



Contract Number 157894

**STATE OF OREGON
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Contract is between the State of Oregon, acting by and through its Department of Human Services, hereinafter referred to as "DHS," and

**Life Strategy Center LLC
Attn: Roxy Hart
P.O. Box 7035
Sheridan, WY 82801
Telephone: 307-751-2479
E-mail address: RRCon@wavecom.net**

hereinafter referred to as "Contractor."

Services provided under this Contract are for (OR-Kids participant ID number [REDACTED] OR-Kids case number [REDACTED]), hereinafter referred to as "Child".

Work to be performed under this Contract relates principally to DHS'

**Child Welfare – Well Being Treatment Services
2446 SE Ladd Ave
Portland, OR 97214
Contract Administrator: Glenda Marshall or delegate
Telephone: 503-931-1655
E-mail address: Glenda.r.marshall@state.or.us**

1. Effective Date and Duration.

Upon signature by all applicable parties, this Contract shall be effective on the later of: (i) **June 1, 2018** or, (ii) when required, the date this Contract is approved by Department of Justice, regardless of the date it is actually signed by all other parties per the authority under OAR 125-247-0288. Unless extended or terminated earlier in accordance with its terms, this Contract shall expire on **December 31, 2018**. Contract termination shall not extinguish or prejudice DHS' right to enforce this Contract with respect to any default by Contractor that has not been cured.

2. Contract Documents.

a. This Contract consists of this document and includes the following listed exhibits which are incorporated into this Contract:

- (1) Exhibit A, Part 1: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions

There are no other contract documents unless specifically referenced and incorporated in this Contract.

b. This Contract and the documents listed in Section 2., Contract Documents, Subsection a. above, shall be in the following descending order of precedence: this Contract less all exhibits, Exhibits B, and A.

3. Consideration.

a. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is **\$2,625.00**. DHS will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract for completing the Work, and will not pay for Work performed before the date this Contract becomes effective or after the termination or expiration of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

b. Interim payments to Contractor shall be subject to ORS 293.462, and shall be made in accordance with the payment schedule and requirements in Exhibit A, Part 2, "Payment and Financial Reporting."

c. DHS will only pay for completed Work under this Contract. For purposes of this Contract, "Work" means the tasks or services and deliverables accepted by DHS as described in Exhibit A, Part 1, "Statement of Work."

4. Vendor or Subrecipient Determination. In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, DHS' determination is that:

Contractor is a subrecipient Contractor is a vendor Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Contract: ___ na ___

5. Contractor Data and Certification.

- a. **Contractor Information.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Contractor Name (exactly as filed with the IRS): _____

LIFE STRATEGY CENTER, LLC

Street address: 1949 Sugarland Dr. Suite 218

City, state, zip code: SHERIDAN, WY 82801

Email address: RRCON@WAVECOM.NET

Telephone: (307) 751-2479 Facsimile: (307) 674-1825

Is Contractor a nonresident alien, as defined in 26 U.S.C. § 7701(b)(1)?

(Check one box): YES NO

Business Designation: (Check one box):

Professional Corporation

Nonprofit Corporation

Limited Partnership

Limited Liability Company

Limited Liability Partnership

Sole Proprietorship

Corporation

Partnership

Other

Contractor Proof of Insurance. Contractor shall provide the following information upon submission of the signed Contract. All insurance listed herein and required by Exhibit C, must be in effect prior to Contract execution.

Workers' Compensation: Does Contractor have any subject workers, as defined in ORS 656.027? (Check one box): YES NO *If YES, provide the following information:*

Workers' Compensation Insurance Company: _____

Policy #: _____ Expiration Date: _____

- b. **Certification.** Without limiting the generality of the foregoing, by signature on this Contract, the undersigned hereby certifies under penalty of perjury that:

- (1) Contractor is in compliance with all insurance requirements in Exhibit C of this Contract and notwithstanding any provision to the contrary, Contractor shall deliver to the DHS Contract Administrator (see page 1 of this Contract) the required Certificate(s) of Insurance within 30 days of execution of this Contract. By certifying compliance with all insurance as required by this Contract, Contractor acknowledges it may be found in breach of the Contract for failure to obtain required insurance. Contractor may also be in breach of the Contract for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Contract;

- (2) Contractor acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the Contractor and that pertains to this Contract or to the project for which the Contract work is being performed. Contractor certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Contractor further acknowledges that in addition to the remedies under this Contract, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Contractor;
- (3) The undersigned is authorized to act on behalf of Contractor and represents and warrants that Contractor has complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of Oregon. Contractor shall, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of Oregon. For the purposes of this Section, “tax laws” includes: (i) All tax laws of Oregon, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of Oregon that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor; (iii) Any tax provisions imposed by a political subdivision of Oregon that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Contractor acknowledges that the Oregon Department of Administrative Services will report this Contract to the Oregon Department of Revenue (DOR). The DOR may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing the Contractor’s compensation under this Contract or (ii) exercising a right of setoff against Contractor’s compensation under this Contract for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the DOR collects debts;

- (4) The information shown in Section 5a, “Contractor Information” above is Contractor’s true, accurate and correct information;
- (5) To the best of the undersigned’s knowledge, Contractor has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;

- (6) Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (7) Contractor is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" currently found at: <https://www.sam.gov/portal/public/SAM/>;
- (8) Contractor is not subject to backup withholding because:
 - (a) Contractor is exempt from backup withholding;
 - (b) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified Contractor that Contractor is no longer subject to backup withholding; and
- (9) Contractor Federal Identification Number (FEIN) or Social Security Number (SSN) provided is true and accurate. If this information changes, Contractor shall provide DHS with the new FEIN or SSN within 10 days.

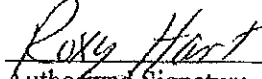
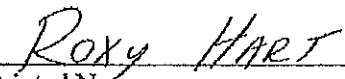
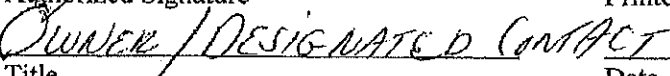
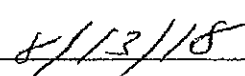
CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTOR: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS

6. **Signatures.** This Contract and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract and any amendments so executed shall constitute an original.


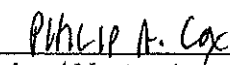
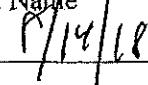
Life Strategy Center, LLC

By:

 _____	 _____
Authorized Signature	Printed Name
 _____	 _____
Title	Date

State of Oregon, acting by and through its Department of Human Services

By:

 _____	 _____
Authorized Signature	Printed Name
_____	 _____
Title	Date

Approved by the Department of Administrative Services:

Exempt per OAR 125-246-0170(2)

_____	_____	_____
Authorized Signature	Title	Date

Approved for Legal Sufficiency:

Not Required per OAR 137-045-0030(1)(a)

_____	_____
Department of Justice	Date

EXHIBIT A

Part 1 Statement of Work

1. Services to be Performed:

- a.** Contractor shall provide Placement Related Supports to the Child identified in this Contract as follows:
 - 1) Have Face to Face contact with the Child while placed at Normative Services, Inc., a minimum of every 30 days.
 - 2) Monitor, assess and report on the Child's safety and well-being at each visit within the 30-day period. Contractor must complete all of the following activities.
 - i. Have a conversation with the Child;
 - ii. Assess the Child's progress in and adjustment to the program;
 - iii. Notify a supervisor when he or she determines that the ongoing safety plan or the living environment is insufficient to ensure the safety of the Child to determine if a protective action plan is necessary to ensure safety; and
 - iv. Notify the Well Bing Program when the well-being needs of the Child are not being met by a provider.
- b.** Contractor shall provide Consultation to the Child's Team as follows:
 - 1) Participate, if possible, in Child and Family Team Meetings;
 - 2) Communicate regularly with the caseworker about the needs and progress of the child; and
 - 3) Provide consultation to the child's team in planning related to treatment, services, placement and permanency, as needed.

2. Deliverables:

- a.** Document the Face to Face Contact, including:
 - 1) The date, type and location of each contact with the child.
 - 2) The issues addressed during the contact.
 - 3) This information must be emailed to the Child's caseworker within 2 days of the Face to Face contact.

DHS requires that the Contractor meets the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services.

EXHIBIT A
Part 2
Payment and Financial Reporting

1. Payment Provisions.

- a. As consideration for the services provided by the Contractor during the period specified in Section 1., **Effective Date and Duration**, of this Contract, DHS will pay to the Contractor, a maximum not-to-exceed amount as specified in Section 3., **Consideration** of this Contract, to be paid as follows:

Service Category: **FOCUS Program Services**

Service Type: **Placement Related Supports - FOCUS**

Services will be paid at the rate of **\$125.00 per hour with a maximum of 21 hours.**

- b. Contractor Invoice, Completion and Submission:

- (1) Contractor shall submit billings on the approved DHS invoice form located at:
<https://apps.state.or.us/Forms/Served/ce0846.xlsm>.

Instructions and requirements for completion and submission of an invoice are included on the third tab of the Excel invoice document. Invoices must be submitted with all fields properly populated.

- (2) Payment will be made by DHS to the Contractor monthly on or after the first of each month following the month in which services were performed, subject to receipt and approval by DHS of the Contractor's invoice and any required reporting as defined in the Statement of Work for this Contract.

For questions regarding payments please email the local DHS office from which the referral was made. Email addresses may be obtained at:
<http://www.oregon.gov/dhs/children/providers-partners/Documents/Local%20Office%20Contact%20List%20for%20Contracted%20Providers.pdf>.

- 2. Travel and Other Expenses.** DHS will not reimburse Contractor for any travel outside the scope of travel associated with the maintenance and supervision of the Child, or for any additional expenses under this Contract.

EXHIBIT A

Part 3 Special Provisions

1. Confidentiality of Information.

a. Client Information:

- (1) All information as to personal facts and circumstances obtained by the Contractor on the client ("Client Information") shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Contract. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- (2) The use or disclosure of Client Information shall be limited to persons directly connected with the administration of this Contract. Confidentiality policies shall be applied to all requests from outside sources.
- (3) If Contractor, or any of its officers, directors, employees, agents, or subcontractors receives or has access to confidential Social Security Administration (SSA), or Federal Tax Information (FTI) records in the performance of Work under this Contract, Contractor shall comply, and ensure that all of Contractor's officers, directors, employees, agents and subcontractors comply, with the following provisions:
 - (a) With respect to SSA records:
 - (i) Provide a current list of employees and employees of any agent or subcontractor with access to SSA records;
 - (ii) Adhere to the same security requirements as employees of DHS;
 - (iii) Abide by all relevant Federal laws, restrictions on access, use, disclosure, and the security requirements contained within DHS' agreement with SSA;
 - (iv) Provide its employees and agents the same security awareness training as DHS employees; and
 - (v) Include the provisions of this Section 1.a.(3)(a) in any subcontract.
 - (b) With respect to Federal Tax Information (FTI), as defined in IRS Publication 1075:
 - (i) Contractor and its officers, directors and employees with access to, or who use FTI provided by DHS must meet the

background check requirements defined in IRS Publication 1075;

- (ii) Any FTI made available to Contractor shall be used only for the purpose of carrying out the provisions of this Contract. Contractor shall treat all information contained in FTI as confidential and that information shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited;
 - (iii) Contractor shall account for all FTI upon receipt and shall properly store all FTI before, during, and after processing. In addition, all FTI related output and products will be given the same level of protection as required for the source material;
 - (iv) No work involving FTI furnished under this Contract will be subcontracted without prior written approval of the IRS;
 - (v) Maintain a list of employees who are authorized access to FTI. Such list will be provided to DHS and, upon request, to the IRS reviewing office; and
 - (vi) Include the provisions of this Section 1.a.(3)(b) in any subcontract.
- (d) Failure to abide by any of the requirements in this subsection could result in criminal or civil penalties and result in termination of this Contract.
- (e) Contractor may be subject to periodic and ongoing security reviews to ensure compliance with the requirements of Section 1.a.(3).
- (4) Except as prohibited by Section 1.a.(3) above, DHS, Contractor and any subcontractor will share information as necessary to effectively serve DHS clients.

b. Non-Client Information:

- (1) Each Party acknowledges that it and any of its officers, directors, employees and agents may, in the course of performing its responsibilities under the Contract, be exposed to or acquire information that is confidential to the other Party. To the extent permitted by law, any and all information of any form provided to a Party or its officers, directors, employees and agents in the performance of the Contract that reasonably could at the time of its disclosure be understood to be confidential shall be deemed to be confidential information of the originating Party (“Confidential Non-Client Information”).

- (2) Confidential Non-Client Information shall be deemed not to include information that:
- (a) Is or becomes (other than by disclosure by the Party acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure;
 - (b) Is furnished by the originating Party to others without restrictions similar to those imposed on the receiving Party under the Contract;
 - (c) Is rightfully in the receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure by the originating Party under the Contract;
 - (d) Is obtained from a source other than the originating Party without the obligation of confidentiality;
 - (e) Is disclosed with the written consent of the originating Party; or
 - (f) Is independently developed by the receiving Party's officers, directors, employees and agents who can be shown to have had no access to the Confidential Non-Client Information.
- (3) Nondisclosure. The receiving Party shall hold all Confidential Non-Client Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; shall not sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Non-Client Information to third parties; shall not use Confidential Non-Client Information for any purposes whatsoever other than as contemplated by this Contract or reasonably related thereto; and shall advise any of its officers, directors, employees and agents that receive or have access to the Confidential Non-Client Information of their obligations to keep Confidential Non-Client Information confidential. These confidentiality obligations do not restrict disclosure of information otherwise qualifying as Confidential Non-Client Information if the receiving Party can show that either of the following conditions exists: (i) the information was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, in which case the receiving Party shall notify the originating Party of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given; or (ii) the disclosure was required to respond to a request for the information made under the Oregon Public Records Law, ORS 192.410 to 192.505. The receiving Party shall notify the originating Party of a public records request five days prior to the disclosure.
- c. Upon request and pursuant to the instructions of DHS, Contractor shall return or destroy all copies of Confidential Information, and Contractor shall certify in writing the return or destruction of all Confidential Information.
 - d. "Client" means any individual, family or Provider:

- (1) For whom an DHS must provide Services and incidental or specialized Goods, in any combination thereof (“Services and Incidental Supplies”), according to state, federal law, rule, and policy. Those Services and Incidental Supplies include but are not limited to treatment, care, protection, and support without regard to the proximity of the services being provided;
- (2) Who in fact receives and utilizes services provided by an DHS primarily for that individual's or family's benefit;
- (3) Who is under the custody, care, or both of the DHS; or
- (4) Who provides direct care or Services and is a proxy or representative of the non-Provider Client.

2. Amendments.

- a. DHS reserves the right to amend or extend the Contract under the following general circumstances:
 - (1) DHS may extend the Contract for additional periods of time up to a total Contract period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on DHS’ satisfaction with performance of the work or services provided by the Contractor under this Contract.
 - (2) DHS may periodically amend any payment rates throughout the life of the Contract proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if DHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b. DHS further reserves the right to amend the Statement of Work for the following:
 - (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Contract or previous amendments to the Contract;
 - (2) Implement additional phases of the Work; or
 - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Contract.
- c. Upon identification, by any party to this Contract, of any circumstance which may require an amendment to this Contract, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Contract before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 24. “Amendments; Waiver; Consent.” of this Contract.

3. Contractor Requirements to Report Abuse of Certain Classes of Persons.

- a. Contractor shall comply with, and cause its employees, agents and subcontractors to comply with, the applicable laws for mandatory reporting of abuse including but not limited to abuse of the following classes of persons in Oregon:
 - (1) Children (ORS 419B.005 through 419B.045);
 - (2) Elderly Persons (ORS 124.055 through 124.065);
 - (3) Residents of Long Term Care Facilities (ORS 441.630 through 441.645);
 - (4) Adults with Mental Illness or Developmental Disabilities (ORS 430.735 through 430.743).
- b. In addition to the requirements of Section 3.a., if law enforcement is notified regarding a report of child abuse, Contractor shall also notify the local Child Protective Services Office of DHS within 24 hours. If law enforcement is notified regarding a report of abuse of elderly, long term care facility residents, adults with mental illness or developmental disabilities, the Contractor shall also notify the local Aging and People with Disabilities Office of DHS within 24 hours.
- c. If known, the abuse report should contain the following:
 - (1) The name and address of the abused person and any people responsible for that person's care;
 - (2) The abused person's age;
 - (3) The nature and the extent of the abuse, including any evidence of previous abuse;
 - (4) The explanation given for the abuse;
 - (5) The date of the incident; and
 - (6) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

4. Background Checks. Contractor shall verify that any employee working with clients referred by DHS has not been convicted of any of the following crimes: child or elderly abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of an employee scheduled to work with DHS' client. Contractor shall establish verification by:

- (1) having the applicant as a condition of employment, apply for and receive a criminal history check from a local State Police (SP) office, which will be shared with Contractor, OR
- (2) Contractor as an employer will contact the local SP for an "state only" criminal history check on the applicant/employee. Contractor will need to give to SP the applicant's name, birth date and social security number.

Contractor shall determine after receiving the criminal history check, whether the employee has listed convictions, and whether these convictions pose a risk to working safely with DHS clients. If Contractor notes a conviction from any of the above listed

crimes on the applicant/employee's record, and Contractor chooses to hire the employee/applicant, Contractor shall confirm in writing, the reasons for hiring the individual.

These reasons shall address how the applicant/employee is presently suitable or able to work with referred DHS clients in a safe and trustworthy manner. Contractor will place this information, along with the applicant/employee's criminal history check, in the employee's personnel file.

The criminal history check procedures listed above also apply to Contractor. Contractor shall establish a personal personnel file and place Contractor's criminal history check in named file for possibility of future DHS review.

5. **Equal Access to Services.** Contractor shall provide equal access to covered services for both males and females under 18 years of age, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270.
6. **Media Disclosure.** The Contractor will not provide information to the media regarding a recipient of services purchased under this Contract without first consulting the DHS office that referred the child or family. The Contractor will make immediate contact with the DHS office when media contact occurs. The DHS office will assist the Contractor with an appropriate follow-up response for the media.
7. **Nondiscrimination.**
 - a. The Contractor must provide services to DHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language and other special needs of clients.
8. **Federal Whistleblower Protection.** Contractor shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Pilot Program for Enhancement of Employee Whistleblower Protection.

EXHIBIT B

Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Contract shall be governed by and construed 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 DHS 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 waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Contract.
2. **Compliance with Law.** Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor and the Contract. Agency's performance under the Contract is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230 and 279B.235, incorporated by reference herein. This Section shall survive expiration or termination of this Contract.
3. **Independent Contractor.**
 - 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 to this Contract, represents and warrants that Contractor's Work to be performed under 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 Work under this Contract. If compensation under this Contract is to be charged against federal funds, Contractor certifies that it is not currently employed by the federal government.
 - c. Contractor is responsible for all federal and state taxes applicable to compensation paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, DHS will not withhold from such compensation any amounts to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation paid to Contractor under this Contract, except as a self-employed individual.

- d. Contractor shall perform all Work as an Independent Contractor, as defined in ORS 670.600. DHS reserves the right (i) to determine and modify the delivery schedule for the Work and (ii) to evaluate the quality of the Work Product, however, DHS may not 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.

4. Representations and Warranties.

- a. **Contractor's Representations and Warranties.** Contractor represents and warrants to DHS that:

- (1) Contractor has the power and authority to enter into and perform this Contract;
- (2) The obligations set forth in this Contract, when executed and delivered, shall be valid and binding obligations of Contractor enforceable in accordance with its terms;
- (3) Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession;
- (4) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; and
- (5) Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

- b. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

5. Time is of the Essence. Contractor agrees that time is of the essence under this Contract.

6. Funds Available and Authorized; Payments.

- a. Contractor shall not be compensated for Work performed under this Contract by any other agency or department of the State of Oregon or the federal government. DHS certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within DHS' current biennial appropriation or limitation. Contractor understands and agrees that DHS' payment for Work performed is contingent on DHS receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow DHS, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

- b. **Payment Method.** Payments under this Contract will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other DHS Oregon Administrative Rules

that are program-specific to the billings and payments. Upon request, Contractor shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Contractor shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Contract. Contractor shall provide this designation and information on a form provided by DHS. In the event that EFT information changes or the Contractor elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the Contractor shall provide the changed information or designation to DHS on a DHS-approved form. DHS is not required to make any payment under this Contract until receipt of the correct EFT designation and payment information from the Contractor.

7. **Recovery of Overpayments.** IF BILLINGS UNDER THIS CONTRACT, OR UNDER ANY OTHER CONTRACT BETWEEN CONTRACTOR AND DHS, RESULT IN PAYMENTS TO CONTRACTOR TO WHICH CONTRACTOR IS NOT ENTITLED, DHS, AFTER GIVING WRITTEN NOTIFICATION TO CONTRACTOR, MAY WITHHOLD FROM PAYMENTS DUE TO CONTRACTOR SUCH AMOUNTS, OVER SUCH PERIODS OF TIME, AS ARE NECESSARY TO RECOVER THE AMOUNT OF THE OVERPAYMENT UNLESS CONTRACTOR PROVIDES A WRITTEN OBJECTION WITHIN 14 CALENDAR DAYS FROM THE DATE OF THE NOTICE. ABSENT TIMELY WRITTEN OBJECTION, CONTRACTOR HEREBY REASSIGNS TO DHS ANY RIGHT CONTRACTOR MAY HAVE TO RECEIVE SUCH PAYMENTS. IF CONTRACTOR PROVIDES A TIMELY WRITTEN OBJECTION TO DHS' WITHHOLDING OF SUCH PAYMENTS, THE PARTIES AGREE TO CONFER IN GOOD FAITH REGARDING THE NATURE AND AMOUNT OF THE OVERPAYMENT IN DISPUTE AND THE MANNER IN WHICH THE OVERPAYMENT IS TO BE REPAYED. DHS RESERVES ITS RIGHT TO PURSUE ANY OR ALL OF THE REMEDIES AVAILABLE TO IT UNDER THIS CONTRACT AND AT LAW OR IN EQUITY INCLUDING DHS' RIGHT TO SETOFF.

8. **Ownership of Work Product.**

a. **Definitions.** As used in this Section 8, and elsewhere in this Contract, the following terms have the meanings set forth below:

- (1) "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Work.
- (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than DHS or Contractor.
- (3) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to DHS pursuant to the Work.

- b. **Original Works.** All Work Product created by Contractor pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a “work made for hire,” shall be the exclusive property of DHS. DHS and Contractor agree that all Work Product is “work made for hire” of which DHS is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not “work made for hire,” Contractor hereby irrevocably assigns to DHS any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon DHS’ reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in DHS. Contractor forever waives any and all rights relating to original Work Product created pursuant to the Work, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- c. In the event that Work Product is Contractor Intellectual Property, a derivative work based on Contractor Intellectual Property or a compilation that includes Contractor Intellectual Property, Contractor hereby grants to DHS an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Contractor Intellectual Property and the pre-existing elements of the Contractor Intellectual Property employed in the Work Product, and to authorize others to do the same on DHS’ behalf.
- d. In the event that Work Product is Third Party Intellectual Property, a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, Contractor shall secure on DHS’ behalf and in the name of DHS an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on DHS’ behalf.

9. Indemnity.

- a. CONTRACTOR SHALL DEFEND (SUBJECT TO ORS CHAPTER 180), SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON AND DHS AND THEIR OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEYS FEES, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTIVITIES OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS CONTRACT.
- b. **INDEMNITY FOR INFRINGEMENT CLAIMS.** WITHOUT LIMITING THE GENERALITY OF SECTION 9.a., CONTRACTOR EXPRESSLY AGREES TO

DEFEND, INDEMNIFY, AND HOLD DHS, THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, LOSSES, LIABILITIES, COSTS, EXPENSES, INCLUDING ATTORNEYS FEES, AND DAMAGES ARISING OUT OF OR RELATED TO ANY CLAIMS THAT THE WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEMS DELIVERED TO DHS BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR DHS' USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY; PROVIDED, THAT THE STATE OF OREGON SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS CONTRACT.

10. Default; Remedies; Termination.

- a. Default by Contractor.** Contractor shall be in default under this Contract if:
- (1) Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
 - (2) Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Contract and Contractor has not obtained such license or certificate within 14 calendar days after DHS' notice or such longer period as DHS may specify in such notice; or
 - (3) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after DHS' notice, or such longer period as DHS may specify in such notice; or
 - (4) Contractor failed to comply with the tax laws of this state or a political subdivision of this state before the Contractor executed this Contract or fails to comply with the tax laws of this state or a political subdivision of this state during the term of this Contract.
- b. DHS' Remedies for Contractor's Default.** In the event Contractor is in default under Section 10.a., DHS may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to:
- (1) termination of this Contract under Section 10.e.(2);

- (2) withholding all monies due for Work and Work Products that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;
- (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- (4) exercise of its right of recovery of overpayments under Section 7 of Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and DHS may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Contractor was not in default under Section 10.a., then Contractor shall be entitled to the same remedies as if this Contract was terminated pursuant to Section 10.e.(1).

- c. **Default by DHS.** DHS shall be in default under this Contract if DHS commits any material breach or default of any covenant, warranty, or obligation under this Contract, and such breach or default is not cured within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.
- d. **Contractor's Remedies for DHS' Default.** In the event DHS terminates the Contract under Section 10.e.(1), or in the event DHS is in default under Section 10.c. and whether or not Contractor elects to exercise its right to terminate the Contract under Section 10.e.(3), Contractor's sole monetary remedy shall be (i) with respect to Work compensable at a stated rate, a claim for unpaid invoices, time worked within any limits set forth in this Contract but not yet invoiced, authorized expenses incurred and interest within the limits permitted under ORS 293.462, and (ii) with respect to deliverable-based Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by DHS, less previous amounts paid and any claim(s) that DHS has against Contractor. In no event shall DHS be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 10.d., Contractor shall immediately pay any excess to DHS upon written demand. If Contractor does not immediately pay the excess, DHS may recover the overpayments in accordance with Section 7., Recovery of Overpayments, and may pursue any other remedy that may be available to it.
- e. **Termination.**
 - (1) **DHS' Right to Terminate at its Discretion.** At its sole discretion, DHS may terminate this Contract:
 - (a) For its convenience upon 30 days' prior written notice by DHS to Contractor;
 - (b) Immediately upon written notice if DHS fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products;
or

- (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that DHS' purchase of the Work or Work Products under this Contract is prohibited or DHS is prohibited from paying for such Work or Work Products from the planned funding source.
 - (d) Immediately upon written notice to Contractor if there is a threat to the health, safety, or welfare of any recipient of services under this Contract "DHS Client", including any Medicaid Eligible Individual, under its care.
- (2) DHS' Right to Terminate for Cause. In addition to any other rights and remedies DHS may have under this Contract, DHS may terminate this Contract immediately upon written notice to Contractor, or at such later date as DHS may establish in such notice, if Contractor is in default under Section 10.a.
 - (3) Contractor's Right to Terminate for Cause. Contractor may terminate this Contract upon 30 days written notice to DHS, or at such later date as Contractor may establish in such notice, if DHS is in default under Section 10.c. and DHS fails to cure such default within 30 calendar days after DHS receives Contractor's notice or such longer period as Contractor may specify in such notice.
 - (4) Mutual Termination. The Contract may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
 - (5) Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to DHS all of DHS' property that is in the possession or under the control of Contractor at that time. This Section 10.e.(5) survives the expiration or termination of this Contract.
 - (6) Effect of Termination: Upon receiving a notice of termination of this Contract, or upon issuing a notice of termination to DHS, Contractor shall immediately cease all activities under this Contract, unless in a notice issued by DHS, DHS expressly directs otherwise.
- 11. Stop-Work Order.** DHS may, at any time, by written notice to the Contractor, require the Contractor to stop all, or any part of the work required by this Contract for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, Contractor shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, DHS shall either:
- a. Cancel or modify the stop work order by a supplementary written notice; or
 - b. Terminate the work as permitted by either the Default or the Convenience provisions of Section 10., Default; Remedies; Termination.

If the Stop Work Order is canceled, DHS may, after receiving and evaluating a request by the Contractor, make an adjustment in the time required to complete this Contract and the Contract price by a duly executed amendment.

12. **Limitation of Liabilities.** EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 9. INDEMNITY, NEITHER PARTY SHALL BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS CONTRACT.
13. **Insurance.** Contractor shall maintain insurance as set forth in Exhibit C, attached hereto.
14. **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 DHS and the Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform 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 this 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.
15. **Information Privacy/Security/Access.** If the Work performed under this Contract requires Contractor or, when allowed, its subcontractor(s), to have access to or use of any DHS computer system or other DHS Information Asset for which DHS imposes security requirements, and DHS grants Contractor or its subcontractor(s) access to such DHS 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 407-014-0300 through OAR 407-014-0320, 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 407-014-0305, as such rule may be revised from time to time.
16. **Force Majeure.** No party is responsible for delay or default caused by an event beyond its reasonable control. DHS may terminate this Contract, without liability to Contractor, upon written notice after reasonably determining the delay or default reasonably prevents performance of this Contract.
17. **Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract.

18. **Subcontracts; Assignment; Successors.** Contractor shall not assign, transfer, or subcontract rights or responsibilities under this Contract in whole or in part, without the prior written approval of DHS. This Contract's provisions are binding upon and inure to the benefit of the parties to this Contract and their respective successors and assigns.
19. **No Third Party Beneficiaries.** DHS 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 any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract. This Section shall survive expiration or termination of this Contract.
20. **Severability.** The parties agree that 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. This Section shall survive expiration or termination of this Contract.
21. **Notice.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to Contractor or DHS at the address or number set forth in this Contract, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day if transmission was outside normal business hours of the recipient. Notwithstanding the foregoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

DHS: Office of Contracts & Procurement
635 Capitol Street NE, Suite 350
Salem, OR 97301
Telephone: 503-945-5818
Facsimile: 503-378-4324

This Section shall survive expiration or termination of this Contract.

22. **Headings.** The headings and captions to sections of this Contract have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Contract.
23. **Merger Clause.** This Contract constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Contract.

24. **Amendments; Waiver; Consent.** DHS may amend this Contract to the extent provided herein, the solicitation document, if any from which this Contract arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Contract shall bind either party unless it is in writing and signed by both parties and when required, the Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Contract.
25. **Contractor's Failure to Perform.** Contractor's failure to perform the statement of work specified in this Contract or to meet the performance standards established in this Contract, may result in consequences that include, but are not limited to:
- a. Reducing or withholding payment under this Contract;
 - b. Requiring Contractor to perform at Contractor's expense additional work necessary to perform the statement of work or meet performance standards; and
 - c. Declaring a default of this Contract and pursuing any available remedies for default, including termination of the Contract as permitted in Section 10. Default; Remedies; Termination of this Contract.