

**SIXTH AMENDMENT TO AGREEMENT
SCHOOL BASED HEALTH CENTER SERVICES
Yamhill County HHS and Virginia Garcia Memorial Health Center**

THIS SIXTH AMENDMENT TO AGREEMENT (“Amendment #6”) is made effective July 1, 2020 between Yamhill County, a political subdivision of the State of Oregon acting by and through its Department of Health and Human Services (“County”) and Virginia Garcia Memorial Health Center (“VGMHC”), an Oregon nonprofit corporation, PO Box 6149, Aloha, OR 97007.

RECITALS:

A. County and VGMHC are parties to that certain agreement dated as of July 23, 2012 (the “Underlying Agreement”), pursuant to which VGMHC operates the Willamina School Based Health Center (“SBHC”). The Underlying Agreement is memorialized in Yamhill County records as Board Order 12-403. The Underlying Agreement was first amended August 25, 2014, (“First Amendment”) memorialized as Board Order 14-509. The Underlying Agreement was further amended on October 15, 2015 (“Second Amendment”), memorialized as Board Order 15-422, on July 31, 2017 (“Third Amendment”) memorialized as Board Order 17-296, on May 9, 2019 (“Fourth Amendment”) memorialized as Board Order 19-142, and on August 22, 2019 (“Fifth Amendment”) memorialized as Board Order 19-305.

B. County and VGMHC now desire to further amend the Underlying Agreement upon the terms and conditions as more particularly set forth herein below.

C. 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 for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, County and VGMHC, intending legally to be bound, hereby agree as follows:

1. Section 2 of the Underlying Agreement, as amended, is hereby further amended to include the following:

“VGMHC shall provide the following at no cost to the Willamina School District (“WSD”), (1) comprehensive school-based health center services as defined by the SBHC State Program Office, (2) health care equipment and supplies for use in the SBHC, (3) proper maintenance and disposal of hazardous waste, (4) computer equipment for use in the SBHC and maintenance of the same, (5) telephone service for use on the SBHC, (6) appropriate staffing for the SBHC (with training and licensing as warranted), (7) medical supervision of staff, (8) all SBHC billing responsibilities, and (9) maintain throughout the term of this Agreement

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Property General Liability and Medical Malpractice insurance for all SBHC appropriate staff.”

2. Section 2 of the Underlying Agreement, as amended, is hereby further amended to include the following:

“VGMHC agrees (1) allow the WSD to list the names of VGMHC and County in catalogs, brochures, correspondence, websites and social media as the operators of the WSD SBHC, subject to prior approval by County, (2) that it has complete responsibility over the operation of the SBHC, (3) (4) that it will work cooperatively with WSD staff.

3. Section 2 of the Underlying Agreement, as amended, is hereby further amended to include the following:

“County agrees to provide mental health services to WSD students, to be co-located with other services provided by VGMHC at the SBHC.”

The balance of Section 2 (except as otherwise amended herein above) remains unchanged.

4. Section 3 of the Underlying Agreement, as amended, is hereby further amended to include the following:

“Effective July 1, 2020, the maximum amount due VGMHC for performance of Services is \$60,000 per 12-month period, unless this amount is modified in writing signed by both parties.”

5. Section 5 of the Underlying Agreement is hereby amended to include the following:

“VGMHC will, to the extent permitted by law, protect the confidentiality of any and all information received from students who seek services at the SBHC unless disclosure is necessary for the health and safety of the student and/or other persons,”

The balance of Section 5 of the Underlying Agreement remains unchanged.

6. Section 9A of the Underlying Agreement is hereby deleted in its entirety and replaced with the following:

“VGMHC or County may terminate this Agreement for any reason or without reason upon at least sixty (60) days written notice to the other party. Termination shall not excuse liabilities incurred prior to the termination date. However, if an academic semester has commenced or is

within thirty (30) days of commencing, such notice of termination shall not be effective until completion of said semester.

Either party may also terminate this Agreement at any time if the other party defaults in any of its material obligations hereunder, but only if such default shall have continued for a period of ten (10) days after the receipt of a written notice thereof from the other party.

Nothing in this paragraph shall be construed to limit or alter County's responsibility to transition WSD students to continuing and appropriate health services, upon termination of County's obligations under this Agreement. Nothing in this paragraph shall be construed to limit or alter VGMHC's responsibility to transition WSD students to continuing and appropriate health services, upon termination of VGMHC's obligations under this Agreement."

The balance of Section 9 of the Underlying Agreement remains unchanged.

7. Section 10 of the Underlying Agreement is hereby amended to include the following:

"Nothing herein shall create or be deemed to create any relationship of agency, joint venture or partnership between County and VGMHC. Neither party shall have the power to bind or obligate the other in any manner except as expressly provided in this Agreement."

The balance of Section 10 of the Underlying Agreement remains unchanged.

8. Section 16 of the Underlying Agreement is hereby amended to include the following:

"VGMHC shall comply with the applicable provisions of ORS chapters 279A, B, and C, particularly 279C.500, 279C.510, 279C.515, 279C.520 and 279C.530, as amended. In addition, VGMHC expressly agrees to comply with Title VI of the CIVIL RIGHT ACT of 1964 and comparable state and local laws. VGMHC shall also comply with Section V of the Rehabilitation Act of 1973 and the Americans With Disabilities Act of 1990 (Pub. Law No. 101-336), ORS 30.670 to ORS 30.685, ORS 659A.142, ORS 59A.145, and all regulations and administrative rules established pursuant to those laws. Furthermore, Company certifies compliance with the tax laws of the State of Oregon or a political subdivision of the state, including ORS 305.620 and ORS Chapters 316, 317 and 318."

9. Section 16 of the Underlying Agreement is further amended to update the reference to the Intergovernmental Agreement for the Financing of Public Health Services between the County and the OHA to the agreement which is effective as of July 2019 through June 30, 2021.

The balance of Section 16 of the Underlying Agreement (except as otherwise amended herein above) remains unchanged.

10. A new Section 30 is hereby added to the Underlying Agreement to read as follows:

“Section 30. Force Majeure. Neither party shall be liable to the other or be deemed to be in breach of the Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather.”

11. A new Section 31 is hereby added to the Underlying Agreement to read as follows:

“Section 31. Notice. All notices and other communications required or desired to be given shall be given personally, or sent by telefax, registered or certified mail, postage prepaid, return receipt requested to the persons at the addresses set forth below. Notices will be deemed received (a) on the date delivered, if delivered personally; (b) when sent by telefax (if confirmation notice is sent by registered or certified mail on the same day; or (c) three (3) business days after posting, if sent by registered or certified mail.”

12. Exhibit B, Section 5 of the Underlying Agreement is amended to include the following new subsections:

- “d. No part of any federal funds paid to VGMHC under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
- e. No part of any federal funds paid to VGMHC under this Agreement

shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

- f. The prohibitions in Subsections (d) and (e) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- g. No part of any federal funds paid to VGMHC under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under Section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.”

13. Exhibit B, Section 7 of the Underlying Agreement is deleted in its entirety and replaced with the following:

“VGMHC shall comply, and shall require all subcontractors to comply, with applicable Code of Federal Regulations (CFR) governing expenditure of Federal funds including, but not limited to, if a sub-recipient expends \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, a sub-recipient shall have a single organization-wide audit conducted in accordance with the Single Audit Act. If a sub-recipient 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. Copies of all audits must be submitted to OHA within 30 calendar days of completion. If a sub-recipient 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.”

14. A new Section 14 is hereby added to Exhibit B of the Underlying Agreement to read as follows:

“ADA. VGMHC shall comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 U.S.C. 12131 et. seq.) 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.”

15. A new Section 15 is hereby added to Exhibit B of the Underlying Agreement to read as follows:

“15. 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. 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.

- c. 45 CFR 75.113 requires applicants for Services, and recipients of federal funds to disclose, in a timely manner, in writing to the United States Health and Human Services (HHS) awarding agency or pass-through entity all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the HHS Office of the Inspector General at the following address:

U.S. Department of Health and Human Services
Office of the Inspector General
Attn: Mandatory Grant Disclosures, Intake Coordinator
330 Independence Ave, SW
Cohen Building, Room 5527
Washington, DR 20201

OHA reserves the right to take such action required by law, or where OHA has discretion, it deems appropriate, based on the information received (or the failure to receive) from the provider, fiscal agent or managed care entity.”

16. A new Section 16 is hereby added to Exhibit B of the Underlying Agreement to read as follows:

“16. Super Circular Requirements. 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, including but not limited to the following:

- a. Property Standards. 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

- b. Procurement Standards. When procuring goods or services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C or 2 CFR §§ 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
- c. Contract Provisions. The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of Contractor, and Contractor shall also include these contract provisions in its contracts with non- Federal entities.”

17. A new Section 17 is hereby added to Exhibit B of the Underlying Agreement to read as follows:

“17. FEMA. This Agreement is subject to the additional federal terms and conditions located at:
<https://www.oregon.gov/das/Procurement/Documents/COVIDFederalProvisions.pdf>
as may be applicable to this Agreement.”

18. The balance of Exhibit B of the Underlying Agreement (except as otherwise amended herein above) remains unchanged.

19. Exhibit C of the Underlying Agreement is hereby deleted in its entirety and replaced with the following:

“VGMHC agrees to serve Willamina students. Students who choose to take advantage of the SBHC services are required to have parental/guardian consent prior to receiving services, with exceptions listed in Oregon State Law (ORS 109.610, ORS 109.640, and ORS 109.675).

According to Oregon State Law (ORS 109.610, ORS 109.640, and ORS 109.675), the following patients have the right to consent to their own services at the SBHC and sign their own consent form:

- a. Patients age 15 and older have the right to consent to their own general medical care.
- b. Patients of any age can give their own consent for sexually transmitted infection (STI) evaluation and treatment or family planning.

- c. Patients age 14 and older can consent to their own mental health and substance use treatment. Students who by law can consent to their own care have a right to confidential treatment.
- d. Patients with suspected abuse (see Reporting Child Abuse Policy) have the right to consent to their own services and confidential treatment following the “Reporting Child Abuse” Policy and Procedures.

Consent forms will be reviewed by VGMHC administrator and medical director annually.

Opt-Out Policy: For patients under 15 years, except in the cases of communicable diseases (including STDs), mental health issues, family planning, and drug and alcohol treatment, the SBHC has an opt out policy to allow parents to refuse consent for their child to be seen at the SBHC, either in writing or verbally. If this occurs, this refusal will be documented in the chart and the student will not be seen for any reason other than if abuse is suspected and the school requests evaluation.”

- 20. The balance of the Underlying Agreement remains unchanged.
- 21. Ratification. Except as otherwise expressly modified by the terms of this Amendment #6, 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 VGMHC enforceable according to the terms thereof.
- 22. Authority. County and VGMHC and each of the persons executing this Amendment #6 on behalf of County and VGMHC hereby covenants and warrants that: (i) such party has full right and authority to enter into this Amendment #6 and has taken all action required to authorize such party (and each person executing this Amendment #6 on behalf of such party) to enter into this Amendment #6, and (ii) the person signing on behalf of such party is authorized to do so on behalf of such entity.
- 23. Binding Effect. All of the covenants contained in this Amendment #6 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.
- 24. Counterparts. This Amendment #6 may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one and the same Amendment #6.

25. Recitals. The foregoing recitals are intended to be a material part of this Amendment #6 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 #6 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.

VIRGINIA GARCIA MEMORIAL HEALTH CENTER

YAMHILL COUNTY

By: 
320DFAA8577A426...
(signature)
Date: 3/10/2021 | 10:33 PST



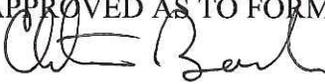
MARY STARRETT, Chair
Board of Commissioners
Date: 3/18/21

Gil Muñoz
(printed name)



KEN HUFFER, County Administrator
Date: 3/18/2021

Chief Executive Officer
(title)

APPROVED AS TO FORM:


CHRISTIAN BOENISCH
County Counsel
Date: 3/19/21

Tax ID No.: on file

Accepted by Yamhill County
Board of Commissioners on
3/18/21 by Board Order
21-99