

W. 7. H. 1.

AGENDA COVER MEMO

AGENDA DATE: October 29, 2003

TO: Board of County Commissioners

DEPARTMENT: Youth Services

PRESENTED BY: Lisa Smith



AGENDA TITLE: IN THE MATTER OF AWARDING A CONTRACT TO OREGON SOCIAL LEARNING CENTER FOR \$101,304 TO PROVIDE TREATMENT FOSTER CARE FOR HIGH-RISK, DELINQUENT YOUTH REFERRED BY THE LANE COUNTY DEPARTMENT OF YOUTH SERVICES.

I. MOTION

TO AWARDED A CONTRACT TO THE OREGON SOCIAL LEARNING CENTER (OSLC) FOR \$101,304 TO PROVIDE TREATMENT FOSTER CARE FOR HIGH-RISK, DELINQUENT YOUTH REFERRED BY THE LANE COUNTY DEPARTMENT OF YOUTH SERVICES.

II. ISSUE OR PROBLEM

Lane County receives Juvenile Crime Prevention funding from the Oregon Criminal Justice Commission. The Lane County Public Safety Coordinating Council has recommended that a portion of these funds be used for treatment foster care programming. A competitive bid proposal was utilized and the proposal submitted by OSLC was recommended for award. In addition, the amount of the contract exceeds the county administrator's signature authority.

III. DISCUSSION

A. Background/Analysis

The Lane County Public Safety Coordinating Council (PSCC) recommended and the Board of County Commissioners previously approved the utilization of \$101,304 of the 03-05

Juvenile Crime Prevention funds for treatment foster care services.

A Request for Proposals was conducted and OSLC was the sole bidder. The proposal passed both the Lane County Department of Youth Services management and program qualification review process.

The contract amount of \$101,304 for the contract period of November 1, 2003 to June 30, 2004 exceeds the county administrator's signature authority per Lane Manual 21.147(f). Therefore, the Board must delegate authority to the county administrator to sign the contract.

B. Alternatives/Options

1. Award the contract to OSLC and grant authority to the county administrator to sign the contract for \$101,304 to provide treatment foster care for high-risk, delinquent youth referred by the Lane County Department of Youth Services.
2. Do not award the contract. As a result, no treatment foster care services would be available to youth referred by the Lane County Department of Youth Services. The PSCC would have to review other uses for those funds and make additional recommendations to the Board.

C. Recommendation

To approve #1 above.

IV. IMPLEMENTATION

Upon Board action, the Lane County Department of Youth Services will process the contract.

V. ATTACHMENTS

Board Order
Contract

THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

RESOLUTION AND ORDER: IN THE MATTER OF AWARDING A CONTRACT TO OREGON SOCIAL LEARNING CENTER FOR \$101,304 TO PROVIDE TREATMENT FOSTER CARE FOR HIGH-RISK, DELINQUENT YOUTH REFERRED BY THE LANE COUNTY DEPARTMENT OF YOUTH SERVICES.

WHEREAS, the Lane County Board of County Commissioners have approved the funding of treatment foster care services for youth referred by the Lane County Department of Youth Services using Juvenile Crime Prevention funds, and

WHEREAS, the Lane County Department of Youth Services issued a Request for Proposals for Treatment Foster Care for high-risk youth on September 5, 2003, and

WHEREAS, the Oregon Social Learning Center was the sole bidder and passed the required management and program qualifications reviews,

RESOLVED and ORDERED that the Board of County Commissioners award the contract to the Oregon Social Learning Center for \$101,304 and delegate authority to the County Administrator to sign the contract.

DATED this _____ day of October, 2003

Peter Sorenson, Chair
Board of County Commissioners

APPROVED AS TO FORM

Date 10/16/03 lane county
J. David Lewis
OFFICE OF LEGAL COUNSEL

PROFESSIONAL SERVICES CONTRACT

LANE COUNTY AND OREGON SOCIAL LEARNING CENTER

THIS AGREEMENT is entered into by and between LANE COUNTY, OREGON, a political subdivision of the State of Oregon, hereinafter called COUNTY, and OREGON SOCIAL LEARNING CENTER, hereinafter called CONTRACTOR.

WHEREAS, COUNTY has need for the type of professional services, knowledge, skills and experience possessed by CONTRACTOR, now, therefore, in consideration of the sum \$101,302 in an amount not to exceed \$33,767, to be paid quarterly, CONTRACTOR agrees to perform during the period from October 1, 2003 to June 30, 2004, the following professional services:

Operate a treatment foster care program that provides an alternative to group residential placement for high-risk males and females who have histories of chronic juvenile offending and who have three or more risk factors. It is an effective, intensive strategy with long term, cost effective results. The activities include: recruiting, training and supporting community families; 24-hour supervision for youth; 24-hour on-call support for foster parents; skill oriented treatment for youth; parent training/treatment for the youth's family; monitoring school attendance and performance; and daily contacts with parents. It reduces future criminal arrests by youth involved in the program. Contractor must have verification of license to provide child and adolescent residential care services. COUNTY may consider a provisional license for a time to be determined between the COUNTY and the contractor. Contractor also agrees to meet the following performance obligations:

- A. **Purpose:** Contractor shall provide a residential treatment foster care program for youth in transition between secure detention, residential care and their community homes, the purpose of which is to improve the youth's success in placement or at home.
- B. **Collaborations:** CONTRACTOR will work collaboratively, in the best interest of each youth, with DYS staff, the DYS psychological services provider and with other local and state providers, to support and facilitate existing professional and therapeutic relationships with the youth and family.
- C. **Certifications:** CONTRACTOR will maintain the following certifications and licensing and comply with their audit processes: 1) Child Caring Agency by Oregon Department of Human Services (DHS) and 2) Behavioral Rehabilitation Services (BRS) Residential Care – Level 4.
- D. **Performance Standards:** DYS considers the following to be criteria for a successful program:
 - i. Show a 70% reduction in crime (both frequency and severity) for program youth by 2005.
 - ii. Show a statistically significant positive change in self-reported measures for risk factors concerning criminal behavior, acting out behavior, family functioning, school performance, AOD, and peer association for program youth by 2005.

In performing the above services, it is understood and agreed that:

1. The performance of this contract is at CONTRACTOR'S sole risk. The service or services to be rendered under this contract are those of an independent CONTRACTOR who is not an officer, employee or agent of the COUNTY as those terms are used in ORS 30.265. Notwithstanding the Oregon Tort Claims Act, or any other contract with a

third party, as to any claims between COUNTY and CONTRACTOR, CONTRACTOR is acting as and assumes liability of an independent contractor. CONTRACTOR is solely liable for any workers' compensation coverage; social security, unemployment insurance or retirement payments; and federal or state taxes due as a result of payments under this contract. Any subcontractor hired by the CONTRACTOR shall be similarly responsible.

2. CONTRACTOR will not be eligible for any Federal Social Security, State Workers' Compensation, unemployment insurance or Public Employees Retirement System benefits from this contract payment.

3. CONTRACTOR is not currently employed by COUNTY, and will not be under the direct control of COUNTY.

4. The CONTRACTOR, its subcontractors, if any, and all employers working under this contract are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires them to provide Worker's Compensation coverage for all their subject workers or be exempt under ORS 656.126.

5. COUNTY will report the total amount of all payments to CONTRACTOR, including any expenses, in accordance with Federal Internal Revenue and State of Oregon Department of Revenue regulations.

6. The applicable provisions of the Lane Manual setting forth standard provisions for public contracts (LM 21.130) are hereby incorporated by reference as it fully set forth herein.

7. The CONTRACTOR agrees to indemnify, defend and hold Lane County, its Commissioners, agents, officers and employees harmless and defend all damages, losses and expenses including but not limited to attorney fees and to defend all claims, proceedings, lawsuits and judgments arising out of or resulting from the CONTRACTOR'S performance of or failure to perform this contract.

8. CONTRACTOR shall provide all insurance called for on the page entitled "Insurance Coverage Required". As evidence of the insurance coverage required by this contract, the CONTRACTOR shall furnish a certificate of insurance to: Lane County Risk Management Division, 125 E. 8th Ave., Eugene, Oregon, 97401. The certificate will specify parties who are Additional Insured and must include a notice provision regarding cancellations. Insurance coverage required under this contract shall be obtained from insurance companies authorized to do business in the State of Oregon. If CONTRACTOR is self-insured under the laws of the State of Oregon, CONTRACTOR shall provide appropriate declarations of coverage.

9. CONTRACTOR shall not cancel, materially change, or not renew insurance coverage. CONTRACTOR shall notify Lane County Risk Manager, 125 E. 8th Ave., Eugene, Oregon, 97401, of any material reduction or exhaustion of aggregate limits. Should any policy be canceled before final payment by Lane County to CONTRACTOR and should CONTRACTOR fail to immediately procure other insurance as specified, COUNTY reserves the right to procure such insurance and to deduct the cost thereof from any sum due CONTRACTOR under this contract. Any insurance bearing any adequacy of performance shall be maintained after completion of the contract for the full guaranteed period, and should the CONTRACTOR fail to immediately procure such insurance as specified, COUNTY reserves the right to procure such insurance and to charge the cost thereof to CONTRACTOR.

10. Responsibility for payment of damages: Nothing contained in these insurance requirements is to be construed as limiting the extent of CONTRACTOR'S responsibility for payment of damages resulting from CONTRACTOR'S operation under this contract.

11. By execution of this contract, CONTRACTOR certifies under penalty of perjury that:

a. To the best of CONTRACTOR'S knowledge, CONTRACTOR is not in violation of any tax laws described in ORS 305.380(4); and

b. CONTRACTOR has not discriminated against minority, women or small business enterprises in obtaining any required subcontracts.

12. CONTRACTOR shall have all licenses and permits necessary to perform the contract.

13. The COUNTY shall not be obligated to pay any amount greater than that stated above. Modifications or amendments to this contract shall be in writing and executed by both parties.

14. Modifications or amendments to this contract shall be effective only if in writing and executed by both parties.

15. Dispute Resolution. The parties shall exert every effort to cooperatively resolve any disagreements they may have under this Agreement. In the event that the parties alone are unable to resolve any conflict under this Agreement, they agree to present their disagreements to a mutually selected mediator. Each party shall bear its own costs for mediation and the parties shall share the cost of the mediator. This procedure shall be followed to its conclusion prior to either party seeking relief from a court, except in the case of an emergency.

If the dispute remains unresolved through mediation, the parties may agree in writing to submit the dispute to arbitration, using such arbitration process as they may choose at the time and which includes the following conditions:

a.) The location of the arbitration shall be in Eugene, Oregon;

b) Each party shall bear its own costs (except arbitration filing costs), witness fees, and attorney fees;

c) Arbitration filing costs and any arbitrator's fees will be divided equally between the parties; and

d) Judgment upon award rendered by the Arbitrator may be entered in a court in Lane County, Oregon.

16. The parties may jointly agree to terminate this agreement and upon the terms of such termination. The County may terminate this contract at any time for any reason or for no reason with no liability on its part, except to pay for services previously provided by giving Contractor 30 days written notice.

17. Waiver. Failure of the County to enforce any provision of the contract shall not constitute a waiver or relinquishment by the County of the right to such performance in the future nor of the right to enforce that or any other provision of this contract.

18. Severability. If any provision of this contract is declared by a court to 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 provision held to be invalid.

19. Entire Agreement. This Agreement and the Schedules attached hereto constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous representations, understandings, or agreements, whether oral or written, relating to the subject matter hereof. All prior or contemporaneous representations, understandings or agreements, whether oral or written, that are not expressly set forth within the four corners of this Agreement are hereby deemed waived, superseded and abandoned.

20. Business Associates Agreement. Contractor agrees to follow the terms of the Business Associates Agreement in Attachment A, which outlines HIPPA requirements.

21. Behavioral Rehabilitation Services requirements. Contractor agrees to follow federal behavioral rehabilitation services program requirements for level 4 treatment facility and to maintain certification for such program, as outlined in attachment B.

LANE COUNTY, OREGON

DATE: _____ By _____

WILLIAM A. VAN VACTOR

County Administrator

CONTRACTOR

DATE: _____ By _____

Patricia Chamberlain

Title _____

Address _____

Business Id. No _____

APPROVED AS TO FORM

Date _____ Lane County

OFFICE OF LEGAL COUNSEL

INSURANCE COVERAGES REQUIRED

Contractor shall not commence any work until Contractor obtains, at Contractor's own expense, all required insurance as specified below. Such insurance must have the approval of Lane County as to limits, form and amount. The types of insurance Contractor is required to obtain or maintain for the full period of the contract will be:

- ☒ **COMPREHENSIVE COMMERCIAL GENERAL LIABILITY** insurance including personal injury, bodily injury and property damage with limits as specified below. The insurance shall include:

COVERAGES

LIMITS

<input type="checkbox"/> Explosion & Collapse	<input checked="" type="checkbox"/> \$1 million per occurrence
<input type="checkbox"/> Underground Hazard	<input type="checkbox"/> Limits of the Oregon Tort Claims Act (ORS 30.370), present limits \$500,000 per occurrence
<input checked="" type="checkbox"/> Products/Completed Operations	
<input checked="" type="checkbox"/> Contractual Liability	
<input type="checkbox"/> Broad Form Property Damage	<input type="checkbox"/> Other
<input type="checkbox"/> Owners' & Contractors' Protective	

FORM All policies must be of the occurrence form with combined single limit for bodily injury and property damage. Any deviation from this must be reviewed by the Risk Manager. All claims-made forms must have the prior approval of Risk Manager. Submit a complete copy of claims-made policies and endorsements with the certificate of insurance.

- ☒ **AUTOMOBILE LIABILITY** insurance comprehensive form with limits as specified below. The coverage shall include owned, hired and non-owned automobiles.

LIMITS

<input checked="" type="checkbox"/> \$1 million per occurrence	
<input type="checkbox"/> Not less than the limits of the Oregon Tort Claims Act (ORS 30.270) presently at \$500,000 per occurrence	<input type="checkbox"/> Other

- ☒ **PROFESSIONAL LIABILITY** insurance – Please submit sample certificate.

- ☒ **ADDITIONAL INSURED CLAUSE** The liability insurance coverages required for the performance of this contract shall be endorsed to name Lane County, its commissioners, officers, agents, and employees as additional insured with respect to the activities performed under this contract.

- ☒ **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY** as statutorily required for persons performing work under this contract. Any subcontractor hired by Contractor shall also carry Workers' Compensation and Employers' Liability coverage.

EMPLOYER'S LIABILITY ☒ Limits of \$500,000.

- ☐ **BUILDER'S RISK** insurance special form. Limits to be the value of the contract or \$_____.

- ☒ **FIDELITY BOND** covering the activities of any person, named or unnamed, responsible for collection and expenditures of funds. Limit \$ 10,000 per employee.

Any questions concerning insurance and indemnity should be directed to Lane County Risk Management at 541-682-4569

Attachment A
Business Associate Agreement

The parties agree that the following terms and conditions shall apply to the performance of their obligations under the October 2003 service agreement for Treatment Foster Care Services between Lane Oregon Social Learning Center, hereinafter referred to as Contractor and Lane County, hereinafter referred to as County. Contractor is providing services to Lane County Youth Services, a program that requires disclosure and use of Protected Health Information ("PHI") as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). This agreement sets forth the terms and conditions under which PHI that is provided by, or created or received by, the Contractor from or on behalf of Covered Component will be handled between the parties and with third parties.

NOW, THEREFORE, for mutual and valuable consideration, the parties agree as follows:

Agreement

1. Definitions

"Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and generally means the person who is the subject of protected health information. It also includes a person who qualifies as a personal representative pursuant to 45 CFR 164.502(g).

"Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, and as these may be amended from time to time.

"Protected Health Information" shall have the same meaning as the term "Protected Health Information" in 45 CFR 164.501, limited to the information created or received by Contractor from or on behalf of County. Generally, it relates the past, present or future physical or mental health or 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 identifies the individual or there is a reasonable basis to believe the information can be used to identify the individual.

"Secretary" shall mean the Secretary of the federal Department of Health and Human Services (HHS) and any other HHS officer or employee with delegated authority.

Capitalized terms, other than those defined in this Amendment, shall have the same meaning as those terms in the Privacy Rule.

2. Uses and Disclosures In Performing Services

a. Except as otherwise limited in this Agreement [Amendment], and provided that such use or disclosure would not violate the Privacy Rule or the applicable minimum necessary policies of the County if done by the Covered Component, Contractor may receive, use or disclose PHI to: (choose at least one of the following)

1. Perform the functions, activities or services specified in the parties'

Service Agreement (may also include reasons and types of persons to whom the Contractor may make further disclosure)

2. (list specific functions, activities or services specified in the parties' Service Agreement, and may also include reasons and types of persons to whom the Contractor may make further disclosure)

3. Provide PHI to County in order for County to meet its reporting requirements.

b. Contractor may be acting on behalf of County in creating, receiving, using or disclosing in a. only to the extent its activities require compliance with the Privacy Rule, and for all other purposes is acting as an independent contractor, not as an agent of County outside the coverage of a business associate relationship under HIPAA. Notwithstanding the Oregon Tort Claims Act or provisions of any other contract, as to any claims between the parties arising out of this Agreement [Amendment], Contractor is acting as and assumes liability of an independent contractor.

3. Limits on Uses and Disclosures by Contractor

a. Contractor shall not receive, use or disclose PHI other than as permitted or required by this Agreement, as permitted by the Privacy Rule, or as Required by Law.

b. Except as otherwise limited in this Agreement, Contractor may use PHI for the proper management and administration of its business or to carry out its legal responsibilities.

c. Except as otherwise limited in this Agreement, Contractor may disclose PHI for the proper management and administration of its business, provided that disclosures are required by law, or Contractor obtains reasonable assurances from the recipient that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed, and the recipient will notify the Contractor of any instance of which it is aware in which the confidentiality of the information has been breached.

d. Contractor may use PHI to report violations of HIPAA law to certain federal or state authorities subject to the conditions in 45 CFR §164.502(j)(1).

e. Contractor may not aggregate or compile PHI created or received under the Service Agreement with the PHI of other entities unless this Agreement [Amendment] permits Contractor to perform Data Aggregation services. .

f. Contractor shall comply with any of the following additional limitations to the extent they may affect Contractor's use or disclosure of PHI:

i. Any limitations of use or disclosure in the attached Notice of Privacy Practices, as well as any changes to such notice.

ii. Any changes in the individual's permission or any agreed restriction to use or disclose PHI.

4. Obligations and Activities of Contractor

- a. Pursuant to HIPAA, Contractor agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided in this Agreement [Amendment].
- b. Contractor agrees to report to County, as promptly as possible, any use or disclosure of PHI not provided for by this Agreement [Amendment] of which it becomes aware.
- c. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor that violates the requirements of this Agreement [Amendment]. Contractor agrees to report to County the remedial action taken or proposed to be taken with respect to such use or disclosure. Contractor agrees to cooperate with County in any mitigation efforts County requests and deems appropriate.
- d. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Contractor on behalf of County agrees, in writing, to the same restrictions and conditions that apply through this Agreement [Amendment] to Contractor with respect to such information.
- e. Contractor agrees to provide access to PHI in a Designated Record Set, at the request of County, and in the time and manner designated by County to it or, pursuant to its direction, to the subject individual in order to meet the requirements under 45 CFR 164.524.

For PHI in a Designated Record Set which is maintained, collected, or disseminated for or on behalf of County and is in the sole possession of Contractor, Contractor shall provide an individual access to inspect and right to obtain a copy of information in their Designated Record Set, subject to the exceptions and in accordance with all other provisions of 45 CFR §164.524 and County's "Individual's Rights to Restrict, Access, Amend, and Receive Accounting" policies, unless County directs otherwise. Unless County requires otherwise, Contractor must act on a request of access within 30 days of the request subject to limited exceptions to that rule, except in the case of written accounts under ORS 179.505 which must be disclosed within five days of such request.

Generally, but with certain exceptions listed in County's "Individual's Rights To Restrict, Access, Amend, and Receive Accounting" policies, Contractor has a designated record set to the extent it has: a) Medical records and billing records about individuals maintained for County, as a covered health care provider, or b) medical records used, in whole or in part, by or for County as a covered entity to make decisions about individuals. It includes protected health information that is maintained, collected, used, or disseminated by or for a covered entity. It does not include psychotherapy notes, information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding, information subject to the federal Clinical Labs Improvement Amendments of 1988, or exempt pursuant to 42 CFR

493.3(a)(2); information that, based on good faith belief, can cause harm to the client, participant or to any other person, documents protected by attorney work-product privilege; and information where release is prohibited by state or federal laws. List documents, records which Contractor has created, maintains, uses or has by or on behalf of the County.

f. Contractor shall make PHI available to County to fulfill County's obligation to amend PHI in accordance with 45 CFR §164.526, and agrees to make any amendments to PHI in a Designated Record Set that the County directs or agrees to pursuant to 45 CFR 164.526 at the request of County or an individual, and in the time and manner designated by County. Contractor agrees to make available PHI in a Designated Record Set for amendment and incorporate any amendments, subject to the limitations and additional provisions of 45 CFR §164.526 and County's "Individual's Rights to Restrict, Access, Amend, and Receive Accounting" policies, unless County directs or agrees otherwise. This applies to PHI in a Designated Record Set which is created, maintained, collected, used or disseminated for or on behalf of County and is in the sole possession of Contractor or its agents or subcontractors. Contractor must act on a request to amend within 60 days after the receipt of the request, with limited exceptions and in accordance with that rule and County's procedure, unless County requires otherwise.

g. Contractor agrees to document such disclosures of PHI and information related to such disclosures as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528 and County's "Individual's Rights to Restrict, Access, Amend, and Receive Accounting" policies. Contractor agrees to provide to County or an individual, in time and manner designated by County, the information collected documenting disclosures to permit County to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528 and its procedures.

h. Unless County directs otherwise, Contractor agrees to make available the information required to provide an accounting of disclosures of PHI to an individual in accordance with 45 CFR §164.528 and County's "Individual's Rights to Restrict, Access, Amend, and Receive Accounting" policies for PHI solely in its possession. Such record shall include the date of the disclosure, the name and if known the address of the recipient of the PHI, a brief description of the PHI disclosed, and a statement of the basis for the disclosure or copy of the written request for disclosure. The accounting shall include disclosures made during the six-year period prior to the date of the request (or shorter if requested by the individual) excluding disclosures made prior to April 14, 2003. Contractor shall act on the individual's request for an accounting

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within 60 days, subject to limited exceptions in 45 CFR §164.528, unless County requires otherwise.

i. As to Contractor's obligation to meet requirements to provide rights to access, amend, and for an accounting (paragraphs 4 f., g, h, and i above), Contractor shall document and retain for six years from the date it is created or the date when it last was in effect, whichever is later:

i. The titles of the person or offices responsible for receiving and processing requests for access, for amendments, and for accounting of disclosures; and

ii. The designated record sets that are subject to access by individuals under 45 CFR 164.524, subject to County's direction otherwise;

iii. The written accounting that is provided to the individual;

iv. The information required to be included in the accounting in paragraph (i) above.

j. Contractor agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from County or created or received by Contractor on behalf of County available to the Secretary, or to the Covered Component, in a time and manner designated by any of these parties, for purposes of determining Contractor's compliance with the Privacy Rule or for audit purposes.

5. Request and Obligations of County

a. County shall notify Contractor of any limitations in its notice of privacy practices in accordance with 45 CFR 164.520, to the extent that the limitation may affect Contractor's use or disclosure of PHI..

b. County shall notify Contractor of any restrictions, changes in, or revocation of, permission by Individual to receipt, use, or disclosure of PHI, to the extent such changes affect Contractor's use or disclosure of PHI.

c. County shall not request Contractor to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by County.

6. Term and Termination

a. The term of this Amendment shall be effective as of the date the last party signs this Agreement, and shall terminate when all of the PHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, 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.

b. In addition to any other rights or remedies provided to County in the Service Agreement, upon County's knowledge of a material breach by Contractor or violation of Contractor's obligations under this Agreement, County may:

- i. Notify Contractor of the breach and specify a reasonable opportunity in this notice for Contractor to cure the breach or end the violation, and terminate the Service Agreement, including any amendments, if the Contractor does not cure the breach or end the violation within the time specified by County; or
 - ii. Immediately terminate the Service Agreement, including any amendments, if the Contractor has breached a material term of this Agreement and cure is not possible in County's reasonable judgment; or
 - iii. If neither termination nor cure is feasible, County shall report the violation to the Secretary;
 - iv. County's remedies under this Agreement are cumulative and the exercise of any one remedy shall not preclude the exercise of any other.
 - c. Effect of Termination Upon termination of this Agreement, for any reason, Contractor shall, at County's option, return or destroy all PHI received from County, or created or received by Contractor on behalf of County. This provision shall apply to PHI that is in the possession of subcontractors or agents of Contractor. Contractor shall not retain any copies of the PHI.
- If the parties mutually agree that return or destruction of PHI is not feasible, Contractor 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 Contractor maintains such PHI.

7. Miscellaneous

- a. Amendment; waiver. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for County to comply with the requirements of the Privacy Rule and HIPAA. The parties agree that any modifications to those laws shall modify the obligations of the parties to this Amendment without the need for formal amendment of this Amendment. Any other amendments to this Amendment shall not be effective without the written agreement of both parties. No provision in this Amendment shall be deemed waived unless in writing, and duly executed by the parties. A waiver with respect to one event shall not be construed as continuing, as a bar to or waiver of any other right or remedy under this Agreement.
- b. Survival. The respective rights and obligations of Contractor under paragraphs 4.a., g, h, i, , 6, 7.b – i. shall survive the termination of this Agreement.
- c. Interpretation; order of precedence. Any ambiguity in this Agreement shall be resolved to permit County to comply with HIPAA and the regulations promulgated in support. The terms of this Agreement supplement the terms of the Service Agreement, and whenever possible, all terms and conditions in this Agreement and the Service

Agreement are to be harmonized. In the event of a conflict between the terms of this Agreement and the terms of the Service Agreement, the terms of this Agreement shall control, provided that this Agreement shall not supersede any other federal or state law or regulation governing the legal relationship of the parties, or the confidentiality of records or information, except to the extent that HIPAA preempts those laws or regulations. In the event of any conflict between the provisions of the Agreement and the Privacy Rule, the Privacy Rule shall control.

- d. Indemnity. In addition to any other indemnification obligations of Contractor in the Service Agreement, Contractor shall save, hold harmless, and indemnify the County and its Commissioners, officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from or arising out of Contractor's, or its agent's or subcontractor's performance or failure to perform under this Amendment, including but not limited to, unauthorized use or disclosure of PHI.
- e. Insurance. Contractor shall provide a certificate of insurance establishing coverage for Contractor's activities under this Amendment.
- f. Independent Contractor. Contractor will function as an independent contractor and shall not be considered an employee of County for any purpose. Nothing in this Amendment shall be interpreted as authorizing Contractor or its agents and/or employees to act as an agent or representative for or on behalf of County.
- g. Successors and Assigns. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns, if any. Neither this Agreement, nor the responsibilities for providing services, shall be assigned or delegated by Contractor without the prior written consent of County.
- h. No Third-Party Beneficiaries. County and Contractor are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to any other third parties.
- i. Notices. Any notices between the parties or notices to be given under this Agreement shall be given in writing by personal or overnight courier delivery, or by mailing by certified mail with return receipt requested, to Contractor or to County, to the addresses given for each below or to the address either party gives to the other. Any notice so addressed and mailed shall be deemed given five days after mailing, or by facsimile. Any notice delivered by personal or overnight courier delivery shall be deemed given upon receipt. Any notice by facsimile shall be deemed given upon confirmation that notice was received.

- j. Except as Amended. Except as amended by this Amendment, all terms and conditions of the Service Agreement, including any prior amendments shall remain in full force and effect.
- k. Signatures. By signing the Amendment, the parties certify that they have read and understood this Amendment, that they agree to be bound by the terms of this Amendment.

LANE COUNTY, OREGON

DATE: _____ By _____

WILLIAM A. VAN VACTOR

County Administrator

CONTRACTOR

DATE: _____ By _____

Patricia Chamberlain

Title _____

Address _____

Business Id. No _____

Contractor shall not commence any work until Contractor obtains, at Contractor's own expense, all required insurance as specified below. Such insurance must have the approval of Lane County as to limits, form and amount. The types of insurance Contractor is required to obtain or maintain for the full period of the contract will be:

<i>COVERAGES</i>	<i>LIMITS</i>
<input type="checkbox"/> Explosion & Collapse	<input checked="" type="checkbox"/> \$1 million per occurrence
<input type="checkbox"/> Underground Hazard	<input type="checkbox"/> Limits of the Oregon Tort Claims Act (ORS 30.370), present limits \$500,000 per occurrence
<input checked="" type="checkbox"/> Products/Completed Operations	
<input checked="" type="checkbox"/> Contractual Liability	
<input type="checkbox"/> Broad Form Property Damage	<input type="checkbox"/> Other
Owners' & Contractors' Protective	

 X **AUTOMOBILE LIABILITY** insurance comprehensive form with limits as specified below. The coverage shall include owned, hired and non-owned automobiles.

☒ X \$1 million per occurrence

☐ Not less than the limits of the Oregon Tort Claims Act (ORS 30.270) presently at \$500,000 per occurrence ☐ Other _____

 X **ADDITIONAL INSURED CLAUSE** The liability insurance coverages required for the performance of this contract shall be endorsed to name Lane County, its commissioners, officers, agents, and employees as additional insured with respect to the activities performed under this contract.

BUILDER'S RISK insurance special form. Limits to be the value of the contract or \$_____.

Any questions concerning insurance and indemnity should be directed to Lane County Risk Management at 541-682-4569