

SAMPLE CONTRACT

PERSONAL SERVICES CONTRACT
(ORS Chapter 279B)
FOR PUBLIC HEALTH AND ENVIRONMENTAL HEALTH SERVICES

This Agreement is made and entered into by and between COLUMBIA COUNTY, a political subdivision of the State of Oregon, hereinafter referred to as "County", and _____, hereinafter referred to as "Contractor".

RECITALS:

1. Pursuant to ORS 431.003(7), Columbia County is the Local Public Health Authority for Columbia County, Oregon. The County contracts with the Oregon Health Authority to provide public health and environmental health services in the County in accordance with the policies, procedures, and applicable law, pursuant to two biennial Intergovernmental Agreements (the "Intergovernmental Agreements").

2. The Oregon Health Authority permits the County to contract with one or more qualified providers to provide the services under this Agreement to the residents of Columbia County.

3. The County desires to contract with a private corporation, pursuant to ORS 431.413(3), to operate the public health and environmental health services programs in Columbia County.

4. Contractor is willing to contract with the County to operate the public health and environmental health service programs in Columbia County.

WITNESSETH:

IT IS HEREBY AGREED by and between the parties above-mentioned, in consideration of the mutual promises hereinafter stated, as follows:

1. Effective Date. This Agreement is effective on the date last signed, below.
2. Completion Date. The completion date for this Agreement shall be no later than June 30, 2023. This Agreement may be extended for up to an additional four (4), four (4) year terms, subject to State and County budget approval by the Oregon State Legislature.

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3. Contractor's Services. Contractor agrees to provide the County-wide services described in the Contractor's Proposal, a copy of which is attached hereto, labeled Exhibit "A" and incorporated herein by this reference, the Request for Proposals dated September 15, 2017 (the RFP) which is attached hereto, labeled Exhibit "B", and incorporated herein by this reference, and in accordance with the Intergovernmental Agreements for public health and environmental health services (the "IGAs"), which are attached hereto as Exhibits "C", and "D", respectively, and incorporated herein by this reference. County reserves the right to remove one or more service elements from the scope of work to be provided by Contractor. In case of conflict between Contractor's Proposal, the IGAs, the RFP, and this Agreement, this Agreement shall control, followed by the IGAs, the RFP, and Contractor's Proposal in that order.

4. Consideration. County shall pay Contractor on a quarterly basis, amounts actually received by the County from the Oregon Health Authority for the provision of public health services. In addition, Contractor shall retain program fees and charges, less any State remittance for operation of the programs. Said amounts are to be the complete compensation to Contractor for the services performed under this agreement, and shall include all expenses. This Agreement is subject to the appropriation of funds by County, and/or the receipt of funds from state and federal sources. In the event sufficient funds shall not be appropriated, and/or received, by County for the payment of consideration required to be paid under this Agreement, then County may terminate this Agreement in accordance with Section 17 of this Agreement.

5. Contract Representatives. Contract representatives for this Agreement shall be:

For County

For Contractor

All correspondence shall be sent to the above addressees when written notification is necessary. Contract representatives can be changed by providing written notice to the other party at the address listed.

6. Permits - Licenses. Unless otherwise specified, Contractor shall procure all permits and licenses, pay all charges and fees and give all notices necessary for performance of this Agreement prior to commencement of work.

7. Compliance with Codes and Standards. It shall be the Contractor's responsibility to demonstrate compliance with all applicable building, health and sanitation laws and codes, and with all other applicable Federal, State and local acts, statutes, ordinances, regulations, provisions and rules. Contractor shall engage in no activity which creates an actual conflict of interest or violates the Code of Ethics as provided by ORS Chapter 244, or which would create a conflict or violation if Contractor were a public official as defined in ORS 244.020. No person or entity may provide services under this

Agreement unless the person or entity holds all licenses, certificates, authorizations and other approvals required by applicable law to deliver the Program Element service.

8. Reports. Contractor shall provide County with periodic reports about the progress of the services at the frequency and with the information as prescribed by the County. Contractor shall be required to provide any data necessary to prepare reports required by the State of Oregon, and shall prepare reports upon request of the County or State. Notwithstanding the generality of the foregoing, Contractor shall provide reports at least quarterly in such detail as may be necessary, as determined by the County in its sole discretion, to adequately understand the financial viability of Contractor and the programs and services provided by Contract. Such reports shall address all facets of this agreement, including services subcontracted to other providers. Contractor shall provide all reports reasonably requested by the County. Contractor shall meet at least monthly with the County's Local Public Health Administrator, and at least quarterly with the Board of County Commissioners of Columbia County to discuss the provision of services under this Agreement.

9. Independent Contractor. Contractor is engaged hereby as an independent contractor and shall not be considered an employee, agent, partner, joint venturer or representative of County, State of Oregon, or OHA for any purpose whatsoever. County does not have the right of direction or control over the manner in which Contractor delivers services under this Agreement and does not exercise any control over the activities of the Contractor, except the services must be performed in a manner that is consistent with the terms of this Agreement. County shall have no obligation with respect to Contractor's debts or any other liabilities of Contractor. Contractor shall be responsible for furnishing all equipment necessary for the performance of the services required herein. In addition:

9.1 Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Agreement.

9.2 This Agreement is not intended to entitle Contractor to any benefits generally granted to County employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this Agreement to the Contractor are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, social security, workers' compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Public Employees Retirement System).

9.3 The Contractor is an independent contractor for purposes of the Oregon workers' compensation law (ORS Chapter 656) and is solely liable for any workers' compensation coverage under this Agreement. If the Contractor has the assistance of other persons in the performance of the Agreement, the Contractor shall qualify and remain qualified for the term of this Agreement as

a carrier-insured or self-insured employer under ORS 656.407. If the Contractor performs this Agreement without the assistance of any other person, unless otherwise agreed to by the parties, Contractor shall apply for and obtain workers' compensation insurance for himself or herself as a sole proprietor under ORS 656.128.

10. Statutory Provisions. Pursuant to the requirements of ORS 279B.220 through 279B.235 and Article XI, Section 10 of the Oregon Constitution, the following terms and conditions are made a part of this Agreement:

10.1 Contractor shall:

10.1.1 Make payment promptly, as due, to all persons supplying to Contractor labor or material for the performance of the work provided for in this Agreement.

10.1.2 Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or any subcontractor incurred in the performance of this Agreement.

10.1.3 Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.

10.1.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

10.2 Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness and injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collects or deducts from the wages of employees under any law, contract or agreement for the purpose of providing or paying for such services.

10.3 Contractor shall pay Contractor's employees who work under this Agreement at least time and a half for all overtime the employees work in excess of 40 hours in any one week, except for employees under a personal services public contract who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.

10.4 Contractor shall notify in writing employees who work on this Agreement, either at the time of hire or before work begins on this Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the contractor may require the employees to work.

10.5 All subject employers working under this Agreement are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

10.6 This Agreement 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 therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.

11. Non-Discrimination. Contractor agrees that no person shall, on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, marital status, handicap, age, or any other characteristic protected by law, suffer discrimination in the performance of this Agreement when employed by Contractor. Contractor certifies that it has not discriminated and will not discriminate, in violation of ORS 279A.110, against a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business enterprise that is certified under ORS 200.055 in awarding a subcontract.

12. Tax Law Compliance Warranty and Covenant. As required by ORS 279B.045, Contractor represents and warrants that Contractor has complied with the tax laws of this state and political subdivisions of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Contractor shall continue to comply with the tax laws of this state and all political subdivisions of this state during the term of the public contract. Contractor's failure to comply with the tax laws of this state or a political subdivision of this state before the Contractor executes this Agreement or during the term of this Agreement is a default for which County may terminate this Agreement and seek damages and other relief available under the terms of this Agreement or under applicable law.

13. Nonassignment; Subcontracts. Contractor shall not assign, subcontract or delegate the responsibility for providing services hereunder to any other person, firm or corporation without the express written permission of the County.

14. Nonwaiver. The failure of the County to enforce any provision of this Agreement shall not constitute a waiver by the County of that or any other provision of the Agreement.

15. Indemnity.

15.1 Contractor shall indemnify, defend, save and hold harmless, County, and its officers, agents, and employees, from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorney's fees) arising from Contractor's acts or omissions under this Agreement, or the acts or omissions of the Foundation's officers, agents or employees. Contractor shall require its contractors to indemnify, defend, save and hold harmless the

County, its officers, agents and employees from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorney's fees) arising from Contractor's acts or omissions, or the acts or omissions of Contractor's officers, agents or employees, in the provision of public health services. It is the specific intention of the parties that the County shall in all instances, except for claims arising solely from the negligent or willful acts or omissions of the County, be indemnified by the contractor and subcontractors from and against claims arising out of the provision of public health services

15.2 Indemnification of State. Contractor shall defend, save, and hold harmless the State of Oregon and its officers, agents, and employees, and cause its subcontractors, if any, 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 Contractor, or any of the officers, agents, employees or subcontractors of the subcontractor ("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 and subcontractor from and against any and all Claims.

16. Insurance. Contractor will comply with, and shall require all subcontractors to comply with the insurance requirements set forth in the IGAs, as currently set forth in Exhibit "E", which is attached hereto, and is incorporated herein by this reference. The Contractor shall provide County, and shall require all subcontractors to provide County, with a certificate or certificates of insurance in the amounts described in Exhibit "E". The certificate(s) shall name the County, the State of Oregon, Oregon Health Authority and their officers, agents and employees as additional insureds and shall be accompanied by an additional insured endorsement or endorsements, when appropriate. The Contractor shall notify County immediately upon notification to Contractor that any insurance coverage required by this paragraph will be canceled, not renewed, or modified in any way.

17. Termination. This Agreement may be terminated at any time in whole or in part by mutual consent of both parties. The County may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Contractor, or at such later date as may be established by the County under the following conditions:

17.1 If Contractor fails to perform the work in a manner satisfactory to County. If any license or certificate required by law or regulation to be held by Contractor to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.

17.2 If funding becomes inadequate to allow the work to continue in accordance with the project schedule.

In case of termination, Contractor shall be required to repay to County the amount of any funds advanced to Contractor which Contractor has not earned or expended through the provision of services in accordance with this Agreement. However, Contractor shall be entitled to retain all costs incurred and fees earned by Contractor prior to that termination date, and any amounts remaining due shall be paid by County not to exceed the maximum amount stated above and decreased by any additional costs incurred by County to correct the work performed.

The rights and remedies of the County related to any breach of this Agreement by Contractor shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement. Any termination of this Agreement shall be without prejudice to any obligations or liabilities of either party already accrued before such termination.

18. General Provisions

18.1 Compliance with Intergovernmental Agreements. Every biennium, the State of Oregon issues two biennial intergovernmental agreements for the provision of public health services and environmental health services. Contractor shall comply with all applicable terms and conditions of the Intergovernmental agreements and all amendments, thereto. The County will forward all amendments to Contractor within 10 days of approval by the State and County. Notwithstanding the generality of the foregoing, Contractor shall comply with the specific requirements set forth in the Intergovernmental Agreements.

18.2 Funding. Final budget allocations for the period of this Agreement are subject to available Federal and Oregon fund appropriations for said fiscal year. In the event that Federal or state funding is lost, the affected portions of the Agreement shall terminate as of the effective date of said loss. The County shall endeavor to give Contractor immediate notice of any actual or proposed loss of funding of which the County has notice, but in no event shall the County be liable to the Contractor for failure to give such notice. In the event that all funding for the programs under this Agreement is lost, the County may terminate this Agreement in its entirety.

18.3 Program Property.

18.3.1 Real Property. For the term of this Agreement, the County hereby grants to the Contractor a license to enter upon, occupy and use the real property, which is legally described in Exhibit "F", which is attached hereto and is incorporated herein by this reference, located at 2370 Gable Road, St. Helens, Oregon 97051, (the "Gable

Road Property”) including parking areas, for public health purposes, only. The Contractor shall pay to the County a fee in the amount of \$_____ per year. The Contractor shall insure the property and its contents from loss. The Contractor shall pay all utilities and other costs associated with the use of the Gable Road Property. The Contractor shall maintain the Gable Road Property.

Upon termination of this Agreement, this license shall immediately terminate and the Contractor shall not have any remaining interest in the Gable Road Property. Upon termination, the Contractor shall immediately vacate the Gable Road Property and deliver possession to the County in the same or better condition, ordinary wear and tear excepted.

18.3.2 Personal Property/Equipment. For the term of this Agreement, the County hereby grants to the Contractor the use of the supplies and equipment which have been determined to be essential to providing public health services and are listed in Exhibit “G”.

Upon termination of this Agreement, the Contractor shall return all unused or replaced supplies and equipment to the County, in the same or better condition, ordinary wear and tear excepted.

18.4 Provider. Contractor and any subcontractor is a “provider” as that term is used in the Intergovernmental Agreements and ORS Chapter 431. Contractor shall comply with all Provider contract provisions set forth in Exhibit “H”, attached hereto and incorporated herein by this reference, and shall require all subcontractors to comply with the Provider contract provisions.

18.5 Delegation of Authority. Except with respect to “governance” as defined in OAR 333-014-0580 the County hereby delegates to Contractor authority to operate the public health and environmental health programs as described herein.

18.6 Local Annual Public Health Service Plan. Contractor shall annually assist the County Local Public Health Administrator (“Administrator”), as directed by the Administrator, to prepare a local public health service plan (“Plan”). County shall be provided with a copy of every plan or other policy or procedure adopted by Contractor to comply with a requirement of this Agreement.

18.7 Administration. In carrying out the responsibilities under this Agreement, the Financial Assistance Agreement, Environmental Health Services Agreement, and the Plan, Contractor shall:

- 18.7.1 Comply with all applicable public health laws and administrative rules of OHA;
- 18.7.2 Prepare and furnish such plans, data, descriptive information and reports as may be required to comply with state or federal public health or fiscal requirements, and furnish copies of the same to the County or OHA upon request;
- 18.7.3 Permit authorized representatives of County, OHA, the Oregon Secretary of State's Audit Division, and any other applicable auditing agency of either the State or federal government to make such review of its records as may be required to satisfy program evaluation or other legal requirements. Contractor shall contract for an annual audit, and shall furnish copies of the annual audit to the Administrator for filing with the County Clerk as required by ORS 441.410;
- 18.7.4 Protect the confidentiality of all patient records held by it in accordance with federal and state laws, rules, and regulations;
- 18.7.5 Provide a process to address complaints or concerns of individuals or entities affected by actions of the Contractor. The process shall begin with an opportunity to be heard before the board of the Contractor. The Contractor shall make a written determination as to the resolution of the complaint or concern, including findings of fact and conclusions of law. In the event a complaint or concern remains after being heard at Step 1, the process will provide an opportunity to appeal Contractor's decision to the Board of County Commissioners. Contractor will provide a draft process for County review within one (1) month of the effective date of this Agreement.
- 18.8 HIPAA Compliance. Contractor shall in all respects comply with Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as "HIPAA"). Contractor is a business associate of the County and must comply with all Business Associate requirements set forth in 45 CFR 164.502 and 164.504, as applicable and shall sign one or more Business Associate agreements with the County and/or State of Oregon, as deemed necessary by the State or County. Failure to comply with these requirements shall constitute a default under this Agreement. Contractor may be required to execute a trading partner agreement with OHA and comply with OHA EDI Rules set forth in OAR 943-120-0100 through 943-120-0200.
- 18.9 Recovery of Financial Assistance. Upon receipt of a notice of under-expenditure or misexpenditure of funds, the County will provide notice to the Contractor. Upon receipt of notice, Contractor shall engage with the County

and the State in the process for recovery of financial assistance set forth in the Intergovernmental Agreements. Contractor shall indemnify, defend and hold the County harmless from any and all claims of misexpenditure or underexpenditure, and shall reimburse the State for any misexpenditure or underexpenditure. Contractor may request that the County enter into an Appeals Process with the State. However, the final decision about whether to appeal a notice shall be in the County's sole discretion.

18.10 Use of Financial Assistance. Contractor may use the funds provided under this Agreement solely to cover actual Allowable Costs, as defined in the Intergovernmental Agreements, reasonably and necessarily incurred to implement Program Elements during the term of this Agreement. Contractor may not expend financial assistance provided under this Agreement for a particular Program Element (as reflected in the Financial Assistance Award) on the implementation of any other Program Element.

18.11 If Contractor subcontracts for any of the services under this Agreement, County shall first review and approve all subcontracts, which shall comply in all respects with all obligations of the Contractor herein. An originally signed copy of all subcontracts shall be provided to the County's contract representative.

18.12 Alternative Formats and Translation of Written materials, Interpreter Services. In connection with the delivery of Program Element services, Contractor shall

18.12.1 Make available to a Client, without charge, upon the Client's or COUNTY's request, any and all written materials in alternate, if appropriate, formats as required by OHAs administrative rules or by COUNTY's written policies made available to the Contractor

18.12.2 Make available to a Client, without charge, upon the Client's or COUNTY's request, any and all written materials in the prevalent non-English languages in the County's service area.

18.12.3 Make available to a Client, without charge, upon the Client's or COUNTY's request, oral interpretation services in all non-English languages in County's service area.

18.12.4 Make available to Clients with hearing impairment, without charge to the Client, upon Client's or COUNTY's request, sign language interpretation services and telephone communications access services. For purposes of the foregoing, "written materials" includes, without limitation, all written materials created by CONTRACTOR in connection with the Services and all Provider Contracts related to this Agreement. The Contractor may develop

its own forms and materials with the approval of the County's contract representative, and the Contractor shall be responsible for making them available to clients, without charge, in the prevalent non-English language.

18.13 Payment of Certain Expenses. If OHA or County requests than an employee of Contractor attend OHA training or an OHA conference or business meeting, the County will pay to Contractor travel expenses incurred by the individual in attending the training or conference, limited to the rates and in accordance with the reimbursement procedures set forth in the Oregon Accounting Manual www.oregon.gov/DAS/Pages/Programs.aspx, as of the date the expense was incurred.

18.14 Purchase and Disposition of Equipment. For any equipment, as defined in the Intergovernmental Agreements, purchased with funds from this agreement, ownership shall be in the name of the County. Contractor is required to accurately maintain the following Equipment inventory records for Equipment within possession of the Contractor or any subcontractor:

- 18.14.1 Description of the Equipment;
- 18.14.2 Serial Number;
- 18.14.3 Where equipment was purchased;
- 18.14.4 Acquisition cost and date; and
- 18.14.5 Location, use and condition of the equipment.

Contractor shall provide the Equipment Inventory list to the County's contract representative annually by May 1, of each year. Contractor shall be responsible to safeguard Equipment and maintain the Equipment in good repair and condition while in the possession of the Contractor or any subcontractor. Upon termination of this Agreement, upon request of the County or COUNTY, Contractor shall immediately, or at such later date specified by the County or COUNTY, tender to any and all Equipment purchased with funds under this Agreement, unless otherwise authorized by COUNTY. Contractor shall comply with Subtitle B guidance at 2 CFR Part 200, as amended, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal grant funds.

18.15 Compliance with Law. Contractor shall comply and shall cause any subcontractor to comply with laws, regulations and executive orders to which they are subject and which are applicable to the Agreement or to the delivery of Program Element services. Without limiting the generality of the foregoing, Contractor agrees to comply, with the following laws, rules, regulations and executive orders to the extent they are applicable to the Agreement (a) OAR 943-005-0000 to 943-006-0007, prohibiting discrimination against individuals with disabilities, as may be revised, and all

applicable requirements of state civil rights and rehabilitation statutes, rules and regulations (b) all state laws governing operation of locally administered public health programs, including without limitation, all administrative rules adopted by OHA related to public health programs; (c) all state laws requiring reporting of CONTRACTOR Client abuse; and pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the delivery of Program Element services. These laws, regulations and executive orders are incorporated by reference herein to the extent they are applicable to the Agreement and required by law to be so incorporated. All employers that employ subject workers who provide Program Element services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.

18.16 Ownership of Intellectual Property.

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

18.16.2 If state or federal laws requires that OHA or County grant to the United States a license to any intellectual property, or if state or federal law requires that OHA or the United States own the intellectual property, then Contractor shall execute such further documents and instruments as OHA or County may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or OHA. To the extent that OHA becomes the owner of any intellectual property created or delivered by Contractor in connection with the work/services, OHA will grant a perpetual, worldwide, non-exclusive, royalty free and irrevocable license, subject to any provisions in this Agreement that restrict or prohibit dissemination or disclosure of information, to CONTRACTOR to use, copy, distribute, display, build upon and improve the intellectual property.

18.16.3 Contractor shall include in its subcontracts terms and conditions necessary to require that Providers execute such further documents and instruments as OHA or County may reasonably request in order to make any grant of license or assignment of ownership that maybe required by federal or state law.

18.17 Contractor Default. CONTRACTOR shall be in default under this Agreement upon the occurrence of any of the following events:

18.17.1 CONTRACTOR fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein.

18.17.2 Any representation, warranty or statement made by CONTRACTOR herein or in any documents or reports made by CONTRACTOR in connection herewith that are reasonably relied upon by County to measure the delivery of services, the expenditure of financial assistance or the performance by CONTRACTOR is untrue in any material respect when made;

18.17.3 CONTRACTOR: (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property; (2) admits in writing its inability, or is generally unable, to pay its debts as they become due; (3) makes a general assignment for the benefit of its creditors; (4) is adjudicated as bankrupt or insolvent; (5) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect); (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts; (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code; or (8) takes any action for the purpose of effecting any of the foregoing; or

18.17.4 A proceeding or case is commenced, without the application or consent of COUNTY, in any court of competent jurisdiction, seeking: (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of CONTRACTOR; (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of CONTRACTOR or of all or any substantial part of its assets; or (3) similar relief in respect to CONTRACTOR under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for

relief against CONTRACTOR is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

18.17.5 The delivery of any Program Element fails to comply satisfactorily to the County with the terms and conditions of this Agreement or fails to meet the standards for a Program Element as set forth herein, including but not limited to, any terms, condition, standards and requirements set forth in the Financial Assistance Award and applicable Program Element Description.

18.18 Records Maintenance, Access, and Confidentiality.

18.18.1 Access to Records and Facilities. Contractor shall allow and shall cause its subcontractors to allow County, OHA the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of CONTRACTOR that are directly related to this Agreement, the financial assistance provided hereunder, or any Program Element service for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition, CONTRACTOR shall permit authorized representatives of COUNTY or OHA to perform site reviews of all services delivered by CONTRACTOR.

18.18.2 Retention of Records. CONTRACTOR shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the financial assistance provided hereunder or any Program Element service, for a minimum of six years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the termination or expiration of this Agreement. If there are unresolved audit or Agreement Settlement questions at the end of the applicable retention period, CONTRACTOR shall retain the records until the questions are resolved.

18.18.3 Expenditure Records. CONTRACTOR shall establish such fiscal control and fund accounting procedures as are necessary to ensure proper expenditure of and accounting for the financial assistance disbursed to CONTRACTOR by County under this Agreement. In particular, but without limiting the generality of the foregoing, CONTRACTOR shall (i) establish separate accounts for each Program Element for which CONTRACTOR receives financial assistance from COUNTY under this Agreement and (ii) document expenditures of financial assistance provided hereunder for employee compensation in accordance with CFR Subtitle B with guidance at 2 CFR Part 200 and, when required by COUNTY,

utilize time/activity studies in accounting for expenditures of financial assistance provided hereunder for employee compensation. CONTRACTOR shall maintain accurate property records of nonexpendable property, acquired with Federal Funds, in accordance with CFR Subtitle B with guidance at 2 CFR Part 200.

18.18.4 Safeguarding of CONTRACTOR Client Information. CONTRACTOR shall maintain the confidentiality of CONTRACTOR Client records as required by applicable state and federal law. Without limiting the generality of the preceding sentence, CONTRACTOR shall comply with the following confidentiality laws, as applicable: ORS 433.045, 433.075, 433.008, 433.017, 433.092, 433.096, 433.098, 42 CFR Part 2 and any administrative rule adopted by OHA implementing the foregoing laws, and any written policies made available to CONTRACTOR by COUNTY. CONTRACTOR shall create and maintain written policies and procedures related to the disclosure of CONTRACTOR Client information, and shall make such policies and procedures available to COUNTY and OHA for review and inspection as reasonably requested by COUNTY or OHA.

18.19 Information Privacy/Security/Access. If the Program Element Services performed under this Agreement requires CONTRACTOR or its subcontractors to have access to or use of any COUNTY computer system or other COUNTY Information Asset for which COUNTY imposes security requirements, and COUNTY grants CONTRACTOR or its subcontractors access to such COUNTY Information Assets or Network and Information Systems, CONTRACTOR shall comply and require all subcontractors 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 meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time.

18.20 Required Federal Terms and Conditions. Contractor shall comply, and require all subcontractors to comply with the federal requirements set forth in Exhibit "I", which is attached hereto, and incorporated herein by this reference, to the extent that they are applicable to this Agreement, to Contractor, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time. All references to "LPHA" in Exhibit "I" shall be to Contractor and subcontractors for purposes of this Agreement.

18.21 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution

Control Act (33 U.S.C. 1251-1387), as amended. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended. Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

18.22 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

18.23 Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms. In the letting of subcontracts, Contractor shall take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

18.23.1 Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;

18.23.2 Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;

18.23.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;

18.23.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises; and

18.23.5 Using the service and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

18.24 Procurement of Recovered Materials. Contractor must comply with

Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered material identified in the EPA guidelines.

19. Time of the Essence. The parties agree that time is of the essence in this Agreement.
20. County's Authority and Responsibilities. Notwithstanding any other provision of this Agreement:
 - 20.1 The County shall provide vital statistics services to the Contractor at the level that has been agreed to by the parties and incorporated into the Plan developed by the Contractor.
 - 20.1.1 The County shall employ such personnel as are necessary to perform required vital statistics services.
 - 20.1.2 The Columbia County Clerk shall be Contractor's point of contact with the County regarding vital statistics.
 - 20.1.3 All vital records (including birth and death records), vital records and vital statistics obtained by or produced by the County Registrar, shall be promptly copied and sent to the Local Public Health Administrator. Such records and statistics shall be used only for public health needs, assessment and intervention. Such records shall be kept and maintained in accordance with the confidentiality and other requirements of ORS Chapter 432, and the administrative rules promulgated thereunder.
 - 20.1.4 The County shall collect and retain any fees imposed by it upon individuals requesting vital statistics services or copies of records.
 - 20.1.5 As used in this paragraph, "vital records", and "vital statistics" shall have the meanings provided for them in ORS 432.005(34) and (35).
 - 20.2 The County retains authority to adopt ordinances and enact other local law, consistent with state and federal law as necessary or desirable to govern the operation of the public health programs operated by Contractor, in the County's sole discretion.

20.3 To the extent that the Oregon Health Authority has not retained or does not have enforcement authority, the County retains local enforcement authority over enforcement of Oregon Public Health Laws in Columbia County, as provided in the IGAs. However, the Contractor shall coordinate with the County and OHA and other state agencies, as provided by law.

21. Mediation. In the event of a dispute between the parties arising out of or relating to this Contract, the parties agree to submit such dispute to a mediator agreed to by both parties as soon as practicable after the dispute arises, and preferably before commencement of litigation of any permitted arbitration. The parties agree to exercise their best efforts in good faith to resolve all disputes in mediation.
22. Choice of Law. This Agreement shall be governed by the laws of the State of Oregon.
23. Venue. Venue relating to this Agreement shall be in the Circuit Court of the State of Oregon for Columbia County, located in St. Helens, Oregon.
24. Attorneys' Fees. In the event an action, suit or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Agreement, each party shall be responsible for its own attorneys' fees, expenses, costs and disbursements for said action, suit, proceeding or appeal.
25. Severability. If any provision of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.
26. No Third-Party Rights. This Agreement is solely for the benefit of the parties to this Agreement. Rights and obligations established under this Agreement are not intended to benefit any person or entity not a signatory hereto.
27. Representations and Warranties: Contractor warrants as follows:
- 27.1 Organization and Authority. Contractor is a corporation duly organized and validly existing under the laws of the State of Oregon. Contractor has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
- 27.2 Due Authorization. The making and performance by Contractor of this Agreement (a) have been duly authorized by all necessary action by Contractor; (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of CONTRACTOR's charter or other organizational document; and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other

28. ENTIRE AGREEMENT. THIS AGREEMENT (INCLUDING ITS EXHIBITS) CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. 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. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. CONTRACTOR, BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE(S) BELOW, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTOR:

COUNTY:

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____

By: _____

Henry Heimuller, Chair

Name: _____

Title: _____

Date: _____

By: _____

Margaret Marauder, Commissioner

Approved as to form

By: _____

Alex Tardif, Commissioner

By: _____

Office of County Counsel

Date: _____

EXHIBITS- TO BE ATTACHED TO FINAL CONTRACT

Exhibit A- Contractor's Proposal

Exhibit B- Request for Proposals

Exhibit C- Public Health Financial Assistance Agreement

Exhibit D- Environmental Health Services Agreement

Exhibit E- Insurance Requirements

Exhibit F- Legal Description/Gable Road property

Exhibit G- Personal Property List

Exhibit H- Provider Required Contract Provisions

Exhibit I- Required Federal Terms and Conditions