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AGREEMENT # 170700

OREGON HEALTH AUTHORITY INTERGOVERNMENTAL AGREEMENT FOR ENVIRONMENTAL HEALTH SERVICES

This Agreement is between the State of Oregon acting by and through its Oregon Health Authority (“OHA”) and **Yamhill County, by and through its Department of Health and Human Services, Public Health Division, and its Environmental Health Program**, the Local Public Health Authority (“LPHA”), each a “Party” and together, the “Parties.” This Agreement consists of this document and includes the following listed exhibits which are incorporated into this agreement:

- Exhibit A: Subcontractor insurance requirements
- Exhibit B: Pool and spa plan review and preopening inspections

SECTION 1. AUTHORITY

- ORS 446.310 to 446.350 establishes a state licensure program for tourist facilities.
- Upon request from a county, ORS 446.425 requires OHA to delegate to the county board of commissioners any of the duties and functions of the director under ORS 446.310, 446.320, 446.330 to 446.340, 446.345, 446.350 and 446.990 if OHA determines that the county is able to carry out the rules of OHA relating to fee collection, inspections, enforcement and issuance and revocation of permits and licenses in compliance with standards for enforcement by the counties and monitoring by OHA.
- ORS 448.005 to 448.090 establishes a state licensure program for pool and spa facilities.
- Upon request from a county, ORS 448.100 requires OHA to delegate to the county board of commissioners any of the duties and functions of the director under ORS 448.005, 448.011, 448.020 to 448.035, 448.040 to 448.060 and ORS 448.100 if OHA determines that the county is able to carry out the rules of OHA relating to fee collection, licensing, inspections, enforcement and issuance and revocation of permits and certificates in compliance with standards for enforcement by the counties and monitoring by OHA.
- ORS 624.010 to 624.121 establishes a state licensure program for restaurants and bed and breakfast facilities.
- ORS 624.310 to 624.340 establishes a state licensure program for commissaries, mobile units, warehouse and vending machines.

- ORS 624.510 requires OHA to enter into this Agreement with a LPHA delegating to the LPHA the administration and enforcement within the jurisdiction of the LPHA of the powers, duties and functions of the OHA director under ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992. This Agreement must describe the powers, duties and functions of the local public health authority relating to fee collection, licensing, inspections, enforcement, civil penalties and issuance and revocation of permits and certificates, standards for enforcement by the LPHA and the monitoring to be performed by the OHA.

SECTION 2. PURPOSE

The purposes of this Agreement are:

- For LPHAs to request the duties and functions of OHA and for OHA to review whether the requested delegation is appropriate as described in Section 6 of this Agreement. For OHA to delegate responsibility to LPHAs who have requested the duties and functions of OHA for carrying out the following programs:
 - The Tourist Facility program in ORS 446.310 to 446.350 pursuant to ORS 446.425(1).
 - The Pool/Spa program in ORS 448.005 to 448.090 pursuant to ORS 448.100(1) except for the authority to issue variances under ORS 448.037; and
 - The restaurant, bed and breakfast facility, commissary, mobile unit, warehouse and vending machine licensing programs in ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992 pursuant to ORS 624.510(1).
- For OHA to delegate responsibility to LPHAs for carrying out the restaurant, bed and breakfast facility, commissary, mobile unit, warehouse and vending machine licensing programs in ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992 pursuant to ORS 624.510(1).
- To establish the duties, standards and responsibilities of the LPHA in carrying out the delegated duties.
- To establish OHA's duties and responsibilities under this Agreement to enable the LPHA to meet the requirements of the delegation and to provide for OHA's review and monitoring of the LPHA's performance.

SECTION 3. EFFECTIVE DATE

Upon approval of this Agreement by the parties, and when required, the Department of Justice, this Agreement shall become effective on **June 30, 2021** regardless of the date this Agreement has been fully executed by each Party. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2023**. Agreement termination or expiration shall not extinguish or prejudice either Party's right to enforce this Agreement with respect to any default by the other Party that has not been cured.

This Agreement supersedes and replaces any previous delegations of authority under ORS 446.425, 448.100, and 624.510.

SECTION 4. AUTHORIZED REPRESENTATIVES

4.1 AGENCY'S AUTHORIZED REPRESENTATIVE IS:

Name: André Ourso
Title: Administrator, Center for Health Protection
Date: June 30, 2021
Phone: (971) 673-0403
Email: andre.ourso@state.or.us

4.2 LPHA'S AUTHORIZED REPRESENTATIVE IS:

Name: Lindsey Manfrin
Title: Director, Yamhill County Health and Human Services
Date: June 30, 2021
Phone: (503) 434-7525
Facsimile: (503) 472-9731
Email: manfrinl@co.yamhill.or.us

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 5. DEFINITIONS

Unless otherwise specified the definitions in ORS 431.003, 446.310, 448.005, 624.005, 624.010, 624.310 and OAR 333, Divisions 12, 14, 29 to 31, 60, 62, 150, 157, 158, 160, 162, 170, and 175 apply to this Agreement.

- “CLEHS” means the Conference of Local Environmental Health Supervisors.
- “CLHO” means the Conference of Local Health Officials.
- “FIPP” means the Foodborne Illness Prevention Program.
- “FPLHS” means the Food, Pool and Lodging Health and Safety Programs.
- “LPHA” means the Local Public Health Authority.

SECTION 6. LPHA'S REQUEST FOR DELEGATION AND OHA REVIEW OF REQUEST

By signing this Agreement, **Yamhill County** hereby requests delegation of the duties and functions of the Pool/Spa and Tourist Facilities programs. The requested delegation includes the following programs:

- The Tourist Facility program in ORS 446.310 to 446.350 pursuant to ORS 446.425(1); and
- The Pool/Spa program in ORS 448.005 to 448.090 pursuant to ORS 448.100(1) except for the authority to issue variances under ORS 448.037.

After receipt of the request above and prior to signing this Agreement, the Director of OHA will evaluate the LPHA to determine whether delegation is appropriate under the applicable statutes and rules. ORS 446.425, 448.100, and 624.510; Oregon Administrative Rules Chapter 333, Division 12. This determination is primarily based on findings from the most recent Triennial Review of the LPHA. By signing this Agreement, the Director of OHA hereby determines that delegation is appropriate as described in this Section.

SECTION 7. OHA RESPONSIBILITIES

OHA hereby delegates authority to administer the following programs to the LPHA:

- The Tourist Facility programs in accordance with 446.425.
- The Pool/Spa program in accordance with 448.100(1) except for the authority to issue variances under ORS 448.037 consistent with Exhibit B; and
- The restaurant, bed and breakfast facility, commissary, mobile unit and vending machine licensing programs to the LPHA in accordance with ORS 624.510.

To enable LPHA to carry out its delegated duties under this agreement, OHA shall:

- 7.1 Provide training to LPHA staff including at least one annual conference relating to the Food, Pool/Spa and Tourist Facilities programs and one virtual or in-person regional meeting. OHA will cover the costs for these meetings such as registration, room rental, food and beverages, and speaker fees but will not cover LPHA staff travel expenses (e.g. lodging, mileage, per diem beyond meals provided, etc.).
- 7.2 Provide a statewide licensing and inspection software application for use by LPHAs. OHA will provide support and technical assistance to users of the system. OHA will develop a communication protocol to provide direction on how to request support and technical assistance from contract vendors or FIPP staff.
- 7.3 Provide at no cost, printed materials required in statute or rule that are necessary to implement the programs and are listed on OHA General Requisition for 34-00A, such as but not limited to handwashing placards, compliance stickers, inspection forms, closure orders and license applications. OHA will consult with the Conference of Local Health Officials (CLHO) or its designee to determine additional printing needs.
- 7.4 Ensure access to electronic versions of the administrative rules, food handlers manuals and other educational materials.
- 7.5 Work with CLHO or its designee, using the Four-Factor Analysis adopted by the federal Department of Health and Human Services to determine which forms and documents need to be translated, and which forms and documents will be provided to the LPHA in printed form.

In addition to CLHO, work with CLEHS using the following Four Factor analysis to determine which forms and documents need to be translated into other languages and applicable timelines. The Four Factors are:

- The number or proportion of limited English proficiency (LEP) persons eligible to be served or likely to be encountered by the LPHA;
 - The frequency with which LEP individuals come into contact with the LPHA's environmental health services program;
 - The nature and importance of the program, activity or service provided by the LPHA to its beneficiaries; and
 - The resources available to OHA and the costs of interpretation/translation services.
- 7.6 Provide consultation and technical assistance to LPHAs to support implementation of the administrative rules and other laws enforced by LPHA under this Agreement relating to the Food, Pool/Spa and Tourist Facility programs.
- 7.7 Provide FIPP standardization and certificate of completion to at least one person in each LPHA as required in OAR 333-012-0060(3).
- 7.8 Provide training to LPHA staff on public pool/spa plan review.
- 7.9 (Reserved)
- 7.10 Provide LPHA with information relating to the status of variance applications within the LPHA's jurisdiction and communicate when necessary with LPHA's Environmental Health Supervisor if the status changes.
- 7.11 In September of each year, OHA will provide LPHAs with a projected FPLHS program budget and a preliminary list of all LPHA remittance fees for the next fiscal year or biennium (depending where the date lands in the fiscal biennium). This budget and remittance information will be reviewed at a regularly scheduled CLHO meeting or designated subcommittee. A second report containing the final budget and remittance totals will be provided in April at a regularly scheduled CLHO meeting and designated subcommittee.
- 7.12 Provide a budget update for Food, Pool/Spa and Tourist Facilities Programs that includes expenditures and remaining balances. Reports will be provided to CLHO or its designee in April and October of each year.
- 7.13 In March of each year, convene a workgroup consisting of CLHO representatives (including CLEHS and CLHO or its designee), a local public health administrator and food service industry members to review and provide recommendations for the Annual Program Plan for FIPP, Public Pool/Spa and Tourist Facility Programs. OHA staff shall provide the workgroup, CLEHS and CLHO or its designee with a report summarizing program activities from the previous year.
- 7.14 Consult with CLHO or its designee prior to any substantive modification to the Annual Foodborne Illness Prevention Program and Public Pool/Spa and Tourist Facility Program Plans and, in a timely manner, consult with CLHO or its designee regarding any other

major changes to those programs that affect the LPHA, to the extent possible and feasible.

- 7.15 Provide personnel to LPHA to perform inspection services in the case of an emergency.
- 7.16 Comply with applicable provisions of ORS 446.310 to 446.350 and 446.990, ORS 448.005 to 448.090, ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992, OAR 333, Divisions 12, 14, 29 to 31, 60, 62, 150, 157, 158, 160, 162, 170, and 175.

SECTION 8. LPHA RESPONSIBILITIES

LPHA accepts OHA's delegation of authority to carry out the following programs:

- Tourist Facility program in ORS 446.310 to 446.350 and 446.990.
- Pool/Spa program in ORS 448.005 to 448.090 except for the authority to issue variances under ORS 448.037; and
- Restaurant, bed and breakfast facility, commissary, mobile unit, warehouses and vending machine licensing programs in ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992.

Pursuant to OHA's delegation of authority, LPHA shall:

- 8.1 Carry out the statutes and rules of OHA relating to fee collection, inspections, enforcement and issuance and revocation of permits and licenses in compliance with standards for enforcement in ORS 446.310 to 446.350 and 446.990, ORS 448.005 to 448.090, ORS 624.010 to 624.121, 624.310 to 624.430, 624.650 and 624.992, OAR 333, Divisions 12, 29 to 31, 60, 62, 150, 157, 158, 160, 162, 170, and 175.
- 8.2 Not later than thirty (30) days following receipt of an invoice from OHA, remit the following licensing fees to OHA:
 - For the Tourist Facility program, fifteen percent (15%) of the state licensing fee or fifteen percent (15 %) of the county licensing fee, whichever is less, collected by county that quarter, in accordance with ORS 446.425.
 - For the Pool/Spa program, in the amount of \$45, for each license issued by the LPHA in that quarter under ORS 448.035 or such other amount agreed upon by the parties;
 - For the restaurant, bed and breakfast facility, commissary, mobile unit and warehouse licensing programs, a predetermined percentage of licensing revenue. For each biennium, this amount is determined by dividing OHA's food program costs by the total projected statewide licensing revenue. Statewide revenue is calculated using marker fees set forth in ORS 624.490.
 - $(\text{Biennial cost of FIPP} / \text{Total projected licensing revenue for the biennium for all LPHAs} = \text{Remittance Factor (Represented as a percentage.)})$ FIPP's biennial budget includes all program costs (i.e., staffing, fringe, travel, supplies, indirect costs, and statewide licensing software application). For the final invoice of a given fiscal year, LPHA may request an invoice in

- advance of the actual due date and pay the required licensing fees in advance.
- For the fiscal biennium beginning July 1, 2021 and ending June 30, 2023, the remittance factor is 12.81% of licensing revenue, based on licensing fees in statute. (Biennial cost of FIPP (\$2,328,526)/Total projected statewide licensing revenue for the biennium (\$18,179,220) =12.81%.)
- 8.3 Provide to OHA's Agreement Administrator with each quarterly remittance a written summary report that includes:
- The quarterly remittance amount due to support the FIPP. If the payment amount is greater or less than the fixed quarterly remittance payment, include both amounts; and
 - The total number of pool/spa licenses issued by the LPHA in the quarter for which the remittance is due; and
 - The total number of tourist facility licenses issued by the LPHA in the quarter for which the remittance is due, including the number of spaces for recreation parks.
- 8.4 Use or be transitioning toward the use of the statewide licensing software within 12 months of OHA notifying LPHAs that it has signed a contract with the service provider, if the LPHA is not already using this software.
- 8.5 Provide to OHA information required to produce Licensed Facility Statistics Reports (Stats Report) by February 28 of each year. Information required includes-the number of complaints by type, foodborne illness outbreak investigations conducted, enforcement actions taken, number of food handler cards issued, number of food service managers trained, environmental health FTE information for Food, Pool/Spa and Tourist Facility Programs, number of OHA-standardized staff and number of staff with National Swimming Pool Foundation-certified pool operator training or equivalent.
- 8.6 All licensing fees for food, pool/spa and tourist facilities as well as food handler certification fees collected by the LPHA are to be used to support the respective programs at the local and state level and cannot be used to support any other activities.

SECTION 9. ACCOUNTING

OHA may request that the LPHA provide an accounting of the fees collected pursuant to this Agreement for the previous three years and the LPHA and/or its subcontractor's expenditures of those fees to ensure the fees were expended only for the duties and functions delegated to the LPHA under this Agreement. Licensing fees must be used for inspection and related administration purposes only, including direct and indirect costs for the program. If an LPHA terminates this Agreement, any fees collected for inspections that the LPHA has not spent on services performed under this Agreement shall be returned to OHA within thirty days of termination.

SECTION 10. CONFLICT RESOLUTION

The Parties agree to meet, in person if possible, to discuss any conflict that arises between the Parties concerning this Agreement and to work in good faith to resolve the matter in a way that is mutually agreeable.

SECTION 11. REVIEW OF AGREEMENT

The Parties will review this Agreement every five years or sooner upon the agreement of both Parties.

SECTION 12. SUSPENSION AND TERMINATION

- 12.1 Either Party may terminate this Agreement upon 180 days written notice to the other Party.
- 12.2 OHA may terminate this Agreement in accordance with OAR 333-012-0070(6) to (8).
- 12.3. If the delegations in this Agreement are suspended or terminated the LPHA must return any unexpended portion of the fees collected by the LPHA or its subcontractor under ORS 446.425(2), 448.100(2) and 624.510(2) to OHA for carrying out the powers, duties and functions under ORS 446, 448 and 624. For purposes of this paragraph any unexpended portion of the fees collected includes licensing fees collected for a given licensing year minus credits determined by OHA for inspections performed by the LPHA or its subcontractor, as documented in the statewide licensing database.
- 12.4 The LPHA may terminate this Agreement if the LPHA requests a transfer of the LPHA's responsibilities to OHA in accordance with ORS 431.382, but such a termination does not take effect until 180 days after OHA receives the request, unless otherwise agreed to by OHA and the LPHA.
- 12.5 Upon termination of this Agreement, LPHA shall have no further obligation to make remittance payments to OHA under this Agreement, except as specified in paragraph 11.3.
- 12.6 Any termination of this Agreement shall not prejudice any obligations or liabilities of either Party accrued prior to such termination.

SECTION 13. AMENDMENTS

- 13.1 The terms of this Agreement may not be waived, altered, modified, supplemented or otherwise amended, in any manner whatsoever, except by written mutual agreement of the Parties.
- 13.2 This Agreement must be amended if the percentages or formulas for remittance in Section 8.2 change.

SECTION 14. NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to a Party's Authorized Representative at the address or number set forth in this Agreement, or to such other addresses or numbers as a Party may indicate pursuant to this section.

SECTION 15. SURVIVAL

All rights and obligations shall cease upon termination of this Agreement, except for those rights and obligations that by their nature or express terms survive termination of this Agreement. Termination shall not prejudice any rights or obligations accrued to the Parties prior to termination.

SECTION 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.

SECTION 17. COUNTERPARTS

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

SECTION 18. LIABILITY AND INSURANCE

The LPHA and its employees or contractors in carrying out the functions and duties delegated in this agreement have the sole right of control as to the physical details of the manner of performance of the inspections to be conducted. The LPHA further understands and agrees that its employees or contractors carrying out the functions and duties delegated in this agreement will be properly trained by the LPHA with regard to the applicable statutes and rules of OHA relating to the delegated programs.

Contribution. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

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

With respect to a Third Party Claim for which the LPHA is jointly liable with OHA (or would be if joined in the Third Party Claim), the LPHA shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and

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

LPHA shall require subcontractors to maintain insurance as set forth in Exhibit A ("Subcontractor Insurance") which is attached hereto.

SECTION 19. DAS REPORTING REQUIREMENT

The Parties agree that OHA shall be the Reporting Party for purposes of ORS 190.115, Summaries of Agreements of State Agencies. OHA shall submit a summary of this Agreement to the Oregon Department of Administrative Services through the electronic Oregon Procurement Information Network (ORPIN), within the 30-day period immediately following the Effective Date of the Agreement.

SECTION 20. RECORDS

The Parties shall create and maintain records documenting their performance under this Agreement. The Oregon Secretary of State's Office, the federal government, the other Party, and their duly authorized representatives shall have access to the books, documents, papers, and records of a Party that are directly related to this Agreement for the purposes of making audit, examination, excerpts, and transcripts for a period of six years after termination of this Agreement.

SECTION 21. NO THIRD-PARTY BENEFICIARIES

OHA and LPHA 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 unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

SECTION 22. MERGER, WAIVER AND MODIFICATION

This Agreement and all exhibits and attachments, if any, constitute 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. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.

SECTION 23. SUBCONTRACTS AND ASSIGNMENT

23.1 If LPHA intends to contract with a person to perform services or activities required under this Agreement, such person may not perform any function, duty or power of the LPHA related to governance as that is described in OAR 333-014-0580. LPHA must provide

notice to OHA in accordance with OAR 333-014-0570(2) and (5) and subcontracts must comply with OAR 333-014-0570(4).

23.2 Neither Party may assign, delegate or transfer any of its rights or obligations under this Agreement.

SECTION 24. INDEMNIFICATION BY SUBCONTRACTORS.

LPHA shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (“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 LPHA’s contractor or any of the officers, agents, employees or subcontractors of the contractor (“Claims”). It is the specific intention of the Parties that the 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.

SECTION 25. ADDITIONAL PROVISIONS

25.1 Vendor or Sub-Recipient Determination.

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

LPHA is a sub-recipient LPHA is a vendor Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: (Not Applicable)

25.2 LPHA Data and Certification.

a. **LPHA Information.** LPHA shall provide information set forth below. This information is requested pursuant to ORS 305.385.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

LPHA Name (exactly as filed with the IRS): Yamhill County

Street address: 535 NE 5th Street

City, state, zip code: McMinnville, OR 97128

Email address: morenom@co.yamhill.or.us

Telephone: (503) 474-4911 Facsimile: (503) 434-7553

Federal Employer Identification Number: 93-6002318

Proof of Insurance:

Workers’ Compensation Insurance Company: SAIF

Policy #: 871736 Expiration Date: 7/2/2022

The above information must be provided prior to Agreement approval. LPHA shall provide proof of Insurance upon request by OHA or OHA designee.

b. Certification. The LPHA acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the LPHA and that pertains to this Agreement or to the project for which the Agreement work is being performed. The LPHA certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. LPHA further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the LPHA. Without limiting the generality of the foregoing, by signature on this Agreement, the LPHA hereby certifies that:

- (1) The information shown in Section 25.2 a, LPHA Information, is LPHA’s true, accurate and correct information;
- (2) To the best of the undersigned’s knowledge, LPHA has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (3) LPHA and LPHA’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (4) LPHA is not listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal procurement or Non-procurement Programs” found at: <https://www.sam.gov/portal/public/SAM/>; and
- (5) LPHA is not subject to backup withholding because:
 - (a) LPHA is exempt from backup withholding;
 - (b) LPHA has not been notified by the IRS that LPHA is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified LPHA that LPHA is no longer subject to backup withholding.

c. LPHA is required to provide its Federal Employer Identification Number (FEIN). By LPHA’s signature on this Agreement, LPHA hereby certifies that the FEIN provided to OHA is true and accurate. If this information changes, LPHA is also required to provide OHA with the new FEIN within 10 days.

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

Signatures.

Yamhill County, by and through its Department of Health and Human Services, Public Health Division, and its Environmental Health Program
By:

<small>Digitally signed by Lindsey Manfrin DN: cn=Lindsey Manfrin, o=Oregon Health Division, ou=Public Health Division, email=Lindsey.Manfrin@ohd.org, c=US</small> Lindsey Manfrin	HHS Director/Public Health Administrator	11/18/21
Authorized Signature	Title	Date

State of Oregon, acting by and through its Oregon Health Authority, pursuant to ORS 190
By:

	Administrator	1/19/2022
Authorized Signature	Title	Date

Approved for Legal Sufficiency:

Approved via email by:
Shannon Ofallon, Assistant Attorney General

Assistant Attorney General	June 29, 2021
	Date

OHA Program Representative:

Approved via email by:
Brett W. Sherry, Program Manager, Regulatory Unit, Public Health Division

Brett W. Sherry, Program Manager, Regulatory Unit, Public Health Division	July 9, 2021
Authorized Signature	Date

Accepted by Yamhill County
Board of Commissioners on
11/22/21 by Board Order
21-469

**OREGON HEALTH AUTHORITY
INTERGOVERNMENTAL AGREEMENT
FOR ENVIRONMENTAL HEALTH SERVICES**

**EXHIBIT A
SUBCONTRACTOR INSURANCE**

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

TYPES AND AMOUNTS

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

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

COMMERCIAL GENERAL LIABILITY:

Required **Not required**

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

AUTOMOBILE LIABILITY INSURANCE:

Required **Not required**

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$ 1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY:

Required **Not required**

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$ 1,000,000 per claim. Annual aggregate limit shall not be less than \$ 2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

EXCESS/UMBRELLA INSURANCE:

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

ADDITIONAL COVERAGE REQUIREMENTS:

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

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other

insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the OHA or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the OHA has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

TAIL COVERAGE:

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

CERTIFICATE(S) AND PROOF OF INSURANCE:

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

NOTICE OF CHANGE OR CANCELLATION:

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

INSURANCE REQUIREMENT REVIEW:

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

STATE ACCEPTANCE:

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

**OREGON HEALTH AUTHORITY
INTERGOVERNMENTAL AGREEMENT
FOR ENVIRONMENTAL HEALTH SERVICES**

EXHIBIT B

POOL AND SPA PLAN REVIEW AND PRE-OPENING INSPECTIONS

LPHA agrees to provide pool plan review for new and altered pools and spas in their jurisdiction in accordance with ORS 448.020-448.030 and OAR 333-060-0025 through 333-060-0035(1)(a) (pools) and OAR 333-062-0025 through 333-062-0035(1) (spas). LPHA agrees to collect a plan review fee to cover the cost of the plan review. LPHA will conduct a final construction inspection prior to issuing a license to any newly constructed or altered public pool or spa.

ORS 448.037 gives OHA the authority to grant variances for pool and spa construction requirements specified in OAR. According to ORS 448.037(3), OHA may not delegate this responsibility to the LPHA. If in the course of performing a plan review an LPHA discovers the need for a variance, the LPHA shall consult with OHA on the matter to determine if a variance is warranted. The LPHA shall not approve a plan review in which a variance is required without first consulting with OHA.