein by this reference. These laws, regulations, executive orders and ordinances are incorporated by reference herein to the extent that they are applicable to this Agreement and required by law to be so incorporated."

4. Section 4 "Reporting" of the Underlying Agreement as first amended by Amendment #1 is hereby deleted in its entirety and replaced with the following: "**Reporting.** Contractor agrees to prepare and furnish reports and data required by County, Yamhill CCO or OHA at a minimum quarterly, including but not limited to:

A. Client, service and financial information as specified.

B. All additional information and reports that County, Yamhill CCO or OHA reasonably requests, including but not limited to the information or disclosure required by 42 CFR 455.104 and 42 CFR 455.434.

C. Compliance with data submission specifications of the All Payers All Claims (APAC) reporting system and/or Measures and Outcome Tracking System (MOTS) data collection system as applicable.

1. The APAC reporting system was established in ORS 442.464 and 442.466. Data submitted under this Agreement may be used by County, Yamhill CCO or OHA for purposes related to obligations under ORS 442-464 to 442.468 and OAR 409-025-0100 to OAR 409-025-0170. Submission of encounter data in accordance with this Agreement will fulfill Contractor's responsibility for APAC submission. Failure of Contractor to submit under this Agreement the encounter data required to fulfill the responsibility for APAC reporting is subject to compliance and enforcement under OAR 409-025-0150 as well as under this Agreement.

2. All Individuals receiving Services with funds provided under the 2017-2019 IGA must be enrolled and that Individual's record maintained in the Measures and Outcome Tracking System (MOTS) using Procedure Codes listed in each Service Element, as specified in OHA's MOTS Reference Manual located at: <http://www.oregon.gov/oha/amh/mots/Pages/resource.aspx>, and the "Who Reports in MOTS Policy" as stated below:

Which Behavioral Health Providers are required to Report in MOTS? The data collection system for the Health Systems Division (HSD) is the Measures and Outcomes Tracking System or MOTS. In general, behavioral health providers who are either licensed or have a letter of approval from the HSD (or the former Addictions & Mental Health Division [AMH]), and receive public funds to provide treatment services are required to report to MOTS. In addition to the general rule above, there are four basic ways to classify who is required to submit data to MOTS:

a. Providers with HSD contracts that deliver treatment services (this includes Community Mental Health Programs [CMHP], Local

- Mental Health Authorities [LMHA] and other types of community behavioral health providers); These programs should all have a license or letter of approval from the HSD or AMH;
- b. Providers that are subcontractors (can be a subcontractor of a CMHP or other entity that holds a contract with HSD or OHA, such as a Mental Health Organization [MHO], or a Coordinated Care Organization [CCO]);
 - c. Providers that HSD does not contract with but are required to submit data to MOTS by State/Federal statute or rule; These include DUII providers and methadone maintenance providers;
 - d. Providers that contract with other governmental agencies (e.g., Oregon Youth Authority [OYA] or the Department of Corrections [DOC] to deliver mental health and/or substance abuse services).

Note: Primary care physicians that provide a single service on behalf of the CMHP are not required to report the MOTS status or service level data. If you have questions, contact MOTS Support at MOTS.Support@state.or.us.

D. Contractor will provide County with a quarterly summary of total enrollment, completion and outcome measures within 30 days after the end of each quarter in order to reconcile fiscal targets.

E. Contractor agrees to and does hereby grant County the rights to reproduce, use and disclose for County purposes, all or any part of the reports, data, and technical information furnished to County under the Agreement.”

5. Section 5 “Records; County Monitoring” of the Underlying Agreement as first amended by Amendment #1 is hereby deleted in its entirety and replaced with the following:
“Records; County Monitoring.

A. Contractor shall maintain all financial records related to this Agreement in accordance with generally accepted accounting principles or National Association of Insurance Commissioners accounting standards. In addition, Contractor shall maintain any clinical records, other records, books, documents, papers, plans, records of shipment and payments and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Agreement, collectively referred to as “Records” in such a manner to clearly document Contractor’s performance.

B. Contractor agrees that the following shall be open for inspection by County, Yamhill CCO, OHA and Government Agencies or their 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) information privacy and security records; f) financial records and other similar documents and records of Contractor that pertain, or may pertain, to Services under this Agreement for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition Contractor shall permit authorized representatives of County and the Oregon Health Authority to perform site reviews of all services delivered by Contractor hereunder. Contractor agrees to retain and keep accessible all Records for a period of seven years, or such longer period as may be required by applicable law including the retention schedules set forth in OAR Chapters 410 and 166 or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement. Contractor shall, upon request and without charge, provide a suitable work area and copying capabilities to facilitate such a review or audit. This right also

includes timely and reasonable access to Contractor's personnel and Subcontractors for the purpose of interview and discussion related to such documents. The rights of access in this section are not limited to the required retention period, but shall last as long as the records are retained.

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

D. **Client Records.** Unless otherwise specified in this Agreement, Contractor shall create and maintain a client record for each client who receives services under this Agreement. The client record must contain:

1. Client identification;
2. Problem assessment;
3. Treatment, training and/or care plan;
4. Medical information when appropriate; and
5. Progress notes including service termination summary and current assessment or evaluation instrument as designated by the Oregon Health Authority in administrative rules.

Contractor shall retain client records in accordance with OAR 166-150-0005 through 166-150-0215 (State Archivist). Unless OAR 166-150-0005 through 166-150-0215 requires a longer retention period, client records must be retained for a minimum of six years from termination or expiration of this Agreement.

E. Contractor agrees to annually provide County with copies of their Fraud and Abuse policy and documentation of rate setting methodologies. County encourages Contractor to use the Jarvis rate setting tool. County may approve an alternative method if it demonstrates a similar level of thoroughness. Contractor will comply with County's quality and utilization management protocols established in partnership with Yamhill CCO and Yamhill CCO's Quality Assurance and Performance Improvement Plan. Contractor shall provide documentation regarding training, NPI numbers and background checks for each person providing services under this agreement where applicable upon request.

F. County will provide Contractor with a copy of County's OHA approved written grievance system procedures to ensure compliance."

6. Section 6 "Payment" of the Underlying Agreement as first amended by Amendment #1 is hereby deleted in its entirety and replaced with the following:

A. "As compensation for performing the Services effective May 1, 2018, Contractor shall receive a monthly payment of \$35,024.89 for 2.5 Average Daily Population (ADP) on or about the first of the month following the month of service. The maximum amount payable for the performance of Services under this Agreement for the period of May 1, 2018 through September 30, 2019 is \$595,423.13. The maximum not to exceed amount for services under this agreement is \$1,297,360.76.

B. Billing documents must be received by County at a minimum quarterly and within four (4) months of the date of service unless the claim meets one of the cases listed under OAR 410-141-3420 (1)(a) in which case claim must be submitted within twelve (12) months of the date of service. Should Yamhill CCO or OHA set more stringent submission timelines during the duration of this Agreement, the new timelines will apply. Routine claims not received as described above will be denied. Contractor must submit denied claims for reprocessing within 90 days of the original denial unless the claim meets one of the cases listed in OAR 410-141-3430, (4) (a) (C). Billing documents for non-Yamhill CCO members must articulate whether the individual is commercially insured or uninsured. An attestation containing the amount of any partial payment (or denial) must be included with the billing documents for clients who have commercial insurance.

C. **Excluded Services.** County expects Contractor to seek reimbursement from commercial insurance when applicable. Where Contractor is providing services under some other contract or funding source, Contractor shall not be compensated under this Agreement for such services to individuals even though they might otherwise be eligible for Oregon Health Plan (OHP).

D. If Yamhill CCO member has any third party resource, that resource is primary to payment under this Agreement and shall be billed prior to billing under this Agreement.

E. Contractor shall not bill Yamhill CCO members for services that are not covered under the Yamhill CCO contract with OHA unless there is a full written disclosure or waiver on file signed by the Member, in advance of the service being provided, in accordance with OAR 410-141-420.

F. **Expenditure of Funds.** Contractor may expend the funds paid to Contractor under this Agreement solely on the delivery of Services, subject to the following limitations (in addition to any other restrictions or limitations imposed by this Agreement):

1. Contractor may not expend on the delivery of Services any funds paid to Contractor under this Agreement in excess of the amount reasonable and necessary to provide quality delivery of the Services.
2. If this Agreement requires Contractor to deliver more than one service, Contractor may not expend funds paid to Contractor under this Agreement for a particular service on the delivery of any other service.
3. If this Agreement requires Contractor to deliver Substance Use Disorders and Problem Gambling Services pursuant to the 2017-2019 IGA as defined below, Contractor may not use the funds paid to Contractor under this Agreement for such services to:
 - a. Provide inpatient hospital services;
 - b. Make cash payments to intended recipients of health services;
 - c. Purchase or improve land, to purchase, construct or permanently improve (other than minor remodeling) any

- building or other facility or to purchase major medical equipment;
- d. Satisfy any requirement for expenditure of non-federal funds as a condition for receipt of federal funds (whether the federal funds are received under this Agreement or otherwise);
 - e. Carry out any program prohibited by section 245(b) of the Health Omnibus Programs Extension Act of 1988 (codified at 42 U.S.C. 300ee-5), which generally prohibits funds provided under this Agreement from being used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse.
4. Contractor may expend funds paid to Contractor under this Agreement only in accordance with OMB Circulars, 2 CFR Part 200 or 45 CFR Part 75, as applicable, on Allowable Costs. "Allowable Costs" means the costs described in 2 CFR Part 200 or 45 CFR Part 75, as applicable, except to the extent such costs are limited or excluded by other provisions defined in and under that certain "2017-2019 Intergovernmental Agreement for the Financing of Community Mental Health, Substance Use Disorders and Problem, Gambling Services", by and between County and the Oregon Health Authority dated as of July 1, 2017 (the "2017-2019 IGA"), whether in the applicable Service Descriptions, Specialized Service Requirements, Special Conditions identified in the Financial Assistance Award, or otherwise. If Contractor receives \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If Contractor expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, it shall have a single organization-wide audit conducted in accordance with the provisions of 45 CFR part 75, subpart F. If Contractor expends less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, it is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials. Contractor, if subject to this requirement, shall at Contractor's own expense submit to OHA 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 OHA the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Contractor responsible for the financial management of funds received under this Agreement. Copies of all audits must be submitted to OHA within 30 calendar days of completion. Audit costs for audits not required in accordance with

the Single Audit Act are unallowable. Contractor may not use the funds received under this Agreement for inherently religious activities, as described in 45 CFR Part 87.”

7. Section 7 “Termination; No Encumbrance or Expenditure after Notice of Termination” of the Underlying Agreement as first amended by Amendment #1 is hereby deleted in its entirety and replaced with the following: **“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 addition, in the event County no longer receives funds adequate to enable it to continue this Agreement; if Contractor engages in any act that would subject either County or Contractor to criminal liability; upon dissolution of County or Contractor; if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement; or upon any of the following: (i) the insolvency of the Contractor, (ii) the filing of a voluntary or involuntary petition by or on behalf of Contractor under federal bankruptcy law, (iii) upon a party entering into an agreement with creditors for the liquidation of its assets, or (iv) upon the appointment of a receiver or trustee to take charge of all the assets of Contractor, County will provide written notice of termination of this Agreement to Contractor. Upon issuance of notice, this Agreement is immediately terminated. However, any obligations existing at the time of termination will survive 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.”

8. Section 8 “Independent Contractor” of the Underlying Agreement as first amended by Amendment #1 is hereby deleted in its entirety and replaced with the following: **“Independent Contractor Representations and Warranties.”** Contractor is engaged under this Agreement as an independent contractor, and will be so deemed for purposes of the following:

A. Contractor is not an officer, employee, or agent of the County or the State of Oregon as those terms are used in ORS 30.265 or otherwise.

B. If Contractor is currently performing work for the County, State of Oregon or the federal government, Contractor by signature to this Agreement, represents and warrants that (i) Contractor has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder and that execution of this Agreement shall constitute a legal, valid and binding obligation of Contractor, enforceable in accordance with its terms, (ii) the making and performance by Contractor of this Agreement has been duly authorized by all necessary action of Contractor and does not violate any provision of applicable law, rule, regulation or order of any court, regulatory commission, board or other administrative agency or any provision of Contractor’s charter or other organizational document, (iii) entering into this Agreement will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Contractor is a party or by which Contractor

may be bound or affected, and (iv) no authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Contractor of this Agreement,

C. Contractor further represents and warrants that (i) it has the skill and knowledge possessed by well-informed members of its industry, trade or profession and it will apply that skill and knowledge with care and diligence to perform the Services in a professional manner and in accordance with standards prevalent in Contractor's industry trade or profession (ii) it shall at all times during the term of this Agreement be qualified professionally competent and duly licenses to perform the Services and (iii) the delivery of each Service will comply with the terms and conditions of this Agreement and meet the required standards for such Service.

D. Contractor's Services to be performed under this Agreement create no potential or actual conflict of interest as defined by ORS Chapter 244 and that no statutes, rules or regulations of the County, State of Oregon or federal agency for which Contractor currently performs work would prohibit Contractor's Services under this Agreement. If compensation under this Agreement is to be charged against federal funds, Contractor certifies that it is not currently employed by the federal government.

E. Contractor is responsible for all federal and State taxes applicable to compensation paid to Contractor under this Agreement and, unless Contractor is subject to backup withholding, County will not withhold from such compensation any amounts to cover Contractor's federal or State tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation paid to Contractor under this Agreement, except as a self-employed individual.

F. Contractor shall perform all Services as an independent contractor. County reserves the right (i) to determine and modify the delivery schedule for the Services and (ii) to evaluate the quality of the Services; however, County may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Services."

9. Section 11 "Indemnification" of the Underlying Agreement as first amended by Amendment #1 is hereby deleted in its entirety and replaced with the following:
"Indemnification. 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 of Contractor in the performance of Services under this Agreement and Contractor agrees to indemnify, hold harmless, save and defend County, its officers, agents and employees including but not limited to the State of Oregon from and against any and all claims, suits, actions, liabilities, damages, costs, losses, fees, expenses (including attorneys' fees) or judgments resulting from, arising out of or connected with any such injury or the negligent or willful acts or omissions of Contractor or any of the officers, agents, employees or subcontractors of Contractor in the performance of the Services provided by Contractor pursuant to this Agreement.

In addition, if Contractor is not a unit of local government as defined in ORS 190.003, then Contractor shall indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of the officers, agents, employees or

subcontractors of the Contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Contractor from and against any and all Claims."

10. Section 12 "Insurance" of the Underlying Agreement as first amended by Amendment #1 is hereby deleted in its entirety and replaced with the following: "**Insurance.** Contractor, at its expense, shall obtain the following insurance coverage and keep them in effect during the entire term of this Agreement (except with respect to Professional Liability Insurance, which shall be kept in effect for a period of the term of this Agreement plus two years):

- A. Workers' Compensation Insurance in compliance with statutory requirements;
- B. Commercial General Liability Insurance (including contractual liability and completed operations coverage, and coverage for liability resulting from hazardous substances), on an occurrence basis, with not less than \$2,000,000 per occurrence for bodily injury and property damage liability, with an annual aggregate limit of \$3,000,000;
- C. Professional Liability Insurance, including errors and omissions coverage, covering Contractor pursuant to this Agreement, with a per occurrence and aggregate limit of not less than \$1,000,000, to protect against all loss suffered by County or third parties, including financial and consequential loss, caused by error, omission, or negligent acts related to provision of the Services provided under this Agreement;
- D. Commercial Automobile Liability Insurance, with a combined single limit, or the equivalent of not less than \$1,000,000 per occurrence, for bodily injury and property damage with respect to Contractor's vehicles, whether owned, hired, or non-owned, assigned to, or used by Contractor in connection with the Services provided under this Agreement;
- E. "Tail" Coverage. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement, for a minimum of 24 months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under this Agreement; or (ii) the expiration of all warranty periods provided under this Agreement. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor may request and County may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

The required insurance coverages shall be (i) with insurance companies admitted to do business in the state of Oregon and rated A or better by Best's Insurance Rating, and (ii) acceptable to County. Contractor shall furnish County with certificates of insurance for each of the required insurance coverages before Contractor performs Services under this Agreement. The certificates of insurance must specify (a) the types of insurance coverage, (b) all entities and individuals who are endorsed on the policy as Additional Insured, (c) the amounts of insurance

coverage, (d) the period of insurance coverage and (e) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage. Any required insurance coverage shall provide that it may not be canceled except after at least 30 days written notice to County.

The Commercial General Liability and Commercial Automobile Liability shall (i) name the County, State of Oregon, OHA and their divisions, directors, officers, employees and agents as additional insureds, (ii) provide that it is primary insurance with respect to the interests of County and that any insurance maintained by County is excess and not contributory, and (iii) include a cross-liability and severability of interest clause and a waiver of subrogation clause but only with respect to Contractor's activities to be performed under this Agreement. Contractor shall immediately notify County orally of the cancellation or restriction and shall confirm the oral notification in writing within three days of notification by the insurance company to Contractor."

11. Section 16 "Subcontracts; Assignment" of the Underlying Agreement as first amended by Amendment #1 is hereby deleted in its entirety and replaced with the following: "**Subcontracts; Assignment.** Contractor shall not enter into any subcontracts for any of the Services required under this Agreement without County's prior written consent. Contractor shall not assign or transfer its interest in this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or in any other manner, without the prior written consent of County. No approval by County of any assignment or transfer of interest shall be deemed to create any obligation of County in addition to those set forth in this Agreement. Consent to subcontract shall not relieve obligations/duties under this Agreement. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns."

12. Section 23 "Entire Agreement" of the Underlying Agreement is hereby amended to include the following: "This Agreement, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms."

13. Section 27 "Information Privacy/Security/Access" of the Underlying Agreement as first amended in Amendment #1 is hereby amended to include the following: "For the purpose of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time."

14. Section 28 "Prevention/Detection of Fraud and Abuse" of the Underlying Agreement as first amended in Amendment #1 is deleted in its entirety and replaced with the following: "**Prevention/Detection of Fraud and Abuse.**

A. **Fraud and Abuse Policies:** Contractor shall have Fraud and Abuse policies and procedures, and a mandatory compliance plan, in accordance with OAR 410-120-1510, 42 CFR 433.116, 42 CFR 438.214, 438.600 to 438.610, 438.808, 42 CFR 455.20, 455.104 through 455.106 and 42 CFR 1002.3, which enable the Contractor or its Subcontractors to prevent and detect Fraud and Abuse activities as such activities relate to the OHP. These policies, at a minimum, must include:

1. Administrative and management requirements for Contractor's employees and Subcontractors of written standards of conduct and

- articulate Contractor's commitment to comply with all applicable federal and State laws;
2. Risk evaluation to monitor compliance in identified problem areas such as claims, Prior Authorization, service verification, utilization management and quality review;
 3. Member Grievance and Appeal resolution processes protecting the anonymity of complaints and to protect callers from retaliation;
 4. Contractor shall report to the Department of Health and Human Services Office of the Inspector General, any providers, identified during the credentialing process, who are on the excluded lists to include List of Excluded Individuals (LEIE) and Excluded Parties List System (EPLS) also known as SAM(System for Award Management).
 5. Participating Provider credentialing and contracting staff education including provisions addressing the non-employment of sanctioned individuals by Contractor and its Subcontractors;
 6. Corrective Action Plans to prevent potential Fraud and Abuse activities, including systems to respond promptly to allegations of improper or illegal activities and enforcement of appropriate disciplinary actions against employees or Subcontractors who have violated internal Fraud and Abuse policies or applicable statutes, regulations, federal or State health care requirements;
 7. Designation of a chief compliance officer who reports directly to the CEO and the governing body, and submitting that information annually to the OHA Contract Administrator and other appropriate bodies charged with the responsibility of operating and monitoring the Fraud and Abuse program;
 8. Effective lines of communication between OHA's compliance office and Contractor's employees;
 9. Participating Providers and staff education: effective education and training programs will be provided to the compliance officer and all affected employees and Subcontractors;
 10. Education and training will be supported by enforcement of standards through well publicized disciplinary guidelines and provisions for internal monitoring and auditing; and
 11. The establishment of a Regulatory Compliance Committee on the Board of Directors or senior management level charged with overseeing the Contractor's compliance program and its compliance with the requirements under this Agreement.

Contractor shall include in the employee handbook for the Contractor's employees and in written policies for its Subcontractors, a specific discussion of the applicable Fraud and Abuse Federal and State laws, the rights of employees to be protected as whistleblowers, and the Contractor's policies and procedures for detecting and preventing Fraud, waste and Abuse.

B. Review of Fraud and Abuse Policies. Contractor shall review its Fraud and Abuse policies annually and submit a written copy to OHA Contract Administration Unit as follows:

1. To the OHA Contract Administration Unit annually, no later than January 31st. Or attest to no changes since last submission using the Attestation form located on the CCO forms page.
2. To the OHA Contract Administration Unit upon any significant changes, prior to formal adoption of the policy. OHA will notify Contractor within 30 days of the compliance status of the policy.
3. To the OHA Contract Administration Unit anytime upon OHA request. OHA will notify Contractor within 30 days of the compliance status of the policy.

C. **Referral Policy.** Contractor shall promptly refer all suspected cases of Fraud and Abuse, including Fraud, in accordance with 42 CFR 455.23, by its employees and Subcontractors to the Medicaid Fraud Control Unit (MFCU) and OHA/DHS Provider Audit Unit (PAU). Contractor may also refer cases of suspected Fraud and Abuse to the MFCU or to the OHA/DHS Provider Audit Unit prior to verification. Contractor shall notify OHA/DHS Provider Audit Unit of all referrals to MFCU. Contractor shall ensure Member handbook reflects information on how to report fraud, waste and abuse.

1. If Contractor is made aware of a credible allegation of Fraud for which an investigation by MFCU is pending against a Provider, Contractor shall, upon notification of an investigation by MFCU, suspend payments to the Provider unless MFCU determines there is good cause not to suspend payments or to suspend payments in part. If the act does not meet the good cause criteria, the Contractor shall work with the MFCU and OHA/DHS to determine if any Participating Provider contract should be terminated.
2. Fraud and Abuse Referral Characteristics of a Case that should be referred.
 - a. Examples of Fraud and Abuse within Contractor's network:
 - (i) Providers who consistently demonstrate a pattern of intentionally reporting encounters or services that did not occur. A pattern would be evident in any case where 20% or more of sampled or audited services are not supported by documentation in the Clinical Records. This would include any suspected case where it appears that the Provider knowingly or intentionally did not deliver the service or goods billed;
 - (ii) Providers who consistently demonstrate a pattern of intentionally reporting overstated or up coded levels of service. A pattern would be evident by 20% or more of sampled or audited services that are billed at a higher-level procedure code than is documented in the Clinical Records;
 - (iii) Any suspected case where the Provider intentionally or recklessly billed Contractor more than the usual charge to non-Medicaid recipients or other insurance programs;

- (iv) Any suspected case where the Provider purposefully altered, falsified, or destroyed Clinical Record documentation for the purpose of artificially inflating or obscuring his or her compliance rating or collecting Medicaid payments otherwise not due. This includes any deliberate misrepresentation or omission of fact that is material to the determination of benefits payable or services which are covered or should be rendered, including dates of service, charges or reimbursements from other sources, or the identity of the patient or Provider;
- (v) Providers who intentionally or recklessly make false statements about the credentials of persons rendering care to Members;
- (vi) Primary care physicians who intentionally misrepresent medical information to justify referrals to other networks or out-of-network Providers when they are obligated to provide the care themselves;
- (vii) Providers who intentionally fail to render Medically Appropriate Covered Services that they are obligated to provide to Members under their Subcontracts with the Contractor and under OHP regulations;
- (viii) Providers who knowingly charge Members for services that are Covered Services or intentionally balance-bill a Member the difference between the total fee-for-service charge and Contractor's payment to the Provider, in violation of OHA rules;
- (ix) Any suspected case where the Provider intentionally submitted a claim for payment that already has been paid by OHA or Contractor, or upon which payment has been made by another source without the amount paid by the other source clearly entered on the claim form, and receipt of payment is known to the Provider; and
- (x) Any case of theft, embezzlement or misappropriation of Title XIX or Title XXI program money.

b. Examples of Fraud and Abuse in the administration of the OHP program:

- (i) Evidence of corruption in the Enrollment and Disenrollment process, including efforts of State employees or Contractors to skew the risk of unhealthy patients toward or away from one of the Contractors; and
- (ii) Attempts by any individual, including employees and elected officials of the State, to solicit kickbacks or bribes, such as a bribe or kickback in connection with placing a Member into a carved out

program, or for performing any service that the agent or employee is required to provide under the terms of his employment.

D. When to Report Fraud and Abuse.

1. Contractor shall report to the MFCU an incident with any of the referral characteristics listed in Subsection c, above. Contractor shall report to the MFCU and OHA/DHS PAU any other incident found to have characteristics which indicate Fraud or Abuse which Contractor has verified. Contractor shall comply with all patient abuse reporting requirements and fully cooperate with the State for purposes of ORS 124.060 et seq., ORS 419B.010 et seq., ORS 430.735 et seq., et seq., ORS 441.630 et seq., and all applicable Administrative Rules. Contractor shall ensure that all Subcontractors comply with this provision.
2. Contractor must report the following to the Authority:
 - a. Number of complaints of Fraud and Abuse made to the OHA/DHS PAU or the Medicaid Fraud Unit that warrant preliminary investigation; and
 - b. For each matter that warrants investigation, the following:
 - (i) Name, and Member ID number
 - (ii) Source of complaint
 - (iii) Type of Provider
 - (iv) Nature of complaint
 - (v) Approximate dollars involved
 - (vi) Legal and administrative disposition of the case

E. How to Refer a Case of Fraud or Abuse by a Provider. The Department of Justice Medicaid Fraud Control Unit (MFCU) phone number is (971) 673-1880, address 1515 SW 5th Avenue, Suite 410, Portland, Oregon 97201, and fax is (971)-673- 1890. The OHA/DHS Provider Audit Unit phone number is (888) 372-8301, address is PO Box 14152, 3406 Cherry Ave NE, Salem, Oregon 97309-9965, and fax is (503) 378-2577.

F. Obligations to Assist the MFCU and OHA.

1. Contractor shall permit the MFCU or OHA/DHS PAU or both to inspect, evaluate, or audit books, records, documents, files, accounts, and facilities maintained by or on behalf of Contractor or by or on behalf of any Subcontractor, as required to investigate an incident of Fraud and Abuse.
2. Contractor shall cooperate, and requires its Subcontractors to cooperate, with the MFCU and OHA/DHS PAU investigator during any investigation of Fraud or Abuse.
3. In the event that Contractor reports suspected Fraud or Abuse, or learns of an MFCU or OHA/DHS PAU investigation, Contractor should not notify or otherwise advise its Subcontractors of the investigation. Doing so may compromise the investigation.

4. Contractor shall provide copies of reports or other documentation, including those requested from the Subcontractors regarding the suspected Fraud or Abuse at no cost to MFCU or OHA/DHS PAU during an investigation.

G. **How to Refer a Case of Fraud or Abuse by a Member.** Contractor, if made aware of suspected Fraud or Abuse by a Member (e.g. a Provider reporting Member Fraud and Abuse) shall report the incident to the OHA/DHS PAU. Contractor shall address suspected Member Fraud and Abuse reports to OHA/DHS Fraud Investigation P.O. Box 14150 Salem, Oregon 97309-5027, phone number 1-888-FRAUD01 (888-372-8301), facsimile number 503-373-1525 ATTN: HOTLINE”

15. Section 30 “Ownership of Intellectual Property” is hereby added to the Underlying Agreement as follows: **Ownership of Intellectual Property.**

A. Except as otherwise expressly provided herein, or as otherwise required by state of federal law, County and OHA will not own the right, title and interest in any intellectual property created or delivered by Contractor in connection with the Services. With respect to that portion of the intellectual property that Contractor owns, Contractor grants to County and OHA a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information to: (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property; (2) authorize third parties to exercise the rights set forth in Section 9.A.(1) on County’s and OHA’s behalf; and (3) sublicense to third parties the rights set forth in Section 9.A.(1).

B. If state or federal law requires that County, OHA, or Contractor grant to the United States a license to any intellectual property, or if state or federal law requires that OHA or the United States own the intellectual property, then Contractor shall execute such further documents and instruments as County or OHA may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or OHA.”

16. Section 31 “Safeguarding of Client Information” is hereby added to the Underlying Agreement as follows: **Safeguarding of Client Information.** Contractor shall maintain the confidentiality of client records as required by applicable state and federal law, including without limitation, ORS 179.495 to 179.507, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by the Oregon Health Authority, implementing the foregoing laws, and any written policies made available to Contractor by County or by the Oregon Health Authority. Contractor shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to County and the Oregon Health Authority for review and inspection as reasonably requested by County or the Oregon Health Authority.”

17. Section 32 “Application” is hereby added to the Underlying Agreement as follows: **Application.** Contractor prepared its application related to this Agreement, if any, independently from all other applicants, and without collusion, Fraud, or other dishonesty.”

18. Section 33 “False Claims” is hereby added to the Underlying Agreement as follows: **False Claims.** Contractor understands that Contractor may be prosecuted under applicable federal and state criminal and civil laws for submitting false claims, concealing

material facts, misrepresentation, falsifying data system input, other acts of misrepresentation, or conspiracy to engage therein.”

19. Section 34 “Authorized Transactions Only” is hereby added to the Underlying Agreement as follows: “**Authorized Transactions Only**. Contractor shall only conduct transactions that are authorized by the County for transactions with the Oregon Health Authority that involve County funds directly related to this Agreement.”

20. Section 35 “Alternative Formats of Written Materials” is hereby added to the Underlying Agreement as follows: “**Alternative Formats of Written Materials**. In connection with the delivery of Services, Contractor shall:

A. Make available to a Client, without charge to the Client, upon the Client’s, the County’s or the Oregon Health Authority’s request, any and all written materials in alternate, if appropriate, formats as required by the Oregon Health Authority’s administrative rules or by the Oregon Health Authority’s written policies made available to Contractor.

B. Make available to a Client, without charge to the Client, upon the Client’s, County’s or the Oregon Health Authority’s request, any and all written materials in the prevalent non-English languages in the area served by Contractor.

C. Make available to a Client, without charge to the Client, upon the Client’s, County’s or the Oregon Health Authority’s request, oral interpretation services in all non-English languages in the area served by Contractor.

D. Make available to a Client with hearing impairments, without charge to the Client, upon the Client’s, County’s or the Oregon Health Authority’s request, sign language interpretation services and telephone communications access services.

For purposes of the foregoing, “written materials” includes, without limitation, all written materials created or delivered in connection with the services and all Contractor agreements related to this Agreement.”

21. The balance of the Underlying Agreement remains unchanged.

22. **Ratification**. Except as otherwise expressly modified by the terms of this Amendment #2, the Underlying Agreement shall remain unchanged and continue in full force and effect. All terms, covenants and conditions of the Underlying Agreement not expressly modified herein are hereby confirmed and ratified and remain in full force and effect, and, as further amended hereby, constitute valid and binding obligations of Contractor enforceable according to the terms thereof.

23. **Authority**. County and Contractor and each of the persons executing this Amendment #2 on behalf of County and Contractor hereby covenants and warrants that: (i) such party has full right and authority to enter into this Amendment #2 and has taken all action required to authorize such party (and each person executing this Amendment #2 on behalf of such party) to enter into this Amendment #2, and (ii) the person signing on behalf of such party is authorized to do so on behalf of such entity.

24. Binding Effect. All of the covenants contained in this Amendment #2 shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives and permitted successors and assigns.

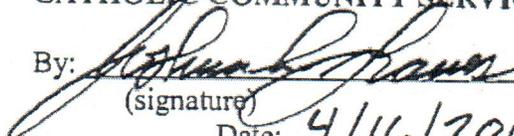
25. Counterparts. This Amendment #2 may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one and the same Amendment #2.

26. Recitals. The foregoing recitals are intended to be a material part of this Amendment #2 and are incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed on the date indicated by their duly authorized officials, this Amendment #2 in duplicate, each of which shall be deemed an original on the date executed by all parties.

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

CATHOLIC COMMUNITY SERVICES

By: 
(signature)
Date: 4/16/2018

Joshua Graves
(printed name)

Deputy Director
(title)

Tax ID No.: on file

YAMHILL COUNTY, OREGON


MARY STARRETT, Chair
Board of Commissioners
Date: 4/26/18


SILAS HALLORAN-STEINER, Director
Department of Health & Human Services
Date: 4/18/18

FORM APPROVED BY:
 4/27/18
CHRISTIAN BOENISCH
County Counsel
Date: _____

Accepted by Yamhill County
Board of Commissioners on
4/26/18 by Board Order
18-121

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

CATHOLIC COMMUNITY SERVICES

YAMHILL COUNTY, OREGON

By: *Joshua Graves, Deputy Director*
(signature)
Date: 5/1/2018

MARY STARRETT, Chair
Board of Commissioners
Date: _____

Joshua Graves
(printed name)

SILAS HALLORAN-STEINER, Director
Department of Health & Human Services
Date: _____

Deputy Director
(title)

FORM APPROVED BY:

Tax ID No.: on file

CHRISTIAN BOENISCH
County Counsel
Date: _____