

POLK COUNTY BOARD OF COMMISSIONERS

DATE: August 16, 2023
TIME: 9:00 a.m.
PLACE: Polk County Courthouse, Dallas, Oregon

THE LOCATION OF THIS MEETING IS ADA ACCESSIBLE. PLEASE ADVISE THE BOARD OF COMMISSIONERS AT (503-623-8173), AT LEAST 24 HOURS IN ADVANCE, OF ANY SPECIAL ACCOMMODATIONS NEEDED TO ATTEND OR TO PARTICIPATE IN THE MEETING VIRTUALLY.

PAGE: **AGENDA ITEMS**

1. CALL TO ORDER AND NOTE OF ATTENDANCE
2. ANNOUNCEMENTS
 - (a) Regular meetings of the Board of Commissioners are held on Tuesday and Wednesday each week. Each meeting is held in the Courthouse Conference Room, 850 Main Street, Dallas, Oregon. Each meeting begins at 9:00 a.m. and is conducted according to a prepared agenda that lists the principal subjects anticipated to be considered. Pursuant to ORS 192.640, the Board may consider and take action on subjects that are not listed on the agenda. The Board also holds a department staff meeting at 9:00am on every Monday in the Commissioners Conference Room at 850 Main Street, Dallas, Oregon.
3. COMMENTS (for items not on this agenda and limited to 3 minutes)
4. APPROVAL OF AGENDA
5. APPROVAL OF THE MINUTES FROM August 8 & August 9, 2023
6. APPROVAL OF CONSENT CALENDAR
7. PLANNING COMMISSION & COMMITTEE OF CITIZEN INVOLVEMENT WORK PLANS FY2023-2024 – Sidney Mulder
8. SURPLUS PROPERTY DISPOSITION / WELLS FARGO BUILDING & ORDER NO. 23-11 – Greg Hansen
9. RECLASSIFICATION OF AN EMPLOYEE – Matt Hawkins

CONSENT CALENDAR

- (a) Polk County Contract No. 23-169, Dallas School District
(Dana Goodale, Family & Community Outreach)
- (b) Polk County Contract No. 23-170, Service Contract
(Rosana Warren, Behavioral Health)
- (c) Polk County Contract No. 23-172, Marion County
(Rosana Warren, Behavioral Health)
- (d) New Job Specification & Wage, Discovery/Evidence Supervisor
(Matt Hawkins, Admin Services Director)

THE BOARD OF COMMISSIONERS WILL MEET IN EXECUTIVE SESSION
PURSUANT TO ORS 192.660.

ADJOURNMENT

POLK COUNTY BOARD OF COMMISSIONERS
TUESDAY MEETING MINUTES
August 8, 2023

1. At 9:01 a.m., Commissioner Gordon declared the Tuesday meeting of the Polk County Board of Commissioners in session and led the Board and attending audience in the Pledge of Allegiance. Commissioner Pope and Commissioner Mordhorst were present.

2. COMMENTS (for items not on this agenda):

None.

3. MINUTES: **COMMISSIONER POPE MOVED, COMMISSIONER MORDHORST
SECONDED TO APPROVE THE MINUTES OF August 1, 2023**

MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.

4. STAR RECOGNITION AWARD

The Board and staff would like to give Special Thanks and Recognition to Doug Akin who was nominated for the STAR Recognition program for FY2022-2023 Q4. Commissioner Gordon read aloud his nomination and thanked him for all of his hard work. Mr. Akin was presented with a signed certificate and a gift basket. The STAR Recognition program allows for department heads to nominate an employee for recognition each quarter.

5. NON-LISTED ITEMS - (Pursuant to ORS 192.640, the Board of Commissioners considered the below identified non-listed items.)

None.

Commissioner Gordon adjourned the meeting at 9:06 a.m.

Minutes: Nicole Pineda
Approved: August 15, 2023

POLK COUNTY BOARD OF COMMISSIONERS
MINUTES August 9, 2023

1. CALL TO ORDER & ATTENDANCE

At 9:00 a.m., Commissioner Gordon declared the meeting of the Polk County Board of Commissioners to be in session. Commissioner Mordhorst and Commissioner Pope were present.

Staff present: Greg Hansen, Administrative Officer
Morgan Smith, County Counsel
Matt Hawkins, Administrative Services Director

2. ANNOUNCEMENTS

Regular meetings of the Board of Commissioners are held on Tuesday and Wednesday each week. Each meeting is held in the Courthouse Conference Room, 850 Main Street, Dallas, Oregon. Each meeting begins at 9:00 a.m. and is conducted according to a prepared agenda that lists the principle subjects anticipated to be considered. Pursuant to ORS 192.640, The Board may consider and take action on subjects that are not listed on the agenda. The Board also holds a department staff meeting at 9:00 a.m. on every Monday in the Commissioners Conference Room at 850 Main Street, Dallas, Oregon.

The Homeless Prevention Advisory Council will be meeting on August 9, 2023 from 12:00 pm to 1:30 pm located in the first floor conference room at 182 SW Academy St, Dallas Oregon, 97338.

The Polk County Fair will begin Wednesday August 9, 2023 at 2:00 PM located at the Polk County Fairgrounds and continue through Saturday August 12, 2023.

The Polk County Board of Commissioners will be attending a lunch and learn meeting with the Polk County District Attorney's office on August 15, 2023, located at 820 SE Church St Ste 100, Dallas Oregon.

3. COMMENTS

None.

4. APPROVAL OF AGENDA

MOTION: COMMISSIONER MORDHORST MOVED, COMMISSIONER GORDON SECONDED, TO APPROVE THE AGENDA.

MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.

5. APPROVAL OF MINUTES OF BOARD MEETING OF August 2, 2023

MOTION: COMMISSIONER POPE MOVED, COMMISSIONER MORDHORST SECONDED, TO APPROVE THE MINUTES OF August 2, 2023.

MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.

6. APPROVAL OF CONSENT CALENDAR

MOTION: COMMISSIONER MORDHORST MOVED, COMMISSIONER POPE SECONDED, TO APPROVE THE CONSENT CALENDAR.

MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.

7. LENGTH OF SERVICE AWARDS

The Board of Commissioners and staff recognized the following employees for their years of service:

- Lisa Hanson, 25 years of service.

8. RECLASSIFICATION OF AN EMPLOYEE

Matt Hawkins, Admin Services Director, is recommending the reclassification of an employee from an Engineer Survey Tech III to the Survey Crew Chief Position. Should the reclassification be approved, it would be effective August 1, 2023 and would have a fiscal impact for the FY23-24 budget of approximately \$3,700 including PERS contribution should it be for 12 months.

APPROVED BY CONSENSUS OF THE BOARD.

9. RECLASSIFICATION OF AN EMPLOYEE

Matt Hawkins, Admin Services Director, is recommending the reclassification of an employee from an HS Administrative Specialist II to an HS Administrative Analyst I position. Should the reclassification be approved, it would be effective July 1, 2023 and would have a fiscal impact for the FY23-24 budget of approximately \$3,000 including PERS contribution should it be for 12 months.

APPROVED BY CONSENSUS OF THE BOARD.

The following items were approved by Motion under **5. APPROVAL OF CONSENT CALENDAR:**

- a) Polk County Contract No. 23-168, ODOT
(Jodi Merritt, Community Corrections Director)
- b) Polk County Resolution No. 23-12, Amending Master Fee Schedule Fees
(Aaron Felton, District Attorney)

There no need for an executive session and Commissioner Gordon adjourned the meeting at 9:05 a.m.

POLK COUNTY BOARD OF COMMISSIONERS

Jeremy Gordon, Chair

Craig Pope, Commissioner

Lyle Mordhorst, Commissioner



POLK COUNTY

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338
(503) 623-9237

COMMUNITY DEVELOPMENT

AUSTIN M'GUIGAN
Director

TO: Board of Commissioners
FROM: Sidney Mulder, Planning Manager
DATE: August 8, 2023
RE: Planning Commission (PC) and Committee of Citizen Involvement (CCI) Work Plans for 2023-2024

August 16, 2023 - Agenda

RECOMMENDATION: Prioritize and approve a 2023-2024 Planning Commission (PC) Work Plan and Committee of Citizen Involvement (CCI) Work Plan.

ISSUE: What are the needed PC and CCI work tasks and their order of priority for 2023 and 2024?

BACKGROUND:

The PC and the CCI are independently authorized bodies created by Ordinance and appointed by the BOC, although the PC and the CCI currently have the same membership. The BOC provides policy decisions on Polk County matters for both the PC and the CCI. The Board requests input on work plans for both the PC and the CCI, but ultimately the BOC identify and prioritize projects for the coming year(s).

Staff developed a draft 2023-2024 PC Work Plan and conducted a work session with the PC on July 18, 2023. The draft work plan identified new projects anticipated by staff and suggestions for others. During the work session, the PC openly discussed the draft work plan and re-prioritized task No. 8, "Updates to PCZO 125.010" and moved it up in order to priority task No 5.

Staff also developed a draft 2023-2024 CCI Work Plan and conducted a work session with the CCI on July 18, 2023. The objectives for the CCI are provided in Board Directive 08-02. Broadly, the Board's objective for the CCI is to enhance citizen participation in the legislative planning process. As stated by the Board, "[l]egislative policy matters [...] determine the specific content of the Comprehensive Plan, Zoning Ordinance, or Transportation Systems Plan." The legislative planning process differs from zoning activity (current planning), which consists of the implementation of the Polk County Zoning Ordinance or Subdivision and Partition Ordinance; primarily through the processing of land use applications. Staff recommends that the CCI work plan items be designed to assist in generating citizen involvement in the legislative projects that are identified on the PC work plan and in the ministerial State law update projects that do not require Planning Commission review.

DISCUSSION/ALTERNATIVES:

1. Approve the 2023-2024 PC Work Plan and CCI Work Plan as recommended by the PC/CCI, included as Attachment A;
2. Identify needs, develop, and prioritize recommended projects for inclusion on the 2023-2024 PC Work Plan and CCI Work Plan; or
3. Other.

FISCAL IMPACT: Project costs may vary. Staff time, notification and publishing costs are impacts to Polk County for each Legislative Amendment project.

Planning Commission Work Plan 2023-2024

Priority ¹	Work Task
1	Transportation Systems Plan (TSP) Update for OR 18 / OR 22 Interchange. In October of 2021, ODOT submitted a Legislative Amendment request (LA 21-02) proposing to update the Polk County TSP to provide parity between Polk County's locally adopted plan and the ODOT OR-18 Valley Junction Facility Plan. Since that application was submitted, the preferred design concepts changed. Upon receiving additional information from ODOT, this Legislative Amendment should be the highest priority for long range planning projects.
2	Transportation Systems Plan (TSP) Update for the OR 51 / OR22 Project. This project is already in the Polk County TSP; however, if the preferred alternative changes from the Expressway Management Plan, a TSP update would be needed. As more information becomes available and if a TSP update is determined to be required, this Legislative Amendment should be a high priority for long range planning projects.
3	Updates to PCZO Chapter 177, Timber Conservation (TC) Zone. Review all mandatory changes and optional changes for uses within the TC zone.
4	Updates to PCZO Chapter 138, Farm Forest (FF) and Farm Forest Overlay (FFO) Zones. Review all mandatory changes and optional changes for use within the FF and FFO zones.
5	Updates to PCZO 125.010. Currently, a manufactured dwelling can be occupied temporarily during the construction of a dwelling. Currently, Building Code also allows the temporary residential use of a recreational vehicle (RV) during construction. Amending PCZO 125.010 would provide parity between the zoning ordinance and Building Code for temporary residential use during construction, but not in resource zones and only where specified elsewhere in the PCZO.
6	Rural Accessory Dwelling Units (ADU). Senate Bill (SB) 0644 (2023) became effective on May 8, 2023, which allows counties to permit an ADU in areas zoned for rural residential use, subject to certain development standards, including standards related to wildfire risks.
7	Development Standards for Northwest Polk Unincorporated Community Commercial (NPC-C) Zone. The NPC-C zone does not have development standards listed in PCZO Chapter 112. Staff would include a reference to development standards for the NPC-C zone.
8	Update PCZO Chapter 114; Nonconforming Buildings and Uses. Update for clarification and to ensure consistency with State law
9	Update PCZO Chapter 178; Floodplain Overlay Zone.
10	Zoning Ordinance Audit.
11	Other – As determined appropriate by the Planning Commission and/or Board of Commissioners.

¹ Priorities may be modified as projects that are not under the control of Polk County are presented for consideration.

Committee for Citizen Involvement Work Plan 2023-2024

Priority	Work Task
1	Participate in ODOT Open Houses for future TSP Updates
2	Hold additional Open Houses as necessary

IN THE MATTER OF SELLING)
PROPERTY NOT NEEDED FOR COUNTY)
USE PURSUANT TO ORS § 271.310.)
)

3. The minimum price for the sale of the property shall be \$775,000.00.

Dated this 16th day of August, 2023 at Dallas, Oregon.

POLK COUNTY BOARD OF COMMISSIONERS

Jeremy Gordon, Chair

Craig Pope, Commissioner

Lyle Mordhorst, Commissioner

Approved as to form:

Morgan Smith
County Counsel



HUMAN RESOURCES

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338-3174
(503) 623-1888 ★ FAX (503) 623-1889

MEMORANDUM

TO: Board of Commissioners
FROM: Matt Hawkins, Admin. Services Director
DATE: August 11, 2023
SUBJECT: Reclassification of a Deputy District Attorney I

Wednesday – August 16, 2023 (5 minutes)

RECOMMENDATION:

The Board of Commissioners approve the reclassification of a Deputy District Attorney I.

ISSUE:

Shall the Board approve the reclassifications?

DISCUSSION:

It is recommended that Shannon Clausen be reclassified from a Deputy District Attorney I to a Deputy District Attorney II. Aaron Felton, District Attorney, reports that Shannon has been taking on much more involved cases than a Deputy DA I usually prosecutes and some of these cases have been very high profile. These higher profile cases are usually prosecuted by a Deputy DA II. Shannon has performed very well, thus the reason Mr. Felton has requested this reclassification.

Shannon is currently at step 4 of the Deputy DA I position which is \$7,076. If the reclassification is approved Shannon will move to step 1 of the Deputy DA II position which is \$7,359.

Should the reclassification be approved it would be effective August 1, 2023.

FISCAL IMPACT:

This reclassification will have an impact on the budget for FY 23-24 of approximately \$4,500 including PERS contribution should it be for 12 months.



Contract Review Sheet

Staff Contact: _____ Department: _____

Title: _____ Consent Calendar Date: _____

Contractor Name: _____

Address: _____

City, State, Zip: _____

Effective Dates - From: _____ Thru: _____

Contract Amount: \$ _____

Source Selection:

Sole Source

Personal Services

Competitive Quotes

Special/Exempt Procurement (explain below):

Formal Bid

Request for Proposals

Background/Discussion:

Fiscal Impact:

Recommendation:

Copies of signed contract should be sent to the following:

Name: _____ E-mail: _____

Name: _____ E-mail: _____

Name: _____ E-mail: _____

INTERGOVERNMENTAL AGREEMENT
POLK COUNTY AND DALLAS SCHOOL DISTRICT #2
FOR SCHOOL BASED MENTAL HEALTH SERVICES

THIS AGREEMENT is entered into and shall be effective on August 1, 2023, by and between Polk County ("Polk County") and Dallas School District #2 ("District").

RECITALS

WHEREAS, Polk County and District are units of local government, as that term is defined in ORS 190.003; and

WHEREAS, ORS 190.010 provides that units of local government may enter into written agreements for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform;

WHEREAS, Polk County and District recognize a critical need to provide mental health support services for students to enrich the lives of school-age children of the County; and

WHEREAS, Polk County and District wish to enter into an agreement which provides for staff and families who will assist both District and Polk County in serving the school age children of Polk County; and

NOW, THEREFORE, in consideration of the promises and covenants herein contained, the parties enter into the following:

AGREEMENT

1. Purpose of and Effective Date of Contract.

- a. The purpose of this Contract is to provide School Based Mental Health services to students and families of Dallas School District through the ongoing employment of 6 FTE Mental Health Staff. 5 stationed full time in schools and 1 floating Resource Connector.
- a. This Contract becomes effective upon execution by both parties. The contract effective dates are July 1st, 2023, through June 30, 2024. Any renewals and/or changes to this agreement must be in writing, in the form of an amendment to this Contract and signed by both parties.

2. Duties and Responsibilities
See Appendix "A"

3. Polk County Supervision. Polk County is the employer of these employees and is responsible for supervisory oversight of these employees.,Polk County will handle all human resources functions including hours and benefits, grievances, employment disputes and all wages, hours and benefits. Polk County will also provide a designated supervisor for the School Based Mental Health Program who will provide supervision for employees, consultation and resource information to the district administration, Crisis Response Team (Flight Team) leadership, Level 2 Threat Assessment support, assistance in accessing services through Polk County Behavioral Health, and serve as a liaison for coordination of school based mental health services and Central School District.
4. Criminal Background Check. Polk County will ensure District a criminal background check is completed and passed by all employees and interns.
5. Workers' Compensation Insurance. Polk County and District agree that this employee shall be an employee of Polk County for purposes of workers' compensation insurance. Polk County agrees to administer all workers' compensation claims and to defend and hold harmless District for workers' compensation claims incurred while employee is injured at either employment site.
6. Health Care Benefits for Employees (ORS 279.31 5). Polk County shall offer health care benefits to all employees who are performing services previously performed by public employees if the conditions specified in ORS 653.767 require such payment. Benefits must equal or exceed those benefits specified in ORS 279.315 (3). This clause does not apply to contracts for temporary, non-ongoing or nonrecurring contracts.
7. Americans with Disabilities Act Compliance. Polk County will comply and does comply with all relevant provisions of the Americans with Disabilities Act, to the extent required by the Act.
8. Term of the Agreement. The parties agree that this agreement shall be in effect for one year. It is understood that this contract will be re-negotiated for renewal for the 2023-24 fiscal year. It is further agreed that any renewal will be for a period of not less than 12 months. Rates to be negotiated shall not be less than the current rate of salary for the County of School Based Mental Health Staff, as well as taxes and fringe benefits of the average cost by Polk County at the time of renewal. There will be an additional agreed upon rate for management and administration.
9. FERPA COMPLIANCE. District and Polk County agree that County employees providing school based health services for the District pursuant to this agreement shall be considered school officials for the purposes of the protections for student records mandated by the Family Education Rights and Privacy Act (20 USC 1231(g)) (collectively referred to as FERPA, which records are specifically

exempted from the Privacy regulations of the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA). The County will ensure that its employees maintain the confidentiality of student information under the Family Educational Rights and Privacy Act ("FERPA"). County staff that obtain or learn confidential information while providing services under this Agreement shall not disclose such information to third parties unless parent/guardian written consent has been obtained. FERPA prohibits the re-disclosure of confidential student information. Except in very specific circumstances, the County shall not disclose to any other party without prior consent of the parent/guardian any information or records regarding students or their families that the County may learn or obtain in the course and scope of its performance of this Contract. Any re-disclosure of confidential student information must be in compliance with the re-disclosure laws of FERPA. The County is not to re-disclose information without prior written notification to and written permission of the District.

10. Indemnification.

- a. Polk County and District are each independent governmental agencies. District agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the County, its officers, directors and employees (collectively, County) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by District's performance of services under this Agreement and that of its employees or anyone for whom District is legally liable. The County agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless District, its officers, directors, employees and volunteers (collectively, District) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the County's acts in connection with this agreement and the acts of its officers, agents, employee, volunteers or anyone for whom the County is legally liable. Neither the County nor District shall be obligated to indemnify the other party in any manner whatsoever for the other party's negligence.
- b. Both Polk County and District shall obtain and at all times keep in effect comprehensive liability insurance and property damage insurance covering each respective party's own acts and omissions under this agreement. Such liability insurance, whatever the form, shall be in an amount not less than the limits of public body tort liability specified in ORS 30.270. Either party may satisfy this requirement by self-insurance.
- c. Polk County and District agree that District's liability insurance will be primary for any claims arising out of acts or omissions of the school staff.

11. Assignment. Neither party to this agreement may assign its interest in the

agreement without the express written consent of the other party.

12. Compliance with Laws. During the entire term of this agreement, the parties shall comply in every respect with all laws, rules and regulations of the State of Oregon as well as agency policies affecting their rights and responsibilities under the contract.
13. Waiver. No waiver of any portion of this agreement shall be deemed or shall constitute a waiver of any other portion thereof, nor shall any waiver constitute a continuing waiver.
14. Contract Disputes. The parties agree that any disagreement regarding the interpretation, meaning or affect or any provision of this agreement shall be settled by arbitration if so requested by either party in writing. The arbitration decision will be binding upon the parties. The cost of such arbitration shall be shared equally between the parties.
15. Termination or Suspension of Performance. This Intergovernmental Agreement may be terminated under the following conditions:
 - a. By mutual consent of both parties, or by either party on 30 days' notice, in writing and delivered by certified mail or in person;
 - b. Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to the notice of termination;
 - c. The parties agree to promptly settle all accounts existing from work performed under this contract upon termination.
16. Integration Clause. The foregoing represents the entire agreement between the parties and any prior understanding or representations of any kind preceding the date of this agreement shall not be binding upon the other party except to the extent incorporated in this agreement.
17. Modifications. No modification of this agreement shall be binding upon the parties unless reduced to writing.

POLK COUNTY

DALLAS SCHOOL DISTRICT #2

Date: _____

Date: 8/4/23

By: _____
Polk County Representative

By:  _____
Dallas School District Representative

Appendix A

School District Services

Dallas School District agrees to:

1. Allow for Polk County staff to primarily focus on providing mental health services to students
 - a. Invite staff to school meetings as appropriate (i.e: MTSS/SIT/PBIS/IEP)
2. Provide mental health staff with appropriate confidential and consistent office space for individual and group work, and a reasonable level of office/clerical/technical support.
3. District agrees to participate in the identification and screening of students who may benefit from School Based Mental Health services and will provide referrals as needed. District will provide access to students and their pertinent records when identified.
4. District will have the opportunity to participate in the hiring process.
5. District will give Polk County input on the staff's job performance.
6. Reimburse Polk County in the amount of \$531,231 for the 2023-24 academic year for mental health services and support as indicated. To be paid in equal 1/12 allotments.
 - a. Cost breakdown: Wages, insurance, and benefits \$485,617; Mileage, training, administration and supplies \$45,614

Polk County Services

Polk County agrees to:

1. Provide the following FTE:
 - a. 3 Therapist level staff
 - Oakdale Heights Elementary
 - Lyle Elementary
 - Dallas High School
 - Morrison Campus
 - b. 3 Associate level staff
 - LaCreole Middle
 - Whitworth Elementary
 - Floating Resource Connector
2. Contract days for staff are to be from August 24, 2023- July 19, 2024 with the exception of one Associate level staff who will work 12 months and support summer school needs.
3. Provide clinical supervision to all team members on an ongoing and regular basis
4. Address corrective staffing issues as needed with the support of building administration
5. Provide mental health skills training to individuals, groups and families as needed and as assigned by school and county personnel, and upon self-referral from clients and families within the district's assigned schools. Group skills training may include, but is not limited to, assistance in the development of skills in anger management, life/academic skills, healthy relationships, peer relationships,

- anti-bullying, and other identified topic areas.
6. Attend Service Integration Meetings and assist district in accessing county and community resources
 7. Maintain appropriate records of services provided within a secure Electronic Health Record system.
 8. Provide crisis intervention and screenings on an as-needed basis during normal working hours. Crisis intervention after hours will be routed through Polk County's assigned crisis intervention team. Staff will conduct crisis intervention through Crisis Response Team (formally known as Flight Team) leadership and support, Level I suicide screenings, Level I and Level 2 threat assessments, and through grief and loss support to students and families.
 9. In addition to providing individual and group services as noted in 2c, staff will provide prevention and early intervention services to assigned schools through classroom presentations, school assemblies, and through special events when requested by school administration.

Special Conditions:

1. Polk County agrees to support employees to promote positive school environments and collegial relationships by:
 - a. Attending school staffing's as requested;
 - b. Attending and consulting at Student Services Team (SST) and Individualized Education Program (IEP) child meetings when appropriate
 - c. Participating in MTSS (Multi-Tiered Systems of Support) meetings, PBIS (Positive Behavior Intervention and Supports), and JEDI (Justice, Equity, Diversity and Inclusion) efforts as requested
 - d. Attending parent meetings as requested;
 - e. Seek meetings as needed with appropriate school personnel.
2. Polk County employees shall assist school personnel in dealing with students in crisis. Employees shall respond to requests by school staff to provide therapeutic crisis intervention, without the use of physical restraint measures. Employees may also participate in Level I and Level 2 Student Threat Assessments.
3. District understands that Polk County School Based Mental Health Staff have duties and expectations that necessitate time out of the school building; these duties and expectations will average approximately eight (8) hours per month, this is in addition to scheduled training(s) and personal/family emergencies or use of vacation/sick leave. Examples of duties include but are not limited to: clinical supervision, twice monthly School Based Mental Health staff meetings, assigned Service Integration Team, and occasional training and staff development opportunities. Staff have accrued sick and vacation time that may also lead to additional time out of the building. In these instances, a substitute will not be provided by the county unless time missed exceeds ten working days. The county will work to place a substitute in the

district if the absence exceeds 10 working days.

4. District understands that a designated "SBMH Lead" staff member may use up to 15% of their work time towards tasks unrelated to their typical school duties (consultation with other SBMH staff, attending Level 2 threat assessments, etc).



CONTRACT REVIEW SHEET

Staff Contact: Rosana Warren Phone Number (Ext): 2428
Department: Health Services: Behavioral Health Consent Calendar Date: August 16, 2023
Contractor Name: David Flynn
Address: 4640 Croisan Creek Road S
City, State, Zip: Salem, OR 97302
Effective Dates - From: July 01, 2023 Through: June 30, 2024
Contract Amount: Varies

Background:

David Flynn has agreed to provide Behavioral Health services to referred Polk County Behavioral Health individuals.

Discussion:

This contract is a continuation of services David Flynn has been providing Polk County individuals in the past fiscal year. David Flynn meets the criteria for a service provider and has been cleared to work with us through a criminal history records review.

Fiscal Impact:

The Behavioral Health Services budget has sufficient expenditure authority to accommodate this contract. The fiscal year 2023-2024 Behavioral Health budget was prepared in anticipation of this agreement.

Recommendation:

It is recommended that Polk County sign this agreement with David Flynn.

Copies of signed contract should be sent to the following:

Name: Rosana Warren E-mail: hs.contracts@co.polk.or.us
Name: _____ E-mail: _____
Name: _____ E-mail: _____

CONTRACT & AGREEMENT SUMMARY

CONTRACT NUMBER:	
COUNTY/DEPARTMENT:	POLK COUNTY BEHAVIORAL HEALTH 182 SW ACADEMY STREET DALLAS, OR 97338 ID#: 93-6002310
CONTACT PERSON:	ROSANA WARREN
DATE ISSUED:	06/26/23
CONTRACTOR	DAVID FLYNN 4640 CROISAN CREEK ROAD S SALEM, OR 97302 SSN/ID#: ON FILE
CONTACT PERSON:	DAVID FLYNN
SERVICES PROVIDED:	To provide Qualified Mental Health Professional services as outlined in Exhibit B.
EFFECTIVE DATES:	FROM JULY 01, 2023 THROUGH JUNE 30, 2024
BUDGET LINE #:	240-8540-540-M25
DOLLAR AMOUNT:	VARIES
TERMS:	Service Rates per Exhibit B
ADDITIONAL COMMENTS/INFORMATION:	

NOTIFY CONTRACTS TEAM IMMEDIATELY OF ANY CONTRACT TERMINATION

HS.CONTRACTS@co.polk.or.us

AGREEMENT

This Agreement is made and entered into by and between

**POLK COUNTY
BEHAVIORAL HEALTH
182 SW ACADEMY STREET
DALLAS, OR 97338
ID#: 93-6002310**

a political subdivision of the State of Oregon, hereinafter referred to as "County" and

**DAVID FLYNN
4640 CROISAN CREEK ROAD S
SALEM, OR 97302
SSN/ID#: ON FILE**

hereinafter referred to as "Contractor"; and,

WHEREAS, County is authorized to obtain, by contract, the services necessary to conduct its operation; and

WHEREAS, Contractor has available, or can obtain, the necessary licenses or certificates required for the performance of said services;

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

SECTION I: DECLARATION OF SERVICES RENDERED AS AN INDEPENDENT CONTRACTOR

- A. The County is desirous of securing the services of the Contractor to perform services more specifically outlined in Exhibit B: Statement of Work, based on Contractor's specialty and capacity, and Polk County's needs and capacity.
- B. The Contractor shall provide authorized services to Polk County referrals at Contractor's facilities, Polk County Buildings on space available basis, and/or consumer's school facility, work location, or home depending upon the needs of the individual. Depending on the nature of services provided, the location of services may be curtailed by Exhibit B: Statement of Work.
- C. Services shall be provided in accordance with the document entitled Exhibit B: Statement of Work, which is attached and by reference herein, made an integral part of this Agreement.

SECTION II: CONSIDERATION

- A. As consideration for the services provided by the Contractor during the period beginning July 1, 2023, and ending June 30, 2024, payment shall be retroactive for approved services provided to Polk County referrals on or after the period beginning date. Any renewals and/or changes to this agreement must be submitted in writing, in the form of an amendment to this Contract and signed by both Parties.
- B. Agreement is effective upon the signature of all parties. It is understood by both parties that no commitments have been or are made by either party beyond the termination of the Agreement.
- C. The County will pay to the Contractor, by check(s) or ACH direct payment upon receipt of an authorized billing document at the rates outlined in Exhibit B and as approved by Polk County. Billings shall be submitted to HS Fiscal either electronically to hs.fiscal@co.polk.or.us or by mail to Polk County Health Services Business Services Department, 182 SW Academy Street Suite 204, Dallas, Oregon 97338. The County shall endeavor remit payment within 2-3 weeks of receipt of appropriate billing, supporting documentation and signed invoice.
- D. It is agreed that Contractor shall accept payment from Polk County as full and total payment for services and that Contractor shall not bill any Polk County clients (or their insurance) served under this agreement for services delivered hereunder.
- E. Contractor is engaged hereby as an independent contractor, and the services to be rendered are those of an independent contractor, subject to ORS Chapter 656, and will be so deemed for purposes of the following:
 - i. Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Agreement.
 - ii. This Agreement is not intended to entitle Contractor to any benefits generally granted to County employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this Agreement to the Contractor are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, workers' compensation, unemployment compensation or retirement benefits .
 - iii. The Contractor is an independent contractor for purposes of the Oregon Workers' Compensation Law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this Agreement. If the Contractor has the assistance

of other persons in the performance of this Agreement, the Contractor shall qualify and remain qualified for the term of this Agreement as a direct responsibility employer under ORS 656.407 or as a contributing employer under ORS 656.411.

- F. Exhibit A – Business Associate Agreement attached hereto is by this reference incorporated herein and made an integral part of this agreement.

SECTION III: GENERAL PROVISIONS

- A. Extent of Agreement: This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
- B. Captions: The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Agreement.
- C. Payment as Sole Monetary Obligation of the County: The Contractor is engaged as an independent contractor. Payment as provided herein shall be the sole monetary obligation of the County. Unless otherwise specified, the responsibility for payment of all operating costs, Federal, State, County or city taxes/assessments and any other charges imposed by law upon employers shall be the sole responsibility of the Contractor.
- D. Licensing and Program Standards: The Contractor agrees to comply with all applicable State, County, and municipal standards for licensing, and any other standards or criteria described in this Agreement and its attachments.
- E. Contractor-client Relationship: The Contractor will establish a system through which a client and/or the client's parents or guardian may represent grievances about the operation of the Contractor's service program. At the time arrangements are made for the Contractor's service, the Contractor will advise the child and parents or guardian of the provision. The Contractor shall notify the County of all unresolved grievances.
- F. Safeguarding of Client Information:
- i. The use or disclosure by any party of any information concerning a recipient of services purchased under this Agreement, for any purpose not directly connected with the administration of the County's or the Contractor's responsibilities with respect to such purchased services, is prohibited, except on written consent of the County, or if the County is not the recipient, on written consent of the recipient or attorney, or otherwise compliant with Contractor's obligations under Exhibit A.

- ii. For the purposes of safeguarding protected client information, Contractor agrees to abide by all County rules and regulations regarding Communication technology as documented in the County's Communications Technology Policy. Contractors providing services from a County facility will be provided appropriate County equipment to perform its duties under this agreement. To the extent that Contractor elects to use their own technology (computer, cellular phone, etc...) Contractor warrants that such equipment shall be compliant with County rules and regulations, and its obligations under Exhibit A.
- G. Civil Rights Act of 1964 and Rehabilitation Act of 1973: The Contractor agrees to comply with the requirements of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, and their implementing Federal regulations, including Executive Order 11246 as amended.
- H. Fiscal Responsibility, Records, Controls, Reports, and Monitoring Procedures:
- i. The Contractor agrees to establish and exercise such controls as are necessary to assure full compliance with Federal regulations and the County's guidelines on allowable use of funds paid by the County under this Agreement.
 - ii. The Contractor agrees to maintain fiscal records consistent with generally accepted accounting practices and controls, which will properly reflect all direct and indirect costs and funds expended in the performance of this Agreement. The Contractor shall make these records available at reasonable times upon request to State and Federal personnel, and other persons authorized by the County.
 - iii. The Contractor agrees to collect financial statistics on a regular basis and to make financial reports at times in the form prescribed by the County.
- I. Program Records, Controls, Reports, and Monitoring Procedures: The Contractor agrees to maintain program records including statistical records, and to provide program records to the County at times and in the form prescribed by the County. The Contractor agrees to establish and exercise such controls as are necessary to assure full compliance with the program and facilities review (including meetings with consumers, reviews of service records, review of policy and procedures, review of staffing ratios and job descriptions, and meetings with any staff directly or indirectly involved in the provision of services) may be conducted at any reasonable time by State and Federal personnel and other persons authorized by the County.
- J. Retention of Records: The Contractor agrees to retain all books, records, and other documents relevant to this Agreement for three (3) years after final payment is made

under the Agreement or all pending matters are closed, whichever is later. If litigation or other action involving the Agreement is started before the end of the three (3) year period, the records shall be retained until all issues arising out of the action are resolved or until the end of the three (3) year period, whichever is later.

K. Insurance:

- i. Contractor agrees that it is an independent contractor and not an agent of the County. The Contractor and the County shall not be responsible for any legal liability, loss, malpractice, damages, costs and expenses arising in favor of any person on account of personal injuries, death or property loss or damage occurring, growing out of, incident to or resulting directly or indirectly from the acts or omissions of the other party under this Agreement.
- ii. Contractor shall obtain, and at all times keep in effect, comprehensive liability insurance and property damage insurance covering activities, operations, and omissions of the Contractor, all subcontractors, and all named additional insureds. Contractor may satisfy this requirement for general liability insurance in any manner allowed by ORS 30.282. Such liability insurance, whatever the form, shall be in an amount not less than one million dollars (\$1,000,000) with provision for increased coverage as such limits are increased by legislative action. In the event of unilateral cancellation or restriction by the insurance company of the Contractor's insurance policy referred to in this paragraph, the Contractor shall immediately notify the County verbally and in writing.
- iii. As evidence of the insurance coverage required by this Agreement, and prior to the execution of this Agreement, the Contractor shall furnish a Certificate of Insurance to Polk County, to Polk County Health Services, 182 SW Academy Street, Suite 204, Dallas, Oregon 97338. The Certificate form, to be completed by the Contractor's insurer, naming Polk County as additional insured, will be maintained in the County's file of this Agreement.
- iv. There shall not be any cancellation, material changes or failure to renew such insurance policy (policies) without thirty (30) days' prior notice to the County.

- L. Subcontracting: Unless subcontracting is authorized elsewhere in the Agreement, the Contractor shall not enter into any subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval from the County, which approval shall be attached to the original Agreement. Approval by the County of a subcontract shall not result in any obligations of the County in addition to the agreed rates of payment and total consideration. Any subcontracts which the County may

authorize shall contain all requirements of this Agreement, and the Contractor shall be responsible for the performance of the subcontractor. Contractor may subcontract medical investigator's duties so long as the subcontractor possesses medical qualifications equivalent to those of the Contractor.

- M. Re-negotiation or Modification: Any alterations, variations, modifications to or waivers of provisions of this Agreement shall be valid only when they have been reduced to writing, duly signed, and approved by the Contractor and the County and attached to the original of this Agreement.
- N. Excuses for Nonperformance: Neither party to this Agreement shall be held responsible for delay or failure in performance of the activities required herein when such delay or failure is due to causes beyond the control and without the fault or negligence of the party. Such causes may include, but are not restricted to, fire, flood, epidemic, strikes, acts of God or the public enemy, unusually severe weather, legal acts of public authorities, or delays or defaults caused by public carriers, which cannot reasonably be forecast or provided against. Either party may terminate the Agreement after reasonably determining that such delay or failure will prevent continued performance of the Agreement, and after giving written notice to the other party of the cause, its effect on Agreement performance and effective date of termination. If the Agreement is so terminated, the obligation of the County shall be limited to payment for services provided in accordance with the Agreement prior to the date of termination.
- O. Remedies: If the Contractor fails to provide the services or perform any of the other requirements under the Contract, and such failure is not excused under the paragraph titled "Excuses for Nonperformance", the County, after giving the Contractor written notice of such failure, may withhold part or all of the Contractor's payment for the services until such failure is corrected. If the Contractor does not correct such failure within a reasonable time allowed by the County, the County may terminate the Agreement in accordance with the clause titled "Termination." However, this paragraph, and any actions taken or not taken under it, shall not affect the County's rights under the "Termination" clause.
- P. Termination: This Agreement may be terminated by mutual consent of both parties or unilaterally by both parties at any time upon thirty (30) days' notice to the other party in writing and delivered personally or by Certified Mail. The County may also unilaterally terminate this Agreement effective upon delivery of written notice to the Contractor, or at such later date as may be established by the County, under any of the following conditions:

- i. If funds, specifically authorized by Legislative acts, do not become available in amounts sufficient to allow for purchase of the stated quantity of services. When possible and when agreed upon by the parties, the Agreement may be modified in accordance with the paragraph entitled "Re-negotiation or Modification" to accommodate a reduction in funds.
- ii. If Federal or State laws, regulations or guidelines are modified or changed in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or no longer qualify for the funding proposed for payments authorized by this Agreement.
- iii. If any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Agreement is for any reason denied, revoked, not renewed, or changed in such a way that the Contractor no longer meets requirements for such license or certificate.
- iv. Termination under this clause shall be without prejudice to any obligations or liabilities of either party already reasonably incurred prior to such termination, except that the Contractor shall be solely responsible for its obligations or liabilities after the termination date, which obligations or liabilities result from the Contractor's failure to provide for termination of, or exercises the right to terminate, its commitments. No right of action or damages shall accrue to the benefit of the Contractor if the Agreement is terminated under this clause.
- v. The County, by written notice of default (including breach of contract) to the Contractor, may terminate this Agreement:
 - a. If the Contractor fails to provide the services called for by this Agreement within the time specified herein or any extension thereof granted by the County; or
 - b. If the Contractor fails to perform any of the other requirements of this Agreement; or
 - c. If the Contractor so fails to perform the work required in the Agreement that performance of this Agreement in accordance with its terms is endangered, and after receipt of written notice from the County specifying such failure, the Contractor fails to correct such failure within ten (10) days or such longer period as the County may authorize.
- vi. If the Agreement is terminated under this clause, the County's obligations shall be limited to payment for services provided in accordance with the Agreement prior to

the date of termination, less any damages suffered by the County. The rights and remedies of the County in this clause related to defaults (including breach of contract) by the Contractor shall not be exclusive and are in addition to any other rights and remedies provided to the County by law or under this Agreement.

- Q. Hold Harmless: Except for claims arising in whole from the negligence of County, its employees or its agents, Contractor agrees to indemnify and hold County harmless from and against all actions, suits, claims and demands arising out of Contractor's performance under this Contract and agrees to defend County in such actions, suits, claims and demands.
- R. Waiver of Default: Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by an authorized representative of the County, and attached to the original Agreement in accordance with the paragraph entitled "Re-negotiation or Modification".
- S. Severability: The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
- T. Fees Prohibited: The Contractor will not impose or demand any fees from any person or agency for services provided and paid for under this Agreement, unless the fees have been approved in advance by the County in writing.
- U. Non-Discrimination: The Contractor acknowledges that they are an equal opportunity employer and no person shall be denied services or discriminated against on the basis of race, color, religion, sex, sexual orientation, national origin, marital status or age, and there shall be no discrimination in the selection, compensation or the employment practices with respect to personnel coming under the auspices of the Contractor.
- V. Assignment of Agreement: The Contractor shall not assign or transfer its interest in this Agreement without prior written approval of the County, which shall be attached to the original Agreement. Any such assignment, if approved, is subject to such conditions and provisions, as the County may deem necessary. No approval by the County of any assignment or transfer of interest shall be deemed to create any obligation of the county in addition to the agreed rates of payment and total Agreement consideration.

- W. Funds Authorized and Available: The County certifies that at the time of signing this Agreement, sufficient funds are authorized and available, or are anticipated to be available, for expenditure to finance costs of this Agreement within the County's current appropriation or limitation.
- X. Recovery of Overpayments: If billings under this Agreement, or under any Agreement between the Contractor and the County, result in payments to the Contractor for which the Contractor is not entitled under the terms of such Agreement, the County, after giving written notification to the Contractor, may withhold from payments due to the Contractor under this Agreement such amounts, over such periods of time, as are necessary to recover the amount of the overpayment.
- Y. Criminal History Records Checks: Contractor agrees to authorize a review of state and federal records by Polk County as a qualified entity, to determine the nature of any criminal activity the Contractor may have been involved in accordance with OAR 943-007-001 for purposes described in OAR 407-007-0400. No work will be assigned to Contractor until a Criminal History Check is completed and verified by the qualified entity. Contractor shall notify Polk County within five days of being arrested, charged, or convicted of any crime.

SECTION IV: CLAUSES REQUIRED BY OREGON LAW FOR PERSONAL SERVICES CONTRACTS

- A. Payment of Subcontractors, Industrial Accident Fund Contributions, Liens and Withholding Taxes:
1. Contractor shall make payment promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in this contract.
 2. Contractor shall pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract.
 3. Contractor shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, Municipal Corporation or subdivisions thereof, on account of any labor or material furnished.
 4. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- B. Payment of Claims by County: If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public contract as such claim becomes due, the

proper officer or officers representing Polk County may pay such claim to the person furnishing the labor or services and charge the amount of payment against funds due or to become due the Contractor by reason of this contract. Payment of a claim in this manner shall not relieve the contractor or contractor's surety from obligation with respect to any unpaid claims.

- C. Hours of Labor: All laborers providing contract services shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 USC section 201 to 209 from receiving overtime.
- D. Payment for Medical Care: Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees for such Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying such service.
- E. Providing Workers' Compensation Insurance: All employers working under this contract are subject employers who will comply with ORS 656.017.
- F. Health Care Benefits for Employees: The Contractor shall provide health care benefits to all employees who are performing services previously performed by public employees if the conditions specified in ORS 653.767 require such payment. Benefits must equal or exceed those benefits specified in ORS 279.315(3). This clause does not apply to contracts for temporary, non-ongoing or nonrecurring contracts.
- G. Americans with Disabilities Act Compliance: Contractor agrees that Contractor will comply and does comply with all relevant provisions of the Americans with Disabilities Act, to the extent required by the Act.

SIGNATURE PAGE

BY SIGNATURE BELOW, both parties agree to and accept all terms and conditions of this Agreement between County and Contractor along with the following:

- Exhibit A: Business Associate Agreement
- Exhibit B: Statement of Work

CONTRACTOR

Signature

Date

Title:

COUNTY

Chair

Date

Board of Commissioners

APPROVED AS TO FORM

Morgan Smith

Date

County Counsel

EXHIBIT A:
BUSINESS ASSOCIATE AGREEMENT
Between
POLK COUNTY and DAVID FLYNN

1. DEFINITIONS:

Except as otherwise defined in this *Business Associate Agreement* (BA Agreement), any and all italicized terms herein shall have the same definition as those in the HIPAA Privacy Rule.¹ Henceforth, Polk County, a political subdivision of the State of Oregon, shall be referred to as "COUNTY" and David Flynn, shall be referred to as "CONTRACTOR".

2. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR:

- A. CONTRACTOR agrees to not use or disclose *Protected Health Information* other than as permitted or required by this BA Agreement or as permitted or required by law.
- B. CONTRACTOR agrees to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this BA Agreement.
- C. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of Protected Health Information by CONTRACTOR in violation of the requirements of this BA Agreement.
- D. CONTRACTOR agrees to report to the COUNTY any use or disclosure of the Protected Health Information not provided for by this BA Agreement of which it becomes aware.
- E. CONTRACTOR agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by, CONTRACTOR on behalf of the COUNTY agrees to the same restrictions and conditions that apply through this BA Agreement to CONTRACTOR with respect to such information.

¹ The use and disclosure of protected health information in performance of Business Associate functions is governed by the Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164), referred to as the Privacy Rule, which were issued by the United States Department of Health and Human Services pursuant to Public Law 104-191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The use and disclosure of protected health information is also governed by laws of the State of Oregon and by other federal laws.

- F. In the event that it is found to be applicable, CONTRACTOR agrees to provide access, at the request of the COUNTY, and in the time and manner necessary for reasonable compliance, to Protected Health Information in a *Designated Record Set* to the COUNTY or, as directed by the COUNTY, to an *Individual* in order to meet the requirements under 45 CFR § 164.524.
 - G. In the event that it is found to be applicable, CONTRACTOR agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the COUNTY directs or agrees to pursuant to 45 CFR § 164.526 at the request of CONTRACTOR, or an Individual, and in the time and manner necessary for reasonable compliance.
 - H. CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by CONTRACTOR on behalf of the COUNTY available to the COUNTY or to the *Secretary of the Department of Health and Human Services*, in a time and manner agreed between the COUNTY and CONTRACTOR or designated by the Secretary, for purposes of the Secretary determining the COUNTY'S compliance with the Privacy Rule.
 - I. CONTRACTOR agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for the COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
 - J. CONTRACTOR agrees to provide to the COUNTY or an Individual, in the time and manner necessary for reasonable compliance, information collected in accordance with section 2.A of this BA Agreement, to permit the COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
3. PERMITTED USES AND DISCLOSURES BY CONTRACTOR: Except as otherwise limited in this BA Agreement, CONTRACTOR may use or disclose Protected Health Information to perform certain health plan functions for or on behalf of the COUNTY as specified in the Polk County Agreement and in this BA Agreement provided that such use or disclosure would not violate the Privacy Rule if done by the COUNTY or the minimum necessary policies and procedures of the COUNTY.

4. OBLIGATIONS OF THE COUNTY:

- A. The COUNTY shall notify CONTRACTOR of any limitation(s) in the *Notice of Privacy Practices* of the COUNTY in accordance with 45 CFR § 164.520, to the extent that such limitation may affect CONTRACTOR'S use or disclosure of Protected Health Information.
- B. The COUNTY shall notify CONTRACTOR of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect CONTRACTOR'S use or disclosure of Protected Health Information.
- C. The COUNTY shall notify CONTRACTOR of any restriction to the use or disclosure of Protected Health Information that the COUNTY has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect CONTRACTOR'S use or disclosure of Protected Health Information.

5. PERMISSIBLE REQUESTS BY THE COUNTY: The COUNTY shall not request CONTRACTOR to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the COUNTY except if such use or disclosure is permitted under the Agreement between the COUNTY and CONTRACTOR.

6. TERM AND TERMINATION:

- A. Term. This BA Agreement shall be effective as of July 01, 2023, and shall terminate when all of the Protected Health Information provided by the COUNTY to CONTRACTOR, or created or received by CONTRACTOR on behalf of the COUNTY, is destroyed or returned to the COUNTY, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- B. Termination for Cause. Upon the COUNTY'S knowledge of a material breach by CONTRACTOR, the COUNTY shall either:
 - i. Provide an opportunity for CONTRACTOR to cure the breach without the intervention of the COUNTY within the timeline specified in Section III (P) of the Polk County Agreement; or
 - ii. Provide an opportunity for CONTRACTOR to terminate this BA Agreement and the Polk County Agreement within the timeline specified in Section III of the Polk County Agreement. At the direction of its Board of Directors, the COUNTY may

terminate this BA Agreement and the Polk County Agreement as permitted in Section III of the Polk County Agreement if CONTRACTOR has not cured the breach upon conclusion of the technical assistance and corrective action described in paragraph (i.) of this section; or

- iii. If neither termination nor cure is feasible, the COUNTY shall report the violation to the Secretary.

C. Effect of Termination.

- i. Except as provided in paragraph (ii.) of this section, upon termination of this BA Agreement, for any reason, CONTRACTOR shall return or destroy all Protected Health Information received from the COUNTY, or created or received by CONTRACTOR on behalf of the COUNTY. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of CONTRACTOR. CONTRACTOR shall retain no copies of the Protected Health Information.
- ii. In the event that CONTRACTOR determines that returning or destroying the Protected Health Information is infeasible, CONTRACTOR shall provide to the COUNTY written notification of the conditions that make return or destruction infeasible. Upon written acknowledgement by the COUNTY that the return or destruction of Protected Health Information is infeasible, CONTRACTOR shall extend the protections of this BA Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as CONTRACTOR maintains such Protected Health Information.

7. MISCELLANEOUS:

- A. Regulatory References. References in this BA Agreement to the Privacy Rule or any section of the Privacy Rule means the Privacy Rule or section as in effect or as amended.
- B. Amendment. The COUNTY and CONTRACTOR agree to take such action as is necessary to amend this BA Agreement from time to time as is necessary for the COUNTY to comply with the requirement of the Privacy Rule and HIPAA.
- C. Survival. The respective rights and obligations of CONTRACTOR under Section 6.C of this BA Agreement shall survive the termination of this BA Agreement.

- D. Interpretation. Any ambiguity in this BA Agreement shall be resolved to permit the COUNTY to comply with the Privacy Rule. In the event of any inconsistency between the provisions of this BA Agreement and the mandatory provisions of the Privacy Rule, the Privacy Rule shall control. Where laws in the State of Oregon or other federal law is more stringent than the Privacy Rule, the more stringent Oregon or federal law shall control.

8. SECURITY RULE BUSINESS ASSOCIATE AGREEMENT LANGUAGE:

- A. Background Requirement: The COUNTY, in accordance with § 164.306 and § 164.308 (b), may permit the CONTRACTOR to create, receive, maintain, or transmit Electronic Protected Health Information on the COUNTY'S behalf only if the COUNTY obtains satisfactory assurances, in accordance with § 164.314(a) that the CONTRACTOR will appropriately safeguard the information. The COUNTY must document the satisfactory assurances through a written contract or other arrangement with the CONTRACTOR.
- B. Part I. Security Assurances: The CONTRACTOR will Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the COUNTY as required by the Health Insurance Portability and Accountability Act of 1996 and the requirements of Health Insurance Reform, the Security Standards (45CFR Parts 160, 162 & 164);
- i. Ensure that any agent, including a SUBCONTRACTOR, to whom it provides such information, agrees to implement reasonable and appropriate safeguards to protect it.
 - ii. Report to the COUNTY any security incident of which it becomes aware.
 - iii. Authorize termination of the contract by the COUNTY, if the COUNTY determines that the business associate has violated a material term of the contract.
- C. Part II. Other arrangements: When the COUNTY and the CONTRACTOR are both governmental entities, the COUNTY is in compliance with the requirements if:
- i. It enters into a memorandum of understanding with the CONTRACTOR that contains terms that accomplish the objectives of Part I.; or

- ii. Other law (including regulations adopted by the COUNTY or the CONTRACTOR) contains requirements applicable to the CONTRACTOR that accomplish the objectives of Part I.
- D. If the CONTRACTOR is required by law to perform a function or activity on behalf of the COUNTY or to provide a service described in the definition of CONTRACTOR as specified in § 160.103 of the regulation to the COUNTY, the COUNTY may permit the CONTRACTOR to create, receive, maintain, or transmit Electronic Protected Health Information on its behalf to the extent necessary to comply with the legal mandate without meeting the requirements of Part I., although the COUNTY will attempt in good faith to obtain satisfactory assurances as required by Part I. (A), and will document the attempt and the reasons that these assurances cannot be obtained, if not obtained.

EXHIBIT B:
STATEMENT OF WORK

POLK COUNTY, a political subdivision of the State of Oregon and, DAVID FLYNN, hereinafter called "Contractor," hereby agree to the following:

1. STATEMENT OF SERVICES

- A. Contractor agrees to work within scope, training and experience as a Qualified Mental Health Professional, to provide services, support and training that meets the needs of both Contractor and County as evidenced by the Service Authorization and Activity form.
- B. Contractor shall perform all services deemed necessary in their professional opinion based upon their training, education and expertise as evidenced in the application materials and other professional endorsements, notwithstanding any limitations set forth in this agreement.
- C. Contractor shall only use methods or techniques in which the Contractor has documented training, education and expertise. Contractor will ensure services provided are within rules and guidelines of Oregon Health Authority, Health Services Division: Behavioral Health Services, Chapter 309-019.

2. GENERAL INFORMATION

- A. Contractors must provide primary source verification of credentials. No work will be assigned to Contractors who render direct service to clients or patients until credentials have been validated for Medicaid claims.
- B. Annual requirements mandate that the Contractor will submit a conflict of Interest Statement. Contractor queries of the OIG and EPLS List of Excluded Individuals/Entities database will also be performed annually. Bases for exclusion include convictions for program-related fraud and patient abuse, licensing board actions and default on Health Education Assistance Loans. It is the expectation that Contractor will maintain credentialing required to perform job duties in good standing. It is the responsibility of the Contractor to report any circumstances that would jeopardize this standing or lead to exclusionary status. Failure to do so may lead to contract termination.
- C. Contractor agrees to report cases of suspected Medicaid, Medicare fraud, waste, or abuse to the PCBH Compliance Officer at 503-623-9289. If there is reason to believe that PCBH cannot respond appropriately to a suspected case of fraud, waste, or abuse, or if the case involves PCBH, then Contractor agrees to make a report to Ethicspoint at 888-265-4068.

- D. County may conduct performance reviews annually to assess Contractor's performance as it relates to the services required under this contract.
- E. Absences:
 - i. Contractor shall notify the County at least five (5) business days in advance for all anticipated extended absences (i.e. vacations, professional meetings, etc.).
 - ii. Contractor shall notify the County of unplanned absences (ie: illness or other unforeseen events) at least one hour prior to expected work time.
- F. Contractor agrees to provide 10 business day notice of changes to their clinic schedule availability.
- G. All client records are considered the property of the County and shall not be retained by the Contractor. Contractor shall have all service notes and documentation completed within three business days of service encounter. Contractor shall maintain client/patient records and documentation within CMS guidelines.
- H. Contractor may elect to use the electronic health record system supported by the County. Contractor shall provide County with a Certificate of Electronic Health Record Technology (CEHRT) when Contractor elects to use a system that is not supported by the County or Oregon Health Authority.
- I. Documents that are required for billing shall be submitted three days after the close of business on the last weekday of each month. Documentation found to be out of compliance with County and/or State guidelines shall be corrected within ten (10) business days.
- J. Billable service notes shall meet documentation standards in accordance with OAR 309-019-0135 through 309-019-0145.
- K. Contractor is required to receive clinical supervision in accordance with OAR 309-019-0130 and may be required to provide documentation of supervision received, if obtained by a Clinical Supervisor Outside of County. Failure to do so may lead to contract termination.

3. AUTHORIZED SERVICES

- A. County will only pay for service and activities that have been pre authorized and agreed upon in writing by both parties on a Service and Activity Authorization Form.

4. RATES AND METHOD OF PAY

- A. County shall reimburse the Contractor at the rate of \$5.00 per hour for Call Service Hours availability as outlined in the Service Activity Authorization form with Call Service Hours paid to the nearest quarter hour upon receipt of an invoice.
- B. If the Contractor fails to respond in a timely manner while scheduled for Call Service Hours and a back-up must be called to respond, the Contractor will forfeit the Call Service Hours fee for that day. The only exception to this rule will be if the Contractor is currently handling another Polk County crisis. If non-responsiveness becomes a consistent pattern or problem it could result in immediate termination of this contract.
- C. County shall reimburse the Contractor at the rate of \$60.00 per hour for Billable Services as outlined in the Service Activity Authorization form, as well as travel time portal to portal, with services paid on a per occurrence basis to the nearest quarter hour.
- D. Contractor shall receive \$80.00 per hour for Billable Services on County observed holidays, including travel time portal to portal, with services paid on a per occurrence basis to the nearest quarter hour.
- E. County will have no legal obligation to pay for any unauthorized services, including unauthorized expenditures.



CONTRACT REVIEW SHEET

Staff Contact: Rosana Warren Phone Number (Ext): 2428
Department: Health Services: Behavioral Health Consent Calendar Date: August 16, 2023
Contractor Name: Marion County
Address: 3180 Center Street NE Ste 2100
City, State, Zip: Salem, OR 97301-4572
Effective Dates - From: July 01, 2023 Through: June 30, 2024
Contract Amount: \$40,000.00

Background:

Marion County through its Psychiatric Crisis Center (PCC) has agreed to provide crisis evaluation services to referred Polk County individuals.

Discussion:

This contract is a continuation of services Marion County's PCC has been providing Polk County individuals in the past fiscal year.

Fiscal Impact:

The total amount not to exceed for this contract is \$40,000. The Behavioral Health Services budget has sufficient expenditure authority to accommodate this contract. The fiscal year 2023-2024 Behavioral Health budget was prepared in anticipation of this agreement.

Recommendation:

It is recommended that Polk County sign this agreement with Marion County.

Copies of signed contract should be sent to the following:

Name: <u>Rosana Warren</u>	E-mail: <u>hs.contracts@co.polk.or.us</u>
Name: _____	E-mail: _____
Name: _____	E-mail: _____

CONTRACT & AGREEMENT SUMMARY

CONTRACT NUMBER:	
COUNTY/DEPARTMENT:	POLK COUNTY BEHAVIORAL HEALTH 182 SW ACADEMY STREET DALLAS, OR 97338 ID#: 93-6002310
CONTACT PERSON:	ROSANA WARREN
DATE ISSUED:	06/21/23
CONTRACTOR	MARION COUNTY 3180 CENTER STREET NE #2100 SALEM, OR 97301 ID#: 93-6002307
CONTACT PERSON:	SARAH ORTIZ
SERVICES PROVIDED:	To provide appropriate crisis evaluations, referrals, or other related hospital diversion services to all Polk County residents as outlined in Section 1 and Section 5.
EFFECTIVE DATES:	FROM JULY 01, 2023 THROUGH JUNE 30, 2024
BUDGET LINE #:	240-8540-540-M25
DOLLAR AMOUNT:	Urgent Care Services: \$32,000.00 max Crisis Associate Services: \$8,000.00 max
TERMS:	Urgent Care Services: \$2,666.67/month Crisis Associate Services: Rates per Section 4.2
ADDITIONAL COMMENTS/INFORMATION:	

NOTIFY FISCAL DEPARTMENT IMMEDIATELY OF ANY CONTRACT TERMINATIONhs.contracts@co.polk.or.us

INTERGOVERNMENTAL AGREEMENT
between
POLK COUNTY and MARION COUNTY

Project: PSYCHIATRIC CRISIS CENTER

1. PARTIES TO AGREEMENT

THIS AGREEMENT is made and entered into by and between POLK COUNTY, a political subdivision of the State of Oregon, hereafter called COUNTY, and MARION COUNTY, a political subdivision of the state of Oregon, hereafter called AGENCY, acting by and through its governing body is made pursuant to ORS 190.010 (Cooperative Agreements).

2. STATEMENT OF WORK

- 2.1. Provide appropriate crisis evaluation, referral, and hospital diversion services to all Polk County residents who arrive at Marion County Psychiatric Center (PCC) or the Salem Hospital Emergency Department at any hour of the day or night; and
- 2.2. Placement in a respite setting or dual diagnosis bed in accordance with PacificSource eligibility requirements. Daily respite costs, including crisis associate support related to respite, are reimbursed separately from this contract.
- 2.3. Crisis Associate services as requested by County, as available by Agency and detailed in Section 5.

3. TERM AND TERMINATION

- 3.1. This Agreement shall be effective for the period commencing upon all signatures or retroactive effective July 01, 2023, depending on which occurs first, and ending on June 30, 2024 unless terminated or extended as provided herein.
- 3.2. This Agreement may be extended for an additional period of one year by agreement of the parties. Any modifications in the terms of such amendment shall be in writing.
- 3.3. This agreement may be terminated by mutual consent of both parties at any time or by either party upon 30 days notice in writing, and delivered by mail or in person. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
- 3.4. The County may terminate this agreement effective upon delivery of written notice to the Agency or at such later date as may be established under any of the following conditions:

- a. If funding from federal, state, or other sources are not obtained or continued at levels sufficient to allow for the purchase of the indicated quantity of services. This agreement may be modified to accommodate a reduction in funds.
- b. If federal or state laws, regulations or guidelines are modified or changed in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.
- c. If any license, certificate, or insurance required by law or regulation to be held by the Agency to provide the services required by this agreement is for any reason denied, revoked, not renewed, or changed in such a way that the Agency no longer meets requirements for such license or certificate.
- d. If the Agency fails to provide the services called for by this agreement within the time specified herein or any extension thereof; or
- e. If the Agency so fails to perform the provisions of this agreement that performance of this Agreement in accordance with its terms is endangered, and after receipt of written notice from the County specifying such failure, the Agency fails to correct such failure(s) within ten (10) days or such longer period as the County may authorize.

3.5. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

4. FUNDING AND BILLING

- 4.1. County Agrees to pay Agency an amount not to exceed \$32,000.00 for the term of this agreement and as approved by County for urgent care services, at the rate of \$2,666.67 per month (which is the equivalent cost of one (1), eight (8) hour shift per week, to cover the cost of services listed in Section 2 above); and
- 4.2. County agrees to pay an amount not to exceed \$8,000.00 for Crisis Associate services for actual services provided, as detailed by the following;
 - a. County to reimburse PCC Crisis Associate (CA) services at the rate of \$31.00 per hour, including drive time to and from the destination for Polk County residents.
 - b. County to reimburse mileage, which is calculated on a "door to door" basis (from PCC's door to the destination and return to PCC's door), at the standard IRS mileage rate for

business use of an automobile, currently 56 cents per mile and adjusted as this rate changes for services rendered to Polk County residents.

- c. Agency agrees to bill the Mid Willamette Valley Acute Care Region for transport to Marion County for hospital diversion services.
 - d. County will be invoiced for transport to Polk County from any diversion service from Agency.
 - e. When Polk County Behavioral Health staff request services for a client in Polk County, they will first call the PacificSource regional liaison for authorization. Marion County will confirm PacificSource liaison authorization before delivering the service.
- 4.3. The parties agree that this level of funding may need to be modified to more closely align to the level of service actually provided and agree to revisit this level of funding six (6) months from the effective date of this contract. Any such modification shall be in writing by mutual consent of the parties per Section 12 of this Agreement.
- 4.4. It is agreed that Agency shall accept payment from County as full and total payment for crisis evaluation and referral services as well as associate services provided in Polk County. Agency shall not bill any County clients (or their insurance) served under this agreement for services delivered hereunder.

5. OBLIGATIONS UNDER THE TERMS OF THIS AGREEMENT

In addition to urgent care services contracted, the following allows for the utilization of Behavioral Health Crisis Associates within Polk County and clarifies the crisis services and operational parameters that Marion County Psychiatric Crisis Center (PCC) will provide to Polk County. Currently the PacificSource contracts with Marion County for crisis services, which Polk County has access to within Marion County.

5.1. UNDER THE TERMS OF THIS AGREEMENT, AGENCY SHALL:

- a. Provide Crisis Associates, who are credentialed as Behavioral Health Associates, to provide services in Polk County.
- b. Provide training, orientation, and supervision, consistent with PCC Crisis Associate standards, to Crisis Associates working in Polk County.
- c. Provide hospital diversion services: Within their scope of practice there are a number of hospital diversion services that a Crisis Associates may provide in support of the crisis plan. Typical uses of the PCC Crisis Associates include, but are not limited to:

1. Supporting clients in their own homes.
 2. Brief check in with client, either face to face or by phone.
 3. Client skills training such as relaxation and symptom management.
 4. Assistance accessing community resources.
 5. Transporting clients to appointments.
 6. Picking up medications for clients and medication monitoring.
- d. Provide copies of progress notes and other relevant documentation of PCC Crisis Associate services provided in Polk County.

5.2. UNDER THE TERMS OF THIS AGREEMENT, COUNTY SHALL:

- a. Provide an evaluation of the resident in need of crisis services including a description of the presenting problem, current symptoms, risk factors and clear directions for services to be provided.
- b. Provide a crisis worker who is a Qualified Behavioral Health Professional (QMHP) available 24 hours per day to coordinate and develop the crisis plan as well as support the PCC Crisis Associate. This crisis plan will be written on a Marion County respite form. The Polk crisis worker will provide a copy of the crisis evaluation to PCC.
- c. Provide a location within the area that a PCC Crisis Associate can safely monitor a client overnight.
- d. While the PCC Crisis Associates are working for Polk or its subcontracted After Hours Response, Polk's QMHP staff will provide backup and support for any questions arising from the Crisis Respite Plan, 24 hours a day.
- e. Give the PCC Crisis Associates the right to say "no" and renegotiate a plan as necessary with Polk's QMHP crisis worker, particularly if safety is a concern.
- f. If inclement weather makes the drive to Polk County hazardous, PCC Crisis Associates are not obligated to go until conditions improve.

5.3. RELATIONSHIP OF THE PARTIES

- a. At all times under this agreement, individuals either employed or volunteering at the Agency to perform services under this agreement shall be agents of the Agency. No individual at the Agency performing services under this agreement shall be considered an

employee or agent of the County nor shall they be entitled to any rights and/or benefits conferred to County employees.

6. COMPLIANCE WITH APPLICABLE LAWS

The parties agree that both shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this agreement. The parties agree that this agreement shall be administered and construed under the laws of the state of Oregon.

7. NONDISCRIMINATION

The parties agree to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations in the performance of this agreement.

8. HOLD HARMLESS

To the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, each party agrees to waive, forgive, and acquit any and all claims it may otherwise have against the other and the officers, employees, and agents of the other, for or resulting from damage or loss, provided that this discharge and waiver shall not apply to claims by one party against any officer, employee, or agent of the other arising from such person's malfeasance in office, willful or wanton neglect of duty, or actions outside the course and scope of his or her official duties. For any and all claims against either County or Agency from a third party, each party agrees to defend and indemnify each other for any and all claims arising from the actions of their employees and/or agents.

9. INSURANCE AND RISK MANAGEMENT

Each party shall insure or self-insure and be independently responsible for the risk of its own liability for claims within the scope of the Oregon tort claims act (ORS 30.260 TO 30.300).

10. MERGER CLAUSE

Parties concur and agree that this agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change to the terms of this agreement shall bind either party unless in writing and signed by both parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. Parties, by the signatures below of their authorized representatives, hereby agree to be bound by its term and conditions.

11. NOTICES

Any notice required to be given the Agency or County under this Agreement shall be sufficient if given, in writing, by first class mail or in person as follows:

AGENCY

Ryan Matthews
Health & Human Services Administrator
Marion County Health & Human Services
3180 Center Street, Suite 2100
Salem, OR 97301
rmatthews@co.marion.or.us

COUNTY

Jennifer Lief
Health Services Division Manager
Polk County Behavioral Health
182 SW Academy Street, Suite 333
Dallas, OR 97338
lief.jennifer@co.polk.or.us

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURES

This agreement and any changes, alterations, modifications, or amendments will be effective when approved in writing by the authorized representative of the parties hereto as of the effective date set forth herein.

In witness whereof, the parties hereto have caused this agreement to be executed on the date set forth below along with the following:

- Appendix A: Business Associate Agreement


AGENCY

DocuSigned by:

 7D28A787656F458... 7/12/2023
 Ryan Matthews Date
 Health & Human Services Administrator

DocuSigned by:

 1D632FCC090246E... 7/12/2023
 Ann-Marie Bandfield Date
 Health Program Manager

DocuSigned by:

 DC16351248DE4EC... 7/13/2023
 Chief Administrative Officer Date

DocuSigned by:

 60C98A6F708240B... 7/12/2023
 Marion County Legal Counsel Date

DocuSigned by:


 E4592AF8CAA542C... 7/12/2023
 Marion County Contracts Date

COUNTY

Commissioner (Chair) Date

Commissioner Date

Commissioner Date

 7/31/2023
 Noelle Carroll Date
 Health Services Director

Morgan Smith Date
 County Counsel

APPENDIX A:
BUSINESS ASSOCIATE AGREEMENT
between
POLK COUNTY and MARION COUNTY

- A. DEFINITIONS: Except as otherwise defined in this *Business Associate Agreement* (BA Agreement), any and all italicized terms herein shall have the same definition as those in the HIPAA Privacy Rule.¹ Henceforth, Polk County, a political subdivision of the State of Oregon, shall be referred to as “COUNTY” and Marion County, a political subdivision of the State of Oregon, shall be referred to as “CONTRACTOR”.
- B. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR:
1. CONTRACTOR agrees to not use or disclose *Protected Health Information* other than as permitted or required by this BA Agreement or as permitted or required by law.
 2. CONTRACTOR agrees to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this BA Agreement.
 3. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of Protected Health Information by CONTRACTOR in violation of the requirements of this BA Agreement.
 4. CONTRACTOR agrees to report to the COUNTY any use or disclosure of the Protected Health Information not provided for by this BA Agreement of which it becomes aware.
 5. CONTRACTOR agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by, CONTRACTOR on behalf of the COUNTY agrees to the same restrictions and conditions that apply through this BA Agreement to CONTRACTOR with respect to such information.
 6. In the event that it is found to be applicable, CONTRACTOR agrees to provide access, at the request of the COUNTY, and in the time and manner necessary for reasonable compliance, to Protected Health Information in a *Designated Record Set* to the

¹ The use and disclosure of protected health information in performance of Business Associate functions is governed by the Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164), referred to as the Privacy Rule, which were issued by the United States Department of Health and Human Services pursuant to Public Law 104-191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The use and disclosure of protected health information is also governed by laws of the State of Oregon and by other federal laws.

COUNTY or, as directed by the COUNTY, to an *Individual* in order to meet the requirements under 45 CFR § 164.524.

7. In the event that it is found to be applicable, CONTRACTOR agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the COUNTY directs or agrees to pursuant to 45 CFR § 164.526 at the request of CONTRACTOR, or an Individual, and in the time and manner necessary for reasonable compliance.
 8. CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by CONTRACTOR on behalf of the COUNTY available to the COUNTY or to the *Secretary of the Department of Health and Human Services*, in a time and manner agreed between the COUNTY and CONTRACTOR or designated by the Secretary, for purposes of the Secretary determining the COUNTY'S compliance with the Privacy Rule.
 9. CONTRACTOR agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for the COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
 10. CONTRACTOR agrees to provide to the COUNTY or an Individual, in the time and manner necessary for reasonable compliance, information collected in accordance with section 2.1 of this BA Agreement, to permit the COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- C. PERMITTED USES AND DISCLOSURES BY CONTRACTOR: Except as otherwise limited in this BA Agreement, CONTRACTOR may use or disclose Protected Health Information to perform certain health plan functions for or on behalf of the COUNTY as specified in the Polk County Agreement and in this BA Agreement provided that such use or disclosure would not violate the Privacy Rule if done by the COUNTY or the minimum necessary policies and procedures of the COUNTY.
- D. OBLIGATIONS OF THE COUNTY:
1. The COUNTY shall notify CONTRACTOR of any limitation(s) in the *Notice of Privacy Practices* of the COUNTY in accordance with 45 CFR § 164.520, to the extent that

such limitation may affect CONTRACTOR'S use or disclosure of Protected Health Information.

2. The COUNTY shall notify CONTRACTOR of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect CONTRACTOR'S use or disclosure of Protected Health Information.
3. The COUNTY shall notify CONTRACTOR of any restriction to the use or disclosure of Protected Health Information that the COUNTY has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect CONTRACTOR'S use or disclosure of Protected Health Information.

E. PERMISSIBLE REQUESTS BY THE COUNTY: The COUNTY shall not request CONTRACTOR to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the COUNTY except if such use or disclosure is permitted under the Agreement between the COUNTY and CONTRACTOR.

F. TERM AND TERMINATION:

1. Term. This BA Agreement shall be effective as of July 01, 2023, and shall terminate when all of the Protected Health Information provided by the COUNTY to CONTRACTOR, or created or received by CONTRACTOR on behalf of the COUNTY, is destroyed or returned to the COUNTY, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
2. Termination for Cause. Upon the COUNTY'S knowledge of a material breach by CONTRACTOR, the COUNTY shall either:
 - a. Provide an opportunity for CONTRACTOR to cure the breach without the intervention of the COUNTY within the timeline specified in Section 16.B1 of the Polk County Agreement; or
 - b. Provide an opportunity for CONTRACTOR to terminate this BA Agreement and the Polk County Agreement within the timeline specified in Section 16 of the Polk County Agreement. At the direction of its Board of Directors, the COUNTY may terminate this BA Agreement and the Polk County Agreement as permitted in Section 16 of the Polk County Agreement if CONTRACTOR has not cured the

breach upon conclusion of the technical assistance and corrective action described in paragraph (i.) of this section; or

- c. If neither termination nor cure is feasible, the COUNTY shall report the violation to the Secretary.

3. Effect of Termination.

- a. Except as provided in paragraph (ii.) of this section, upon termination of this BA Agreement, for any reason, CONTRACTOR shall return or destroy all Protected Health Information received from the COUNTY, or created or received by CONTRACTOR on behalf of the COUNTY. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of CONTRACTOR. CONTRACTOR shall retain no copies of the Protected Health Information.
- b. In the event that CONTRACTOR determines that returning or destroying the Protected Health Information is infeasible, CONTRACTOR shall provide to the COUNTY written notification of the conditions that make return or destruction infeasible. Upon written acknowledgement by the COUNTY that the return or destruction of Protected Health Information is infeasible, CONTRACTOR shall extend the protections of this BA Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as CONTRACTOR maintains such Protected Health Information.

G. MISCELLANEOUS:

1. Regulatory References. References in this BA Agreement to the Privacy Rule or any section of the Privacy Rule means the Privacy Rule or section as in effect or as amended.
2. Amendment. The COUNTY and CONTRACTOR agree to take such action as is necessary to amend this BA Agreement from time to time as is necessary for the COUNTY to comply with the requirement of the Privacy Rule and HIPAA.
3. Survival. The respective rights and obligations of CONTRACTOR under Section 6.C of this BA Agreement shall survive the termination of this BA Agreement.

4. Interpretation. Any ambiguity in this BA Agreement shall be resolved to permit the COUNTY to comply with the Privacy Rule. In the event of any inconsistency between the provisions of this BA Agreement and the mandatory provisions of the Privacy Rule, the Privacy Rule shall control. Where laws in the State of Oregon or other federal law is more stringent than the Privacy Rule, the more stringent Oregon or federal law shall control.

H. SECURITY RULE BUSINESS ASSOCIATE AGREEMENT LANGUAGE:

1. Background Requirement: The COUNTY, in accordance with § 164.306 and § 164.308 (b), may permit the CONTRACTOR to create, receive, maintain, or transmit Electronic Protected Health Information on the COUNTY'S behalf only if the COUNTY obtains satisfactory assurances, in accordance with § 164.314(a) that the CONTRACTOR will appropriately safeguard the information. The COUNTY must document the satisfactory assurances through a written contract or other arrangement with the CONTRACTOR.
2. Part I. Security Assurances: The CONTRACTOR will Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the COUNTY as required by the Health Insurance Portability and Accountability Act of 1996 and the requirements of Health Insurance Reform, the Security Standards (45CFR Parts 160, 162 & 164);
 - a. Ensure that any agent, including a SUBCONTRACTOR, to whom it provides such information, agrees to implement reasonable and appropriate safeguards to protect it.
 - b. Report to the COUNTY any security incident of which it becomes aware.
 - c. Authorize termination of the contract by the COUNTY, if the COUNTY determines that the business associate has violated a material term of the contract.
3. Part II. Other arrangements: When the COUNTY and the CONTRACTOR are both governmental entities, the COUNTY is in compliance with the requirements if:
 - a. It enters into a memorandum of understanding with the CONTRACTOR that contains terms that accomplish the objectives of Part I.; or

- b. Other law (including regulations adopted by the COUNTY or the CONTRACTOR) contains requirements applicable to the CONTRACTOR that accomplish the objectives of Part I.
- 4. If the CONTRACTOR is required by law to perform a function or activity on behalf of the COUNTY or to provide a service described in the definition of CONTRACTOR as specified in § 160.103 of the regulation to the COUNTY, the COUNTY may permit the CONTRACTOR to create, receive, maintain, or transmit Electronic Protected Health Information on its behalf to the extent necessary to comply with the legal mandate without meeting the requirements of Part I., although the COUNTY will attempt in good faith to obtain satisfactory assurances as required by Part I. (A), and will document the attempt and the reasons that these assurances cannot be obtained, if not obtained.



HUMAN RESOURCES

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338-3174
(503) 623-1888 ★ FAX (503) 623-1889

MEMORANDUM

TO: Board of Commissioners
FROM: Matt Hawkins, Administrative Services Director
DATE: August 11, 2023
SUBJECT: New Job Specification and Wage

Wednesday – August 16, 2023 (Consent)

RECOMMENDATION:

The Board of Commissioners approve the new job specification and wage.

ISSUE:

Shall the Board approve this new job specification and wage?

DISCUSSION:

It is recommended that the Board of Commissioners adopt a new job specification for a Discovery/Evidence Supervisor within the District Attorney's office. This position will oversee all activities within the Discovery/Evidence division in the DA's office and supervise all assigned employees.

The salary range for the Discovery/Evidence Supervisor will be (37E) \$4,494 - \$5,686.

FISCAL IMPACT:

No fiscal impact for FY 23-24.



POLK COUNTY CLASS SPECIFICATION
DISCOVERY/EVIDENCE SUPERVISOR

Class Spec. Number:

Representation: Non-Represented

FLSA Status: Non-Exempt

Salary Range: 36E

GENERAL STATEMENT OF DUTIES: Supervises and provides guidance and direction to Discovery/Evidence staff. Performs a wide variety of complex clerical tasks including the requesting of evidence and production of discovery as defined by policy and procedures of the District Attorney's office.

SUPERVISION RECEIVED: Works under the supervision of the District Attorney Office Manager who outlines general policies and procedures, advises on difficult or unusual problems and reviews work for effectiveness and compliance with policy, rules and regulations.

SUPERVISION EXERCISED: Assigns and reviews work of Discovery/Evidence Clerks. Responsible for the recruiting, selecting and training of Discovery/Evidence staff. Ensures D&E staff receives necessary support to perform their duties and responsibilities efficiently and effectively.

PRINCIPAL DUTIES: An employee in this classification may perform any of the following duties. However, these examples do not include all the specific tasks which an employee may be expected to perform.

1. As a continuing primary responsibility, performs complex clerical work involving the analysis of a variety of source materials and a thorough familiarity with policies and procedures, terminology and various applicable laws in order to obtain necessary discovery/evidence.
2. Maintains discovery logs in Karpel with proper notations of any and all actions applicable to the receipt of all discovery/evidence.
3. Requests evidence both independently and at the instruction of attorneys.
4. Monitors the status of evidence requests. Copies or duplicates all discovery/evidence and delivers or causes to be delivered to defense counsel all discovery/evidence pursuant to all rules and regulations.
5. Issues property disposition memos at the close of each case.
6. Redacts CD/DVDs or any other discovery as instructed by attorneys.
7. Performs a wide variety of clerical work; conducts transactions with staff and/or the public in matters requiring knowledge of County procedures, policies, precedents, and operations.
8. Supervises others in the performance of routine clerical and office duties. May screen visitors and phone calls, receive mail and identify and refer matters in order of priority.
9. Supplies information involving facts and interpretations; prepares documents based on data obtained from records and other sources; processes in accordance with prescribed procedures.
10. Operates office machines and special processing equipment.

11. Assigns back up assistance to Office Specialists when needed.
12. Performs other difficult, independent and technical clerical work requiring knowledge of the procedures and policies of the office or unit.
13. May attend hearings or meetings to record official actions and significant parts of discussions in the absence of the District Attorney Office Manager.
14. Ensures all policies, procedures and regulations are followed by D&E Staff. Works in conjunction with Personnel to address personnel issues within the Discovery/Evidence division of the District Attorney's Office.
15. Oversees recruitment, hiring and training of all Discovery/Evidence employees. Assigns and reviews work of all D&E staff. Provides regular and annual evaluation of all assigned employees.
16. Performs related duties as required.

EMPLOYMENT QUALIFICATIONS:

Knowledge of: regulations, procedures, and laws regarding discovery and evidence; modern office methods, procedures and equipment, including the preparation of business correspondence and reports, filing and operation of standard office equipment, computer terminal and software related to function; proper English usage, spelling, grammar and arithmetic.

Ability to: perform difficult and responsible clerical work involving independent judgment and requiring accuracy and speed; make clear and comprehensive reports and keep difficult records; understand and carry out oral and written instructions; type accurately from clear copy at a rate of 50 words per minute; establish and maintain effective working relationships; use computer terminal and related software; make arithmetic calculations with speed and accuracy.

EDUCATION, EXPERIENCE AND TRAINING: Graduation from high school or possession of the equivalent GED certificate. Three (3) years of increasingly responsible clerical experience, plus two (2) years of experience in a District Attorney office within Discovery and Evidence, or any equivalent combination of education, experience and training.

Discovery/Evidence Supervisor - 516
Adopted 8/23