

December 9, 2025

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of a Personal Services Contract with Transcending Hope for temporary and transitional behavioral health housing operations and supportive services. Contract Value is \$1,005,751.92 for 18 months. Funding is through the Oregon Health Authority. No General Funds are involved.

Previous Board Action/Review	No previous Board Action, Not a new vendor or program		
Performance Clackamas	Healthy People		
Counsel Review	Yes – Amanda Keller	Procurement Review	Yes
Contact Person	Karen Kern	Contact Phone	503-742-5335

EXECUTIVE SUMMARY: The Behavioral Health Division of the Health, Housing, and Human Services Department requests approval of a personal services contract with Transcending Hope for temporary and transitional behavioral health housing program operations and supportive services for the Clackamas County residents receiving services through county programs, including the Aid & Assist and Care Coordination programs.

In 2022, the Oregon State Legislature passed House Bill (HB) 5202, which included funding for the development of behavioral health housing. The goal was “to expand the availability of housing and residential treatment beds for people with behavioral health issues.” Program goals include providing an array of supported housing, helping relieve the “bottleneck” at the Oregon State Hospital, addressing health inequities and housing access disparities, and decreasing the number of people with behavioral health disorders who are homeless. Behavioral health housing funds from HB 5202 were distributed to Community Mental Health Programs (CMHPs).

As Clackamas County is a CMHP, the Behavioral Health Division (BHD) received an allocation of \$4.7 million under HB 5202. To support the program’s goals, BHD issued a request for proposals (“RFP”) to identify experienced organizations interested in developing and launching a program in Clackamas County to temporarily house and serve the Aid & Assist and Choice Model program populations.

This project was advertised in accordance with ORS and LCRB Rules on October 16, 2023, through RFP 2023-88. Proposals were publicly opened on November 15, 2023.

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The County received two proposals in response to the RFP, including one from Transcending Hope. After review of the Proposals, it was determined to be in the County's best interest to award to both proposers.

Transcending Hope submitted a proposal to acquire and operate single-family homes under this program. They are a non-profit organization whose mission is to provide low-barrier, safe, and structured recovery housing for diverse communities battling substance use, mental health disorders, and/or family crises.

Through the award, Transcending Hope purchased a 3,900-square-foot single-family residence at 13806 Holcomb Blvd., Oregon City, OR 97045, in April 2024, and opened it to clients in September 2024. The County provides funds for ongoing program operations and supportive services, to include, but not limited to, case management, coordination of services and supports, and transition planning for a minimum of six individuals at any given time.

Following prolonged discussions and exploration, the second awardee from the original procurement declined their award. As a result, BHD entered discussions to award the relinquished funds to Transcending Hope for the operation of two homes owned by the organization, further increasing capacity to serve Aid & Assist and Care Coordination clients.

This Contract provides the funds for program operations and supportive services at homes located at 4253 SE Hillside Drive in Milwaukie and 6600 SE Thiessen Road, serving up to twelve (12) clients, five (5) at Hillside and seven (7) at Thiessen.

The Contract is effective upon signature and terminates June 30, 2027.

RECOMMENDATION: Staff respectfully requests that the Board of County Commissioners approve this Contract (12337) and authorize Chair Roberts or his designee to sign on behalf of Clackamas County.

Respectfully submitted,

Mary Rumbaugh
Director of Health, Housing and Human Services



**CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
H3S Contract #12337**

This Personal Services Contract (this "Contract") is entered into between **Transcending Hope** ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of its Health, Housing and Human Services Department, Behavioral Health Division.

ARTICLE I.

- 1. Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **June 30, 2027**.
- 2. Scope of Work.** Contractor shall provide the following personal services: **Program Operations of Hillside and Thiessen Transitional Homes** ("Work"), further described in **Exhibit A**.
- 3. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed **one million five thousand seven hundred fifty-one dollars and ninety-two cents (\$1,005,751.92)**, for accomplishing the Work required by this Contract. Consideration rates are on a time and materials basis in accordance with the rates and costs specified in Exhibit A. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.
- 4. Invoices and Payments.** Unless otherwise specified, Contractor shall submit monthly invoices for Work performed, as more fully described in **Exhibit D**.
- 5. Travel and Other Expense.** Authorized: ☐ Yes ☒ No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <https://www.clackamas.us/finance/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.
- 6. Contract Documents.** This Contract consists of the following selected documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A, Exhibit B, Exhibit C, Exhibit D, and Exhibit E.

7. Contractor and County Contacts.

Contractor Administrator: Deena Feldes Phone: 503-984-6851 Email: dfeldes@transcending-hope.com	County Administrator: BH Contracts Phone: 503-742-5335 Email: BHContracts@clackamas.us
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Payment information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

ARTICLE II.

- 1. Access to Records.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract

for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

2. **Availability of Future Funds.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
3. **Captions.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **Compliance with Applicable Law.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time. Contractor shall further comply with any requirements, terms, conditions, and other obligations as may be required by the applicable local, State, or Federal agencies providing funding under this Contract, whether or not specifically referenced herein.
5. **Counterparts.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
6. **Governing Law.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
7. **Indemnity, Responsibility for Damages.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify and defend the County, and its officers, elected officials, agents, and employees, from and against all claims, actions, losses, liabilities, including reasonable attorney and accounting fees, and all expenses incidental to the investigation and defense thereof, arising out of or based upon Contractor's acts or omissions in performing under this Contract.

However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County, purport to act as legal representative of County, or settle any claim on behalf of County, without the approval of the Clackamas County Counsel's Office. County may assume its own defense and settlement at its election and expense.

8. **Independent Contractor Status.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot 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 Work.

Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.

9. **Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated in **Exhibit C**. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the physical or email address listed in Exhibit C.

The policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

10. **Limitation of Liabilities.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.

11. **Notices.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

12. **Ownership of Work Product.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only.

- 13. Representations and Warranties.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. Survival.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 10, 12, 13, 14, 15, 17, 20, 21, 25, 27, 29, 33, 34, and 35, and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. Severability.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 16. Subcontracts and Assignments.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 17. Successors in Interest.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. Tax Compliance Certification.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.
- 19. Terminations.** This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.

Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall

surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 20. Remedies.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.
- 21. No Third Party Beneficiaries.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 22. Time is of the Essence.** Contractor agrees that time is of the essence in the performance of this Contract.
- 23. Foreign Contractor.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 24. Force Majeure.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 25. Waiver.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 26. Public Contracting Requirements.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:
- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
 - b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
 - c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
 - d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
 - e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
 - f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.
- 27. No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.

28. Abuse Reporting. Contractor shall comply with all processes and procedures of child abuse (ORS 419B.005 – 419B.050), mentally ill and developmentally disabled abuse (ORS 430.731 – 430.768 and OAR 407-045-0250 through 407-45-0370) and elder abuse reporting laws (ORS 124.050 – 124.092) as if Contractor were a mandatory abuse reporter. If Contractor is not a mandatory reporter by statute, these reporting requirements shall apply during work hours only. Contractor shall immediately report to the proper State or law enforcement agency circumstances (and provide such other documentation as may be relevant) supporting reasonable cause to believe that any person has abused a child, mentally ill or developmentally disabled adult or an elderly person, or that any such person has been abused.

29. Confidentiality. Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential, including information that is protected under applicable law, including Personal Information (as “**Personal Information**” is defined in ORS 646A.602(11)).

Contractor agrees to hold any and all information that it is required by law or that the County marks as “Confidential” to be held in confidence (“**Confidential Information**”), using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and will use the Confidential Information for no purpose other than in the performance of this Contract, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County’s request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor’s possession which embody Confidential Information.

Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor’s employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor’s employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor’s report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any

deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by a breach of its data security or the confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

30. Criminal Background Check Requirements. Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

31. Reserved.

32. Reserved.

33. Reserved.

34. HIPAA Compliance. Contractor shall comply with the Health Insurance Portability and Accountability^[NA1] Act of 1996 and its implementing regulations ("HIPAA"), which include the Standards for the Privacy of Individually Identifiable Health Information (the "Privacy Rule"), the Standards for Electronic Transactions, and the Security Rule (45 C.F.R. Parts 160–64), and the Privacy provisions (Subtitle D) of the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (the "HITECH Act") (collectively, and as amended from time to time, the "HIPAA Rules"). Contractor shall further execute the Qualified Service Organization Business Associate Agreement attached hereto as **Exhibit E** and incorporated by this reference herein

35. Merger. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Signature page follows

Transcending Hope – Personal Services Contract #12337

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Transcending Hope

Clackamas County

_____ Authorized Signature	_____ Date
_____ Name / Title (Printed)	
_____ 620980-91	
_____ Oregon Business Registry #	
_____ Domestic Nonprofit Corporation / Oregon	
_____ Entity Type / State of Formation	

_____ Signature	_____ Date
_____ Name:	
_____ Title:	
_____ Approved as to Legal Sufficiency:	
_____ County Counsel	_____ Date

EXHIBIT A SCOPE OF WORK

Background

In 2022, the Oregon State Legislature passed House Bill (HB) 5202 to fund the development of Behavioral Health Housing with the directive that funds would be equitably distributed to Community Mental Health Programs (CMHPs). The goal was “to expand the availability of housing and residential treatment beds for people with behavioral health issues.” Program goals include providing an array of supported housing; help relieve the “bottleneck” at the Oregon State Hospital; address health inequities and housing access disparities; and decrease the number of people with behavioral health disorders who are homeless.

Clackamas County is a CMHP and received an allocation of funding resulting in HB 5202. To support the goals of the program the County issues a request for proposals, seeking proposals from experienced organizations to develop and launch a program in Clackamas County for transitional behavioral health housing and supportive services for Aid & Assist and Choice Model program population.

Statement of Work

1. Contractor shall:

- a.** Operate two (2) properties referred to as “Hillside”, located at 4253 Hillside Road in Milwaukie and “Thiessen”, located at 6600 Thiessen Road in Milwaukie. The homes shall operate as low barrier, goal-focused temporary and transitional housing for individuals eighteen (18) years and older currently enrolled in County’s Aid & Assist and/or Care Coordination Programs.
 - i.** Properties shall provide:
 1. At minimum two (2) single occupancy rooms, other rooms may be shared
 2. Kitchen space available for use by residents and staff
 3. Common space for residents and staff to congregate
 4. Private space for residents and staff to engage in and/or facilitate web-based services and assessments, such as telehealth, court appearances and forensic evaluations
 - ii.** Hillside shall have the capacity to serve five (5) individuals (three (3) single rooms, one (1) double occupancy), and Thiessen shall have the capacity for seven (7) individuals (five (5) single rooms, one (1) double occupancy).
 - iii.** Program shall offer:
 1. Consistency and structure
 2. 24/7 site support
 3. Safety
 4. Community environment fostering mutual support
 5. Connection to culturally responsive supports
 6. Peer Support
 7. Empowered program participants
 8. On-site support groups
 9. Community and team building activities, inside and outside the home
 10. Treatment services, as applicable
 11. Ensure participants access to:
 - a. Transportation
 - b. Medications, as applicable
 - c. Hygiene products
 - d. Primary Care
 - e. Legal Skills
 - f. Cleaning and other household supplies
 12. 24-hour internal crisis line

- b.** Work closely with County Aid & Assist and Care Coordination Program Supervisors and staff to establish and maintain a cohesive team and high quality services.
- c.** Work in collaboration with County to promote a recovery-oriented support system that focuses on hope, choice, personal responsibility, and self-determination.
- d.** Collaborate with County and community partners to ensure successful program operation and positive outcomes for program participants.

Staffing Plan

- 1.** Contractor shall provide for program operations and oversight, as well as property maintenance to include:
 - a.** Executive Director for administrative and operation oversight and supervision of the Programs Manager.
 - b.** Programs Manager for the supervision of house managers, housing navigator, and case manager(s).
 - c.** House Managers responsible for creating a home environment that fosters support and social engagement. House Managers shall support and implement community building activities, as well as facilitate on-site support groups each week. The House Managers shall collaborate with staff, support chores, report maintenance issues, and basic daily living skills.
 - d.** Case Manager to support individuals by assisting with identifying needs, coordination of services and supports, monitoring of progress, and advocacy. Case Manager shall attend court docket, and provide strong collaborations with all internal and external team members. Case Manager shall also provide transition planning support and services to include assisting participants in identifying long-term housing options.
 - e.** Program Supervisor to support the work of the Case Manager and House Manager. Program Supervisor shall provide daily communication, as well as weekly supervision for development. The Program Supervisor shall offer support with referrals, barrier reduction or removal, and collaboration with the Oregon State Hospital, County and other community partners.
 - f.** Maintenance staff to ensure the proper maintenance of the properties, and the timely addressing of damages, and necessary upgrades.
- 2.** Staff shall have lived experience.
- 3.** Contractor shall provide training and ongoing professional development for program staff.

Reporting Requirements

- 1.** Contractor shall collect and provide to County, on a monthly basis, data in a format provided by County and/or the Oregon Health Authority (OHA). Data shall include, but not limited to the following:
 - a.** Bed/client capacity
 - b.** Utilization rates
 - c.** Data regarding clients served
 - d.** Outcome and engagement data (i.e. status of participants at discharge: housing status, new engagement with legal system, other services accessed, etc.)
- 2.** As applicable, Contractor shall provide incident reports to County on a monthly basis.
- 3.** As needed, Contractor shall provide timely and relevant information to County to enable County to respond to inquiries from and/or submit reports to OHA on the delivery of program services with funds provided through this Contract.
- 4.** Reports shall be submitted via email to: BHContractReporting@clackamas.us. Monthly reporting is due to County on the 10th day of the month following the reporting period.

EXHIBIT B COMPENSATION

- a. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the total maximum sum of **\$1,005,751.92**.

Contractor shall be compensated based on the following budget:

Budget	
Categories	Amount
Personnel and Related Expenses	
Executive Director (7%)	\$ 21,111.60
Programs Manager (10%)	\$ 15,579.84
House Manager (Part-time)	\$ 71,760.00
BIPOC Case Manager	\$ 124,800.00
Program Supervisor	\$ 66,559.92
Maintenance Staff (Part-time)	\$ 124,800.00
Payroll Taxes	\$ 97,660.56
Benefits	\$ 60,600.00
Cell Phones	\$ 4,080.00
Gas Stipends	\$ 31,800.00
Personnel and Related Expenses Subtotal	\$ 618,751.92
Property and Program Expenses	
Utilities	\$ 235,200.00
Maintenance Fees	\$ 5,400.00
Accounting Fees	\$ 5,400.00
Insurance	\$ 21,600.00
General House Supplies	\$ 5,400.00
Client Flex Funds	\$ 24,000.00
Property and Program Expenses Subtotal	\$ 297,000.00
Administrative Costs	
Administrative Costs	\$ 60,000.00
Administrative Costs Subtotal	\$ 60,000.00
One-time Set-up Cost	
One-time Set-up Cost	\$ 30,000.00
One-time Set-up Cost Subtotal	\$ 30,000.00
Total	\$ 1,005,751.92

- b. Contractor shall submit **itemized monthly invoices by the 10th day of the month** following the month Services were provided using the invoice template provided by Clackamas County Behavioral Health Division. The invoice shall include:

Contract #12337,
Service details,
Date(s) of service,
Total amount due for all Services provided during the month, and

Total amount billed to date by Contractor prior to the current invoice.

If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor.

All invoices and supporting documentation shall be sent by email or mail to:

BHAP@clackamas.us

Clackamas County Behavioral Health Division
Accounts Payable
2051 Kaen Road, Suite #154
Oregon City, Oregon 97045

When submitting electronically, designate Contractor name and Contract #12337 in the subject of the email.

- c. Payments shall be made to Contractor, within thirty (30) days, following the County's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

**EXHIBIT C
INSURANCE**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

- 1. Workers Compensation.** Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126. Contractors shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

- 2. Professional Liability.** ☒ **Required by County** ☐ **Not required by County**

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages because of personal injury, bodily injury, death, or damage to property caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

☐ If this box is checked Professional Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate.

- 3. General Liability.** ☒ **Required by County** ☐ **Not required by County**

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage for the protection of the **County and the State of Oregon, and its officers, elected officials, agents, and employees.** It shall include contractual liability coverage for the indemnity provided under this Contract.

☐ If this box is checked General Liability limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

- 4. Automobile Liability.** ☒ **Required by County** ☐ **Not required by County**

☒ **Commercial Automobile Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury, Death, and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

☐ **Commercial Automobile Liability** insurance limits shall be \$2,000,000 per occurrence and \$4,000,000 in annual aggregate for bodily injury/death, and \$200,000 per occurrence and \$600,000 annual aggregate for property damage.

☐ **Personal Automobile Liability** insurance limits shall be not less than \$250,000/occurrence, \$500,000/aggregate, and \$100,000/property damage.

- 5. Physical Abuse and Molestation Liability.** ☒ **Required by County** ☐ **Not required by County**

Physical Abuse and Molestation Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. Coverage shall be provided through either general liability or professional liability coverage. Proof of Sex Abuse/Molestation insurance coverage must be provided.

6. **Privacy and Network Security.** ☒ **Required by County** ☐ **Not required by County**

Privacy and Network Security coverages shall be obtained and maintained to provide protection against liability for (a) system attack; (b) denial or loss of service attacks; (c) spread of malicious software code; (d) unauthorized access and use of computer systems; and (e) liability from the loss or disclosure of confidential data with limit of \$1,000,000 per claim/annual aggregate.

☐ If this box is checked Privacy and Network Security limit shall be at least \$4,000,000.

7. **Additional Insured Provision.** The insurance, other than Professional Liability (except to the extent it only applies to Commercial General Liability exposures), Workers' Compensation, Personal Automobile Liability and Pollution Liability Insurance, shall include **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as an additional insured.

8. **Primary Coverage Clause.** Contractor's insurance shall apply as primary and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above. This must be noted on the insurance certificate.

9. **Cross-Liability Clause.** A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, pollution and errors and omissions policies required by this Contract.

10. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the 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 the Contract, for a minimum of twenty-four (24) months following the later of: (i) the Contractor's completion and County's acceptance of all Services required under the Provider Contract; or (ii) the expiration of all warranty periods provided under the Contract. 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.

11. **Self-insurance.** Contractor may fulfill one or more of its insurance obligation herein through a program of self-insurance, provided that Contractor's self-insurance program complies with all applicable laws, provides coverage equivalent in both type and level to that required in this Exhibit, and is reasonably acceptable to County. Contractor shall furnish an acceptable insurance certificate to County for any insurance coverage required by this Contract that is fulfilled through self-insurance. Stop-loss insurance and reinsurance coverage against catastrophic and unexpected expenses may not be self-insured.

12. **Certificates of Insurance.** Contractor shall furnish evidence of the insurance required in this Contract. Contractor will maintain the insurance in full force throughout the duration of this Contract. No Contract shall be in effect until the required certificates have been received, approved, and accepted by County. A renewal certificate will be sent to County ten (10) days prior to coverage expiration. The insurance for general liability and commercial automobile liability must include an

endorsement naming **Clackamas County and the State of Oregon, and their officers, elected officials, agents, and employees** as additional insureds with respect to the Work under this Contract. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

Certificate Holder should be:

Clackamas County, 2051 Kaen Road, Suite 154, Oregon City, Oregon 97045

Certificates of Insurance should be submitted electronically or by mail to:

BHContracts@clackamas.us

Clackamas County
Contracts Administration
2051 Kaen Road, Suite 154
Oregon City, OR 97045

- 13. Insurance Carrier Rating.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the County. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- 14. Waiver of Subrogation.** Contractor agrees to waive their rights of subrogation arising from the Work performed under this Contract.
- 15. Notice of cancellation or change.** There shall be no cancellation, material change, exhaustion of aggregate limits, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Behavioral Health Division, 2051 Kaen Road, Suite 154, Oregon City, OR 97045 or BHContracts@clackamas.us.
- 16. Insurance Compliance.** The County will be entitled to enforce Contractor compliance with the insurance requirements, and will 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, terminating the Contract as permitted by the Contract, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a Contractor to work under this Contract when the County is aware that the Contractor is not in compliance with the insurance requirements.

EXHIBIT D
STANDARD TERMS AND CONDITIONS

1. Governing Law, Consent to Jurisdiction.

This Contract shall be governed by and construed and enforced in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) between OHA or any other agency or department of the State of Oregon, or both, and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon: provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a consent by the State of Oregon to the jurisdiction of any court or a waiver by the State of Oregon of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment of the Constitution of the United States, or otherwise. Contractor hereby consents to the exclusive jurisdiction of such courts, waives any objection to venue, and waives any claim that any such forum is an inconvenient forum.

2. Compliance with Law.

Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contractor and the Contract. Without limiting the generality of the foregoing: (i) the Contractor shall comply with Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPPA) and 42 CFR Part 2 to the extent they are applicable to the services provided by the Contractor; and (ii) no grant funds may be used for any harm reduction activities that would violate Oregon’s drug paraphernalia law, ORS 475.525, including but not limited to the purchase of delivery of safe smoking supplies, drug testing strips, or devices used to prepare controlled substances, unless the Contractor maintains documentation that demonstrates the activities fall within the exception under ORS 475.525(4) or (5), or the Contractor is a syringe service program providing sterile needles and syringes and other items as part of their activities, in accordance with ORS 475.757. Failure to comply with any of the foregoing requirements is grounds for termination of this Contract.

3. Independent Parties; Conflict of Interest.

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

4. Ownership of Work Product. Reserved.

5. 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 Contractor (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys’ fees), the State shall contribute to the amount of expenses (including attorney’s fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Contractor in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Contractor 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 State on the one hand and of the Contractor 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 State’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 Contractor is jointly liable with the State (or would be if joined in the Third Party Claim), the Contractor 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 State in such proportion as is appropriate to reflect the relative fault of the Contractor on the one hand and of the State 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 Contractor on the one hand and of the State 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 Contractor’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.

Contractor 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 (“Indemnatee”) 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’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 Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.

6. Insurance.

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

7. Records Maintenance, Access.

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

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

8. Information Privacy/Security/Access.

If this Contract requires or allows Contractor or, when allowed, its subcontractor(s), to have access to or use of any OHA computer system or other OHA Information Asset for which OHA imposes security requirements, and OHA grants Contractor or it subcontractor(s) access to such OHA Information Assets or Network and Information Systems, Contractor shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 943-014-0300 through OAR 943-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meanings set forth in OAR 943-014-0305, as such rule may be revised from time to time.

9. Assignment of Contract, Successors in Interest.

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

10. Subcontracts.

Contractor shall not enter into any subcontracts for any part of the program supported by this Contract without OHA's prior written consent. In addition to any other provisions OHA may require, Contractor shall include in any permitted subcontract under this Contract provisions to ensure that OHA will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Contractor with respect to Exhibit D. OHA's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

EXHIBIT E
QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

This Qualified Service Organization Business Associate Agreement (“Agreement”) is entered into by and between **Clackamas County, on behalf of its Department of Health, Housing and Human Services, Behavioral Health Division** (“Covered Entity”) and **Transcending Hope** (“Business Associate”) in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations (“HIPAA”), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 (“Confidentiality Rule”). This Qualified Service Organization Business Associate Agreement is effective upon execution by both parties.

RECITALS

Whereas, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;

Whereas, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement (“Services Agreement”);

Whereas, such information may be Protected Health Information (“PHI”) as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;

Whereas, the Parties agree to establish safeguards for the protection of such information;

Whereas, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules **and** the Confidentiality Rule;

Now, therefore, the parties hereby agree as follows:

SECTION I – DEFINITIONS

- 1.1 “Breach” is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
 - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member’s course and scope of employment or placement;
 - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
 - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 “Covered Entity” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 “Designated Record Set” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 “Disclose” or “disclosure” shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.
- 1.5 “Effective Date” shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.
- 1.7 “Health Care Operations” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.8 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.

- 1.9 “Individual” shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.10 “Individually Identifiable Health Information” shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.11 “Program” shall have the meaning given to such term under the Confidentiality Rule, 42 CFR §2.11.
- 1.12 “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
- 1.13 “Protected Information” shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity’s behalf.
- 1.14 “Qualified Service Organization” shall have the meaning defined under the Confidentiality Rule, 42 CFR §2.11.
- 1.15 “Required by Law” shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.16 “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.17 “Security Incident” shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.18 “Unsecured Protected Health Information” shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.19 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;

- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
- 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
- 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
- 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
- 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
- 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly, information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.
- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
 - a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,
 - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

SECTION IV – NOTICE OF PRIVACY PRACTICES

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. The Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.

SECTION V – BREACH NOTIFICATION REQUIREMENTS

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach, except when law enforcement requires a delay pursuant to 45 CFR §164.412. This notice shall be:
 - a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
 - b. By notice in plain language including and to the extent possible:
 - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

- 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
 - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
 - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
 - d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.
- 5.2 Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.
- 5.3 Covered Entity may, in its sole discretion, require Business Associate to provide the notice of Breach to any individual or entity required by applicable law to receive such notice.

SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible.
- If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.
- Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.
- 6.3 **Effect of Termination.**
- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
 - b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the

Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

SECTION VII – GENERAL PROVISIONS

- 7.1 **Regulatory references.** A reference in this Agreement to the Confidentiality Rule, HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as “Indemnified Party,” against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate’s breach of Section II and III of this Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate’s breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.
- 7.5 **Survival.** The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.
- 7.6 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.

(Signature Page for QSOBAA Follows)

**SIGNATURE PAGE FOR QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE
AGREEMENT**

The Parties hereto have duly executed this Agreement as of the Effective Date as defined here above.

Business Associate
Transcending Hope

Covered Entity
Clackamas County

By: _____
Authorized Signature

By: _____

Title: _____

Title: _____

Date: _____

Date: _____