

## Informational Cover Page - Grant

**THIS PAGE IS NOT PART OF THE AGREEMENT**

Agreement No. XX-XXX

AGREEMENT INFORMATION	
<b>Project Title:</b>	Project Title
<b>Allowable Cost Period:</b>	01/01/2018 – 01/01/2020
<b>Effective Period:</b>	01/01/2021 – 01/01/2021
<b>Amount:</b>	Dollar Amount
<b>Distribution Schedule:</b>	Describe distribution schedule
<b>Funding Source:</b>	Funding Source
GRANTEE INFORMATION	
<b>Grantee:</b>	Grantee
<b>Address:</b>	Street Address City, State ZIP
<b>Administrator:</b>	Grantee Agreement Administrator
<b>Phone:</b>	Phone number
<b>Email:</b>	
<b>Fiscal Contact:</b>	Fiscal Contact
<b>Phone:</b>	Phone number
<b>Email:</b>	
HECC INFORMATION	
<b>Administrator:</b>	HECC Agreement Administrator
<b>Phone:</b>	Phone number
<b>Email:</b>	
<b>Procurement Contact:</b>	Procurement Staff
<b>Phone:</b>	Phone number
<b>Email:</b>	

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### Federal Award Identification

[This page is for information only and is not considered part of the Agreement]

(i) Subrecipient* Name (which must match the name associated with below):	Procurement
(ii) Subrecipient's Unique Entity Identifier (Sam.gov):	Program
(iii) Federal Award Identification Number (FAIN):	Program [found in notice of award]
(iv) Federal Award Date:	Program [found in notice of award]
(v) Sub-award Period of Performance Start and End Date:	Program [found in notice of award]
(vi) Total Amount of Federal Funds Obligated by this Agreement:	Procurement
(vii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this Agreement**:	Accounting
(viii) Total Amount of the Federal Award committed to the Subrecipient by the pass-through entity:	Accounting
(ix) Federal Award Project Description:	Program
(x) Name of federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity:	
(a) Federal Awarding Agency:	Program [found in notice of award]
(b) Name of pass-through entity*:	HECC
(c) Contact Information for awarding official of the pass-through entity:	Program
(xi) Assistance Listings Number and Assistance Listings Project Title:	Program (found on notice of award)
(xii) Amount	\$Program (found on notice of award)
(xiii) Is Award Research and Development?	<input type="checkbox"/> Yes <input type="checkbox"/> No Program
(xiv) Indirect Cost Rate:	Indirect rate: _____ or 10% de minimis

\*For the purposes of this form, "Subrecipient" refers to Grantee or Recipient and "pass-through entity" refers to HECC.

\*\*The total amount of federal funds obligated to the Subrecipient by the pass-through entity is the total amount of federal funds obligated to the Subrecipient by the pass-through entity during the current State fiscal year.

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# STATE OF OREGON GRANT AGREEMENT

Agreement No. XX-XXX

This Agreement is between the State of Oregon acting by and through its Higher Education Coordinating Commission (“HECC”) and Grantee (“Grantee”), each a “Party” and, together, the “Parties”.

## SECTION 1: AUTHORITY

This Agreement is authorized by ORS 350.075.

## SECTION 2: PURPOSE

The purpose of this Agreement is to fill in reason here.

## SECTION 3: TERM OF AGREEMENT

This Agreement is effective when all Parties have executed this Agreement and all necessary approvals have been obtained. This Agreement terminates on Expiration Date unless terminated earlier in accordance with Section 18.

## SECTION 4: GRANT ADMINISTRATORS

### 4.1 HECC’s Grant Administrator is:

HECC Administrator  
3225 25th Street SE  
Salem, OR 97302  
Phone: Phone Number  
Email:

### 4.2 Grantee’s Grant Administrator is:

Grantee Administrator  
Street Address  
City, State Zip  
Phone: Phone Number  
Email:

### 4.3 Either Party may change its Grant Administrator by providing written notice to the other

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Party.

## SECTION 5: PROJECT ACTIVITIES

Grantee shall perform the project activities set forth in Exhibit A (the "Project"), attached and incorporated by this reference.

## SECTION 6: GRANT

In accordance with the terms and conditions of this Agreement, HECC shall provide Grantee up to \$Dollar Amount ("Grant Funds") for the purposes described in this Agreement.

**6.1 Disbursement Generally.** HECC shall disburse the Grant Funds upon receipt and acceptance of Grantee's reimbursement requests according to the following schedule:

- On or about Date: Amount
- On or about Date: Amount
- On or about Date: Amount

To be processed for payment, reimbursement requests must include the following information:

- Disbursement request date
- HECC's Agreement number
- HECC's Grant Administrator
- Amount being requested
- A description of the Project activities completed during the disbursement request period

Grantee shall e-mail disbursement requests to: [HECC.finance@HECC.Oregon.gov](mailto:HECC.finance@HECC.Oregon.gov) and a copy to the Grant Administrator.

**6.2 Allowable Cost Period.** The Allowable Cost Period is the period between July 1, 2019 and June 30, 2021.

**6.3 Allowable Costs.** The Grant Funds shall only be used to pay for costs of the Project incurred by Grantee during the Allowable Cost Period and used for the Project as set forth in Exhibit A. Any changes to the Project must be approved by HECC in writing; however, notwithstanding the foregoing, if HECC determines a requested change to the Project is material, HECC may require the execution of an amendment to this Agreement. **[For avoidance of doubt, indirect costs are not Allowable Costs.]**

**6.4 Conditions Precedent to Disbursement.** HECC's obligation to disburse Grant Funds to Grantee under this Agreement is subject to satisfaction of each of the following conditions

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precedent:

- 6.4.1** HECC has received sufficient funding and expenditure authorizations to allow HECC, in the exercise of its reasonable administrative discretion, to make the disbursement.
- 6.4.2** No default as described in Section 12 has occurred.
- 6.4.3** Grantee's representations and warranties set forth in Section 7 are true and correct on the date of disbursement(s) with the same effect as though made on the date of disbursement.
- 6.4.4** By execution of this Agreement, Grantee certifies in writing that it has complied with all applicable requirements under Section 11.
- 6.4.5** HECC has received and accepted all reports related to this Agreement due at time of disbursement.
- 6.5 Backup Documentation.** Upon request by HECC, Grantee will promptly provide backup documentation satisfactory to HECC to support Grantee's expenditure of Grant Funds.
- 6.6 Duplicate Payment.** Grantee shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same costs financed by or costs and expenses paid for by Grant Funds from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- 6.7 Suspension of Funding and Project.** HECC may by written notice to Grantee, temporarily cease funding and require Grantee to stop all, or any part, of the Project dependent upon Grant Funds for a period of up to 180 days after the date of the notice, if HECC has or reasonably projects that it will have insufficient funds from the funding source to disburse the full amount of the Grant Funds. Upon receipt of the notice, Grantee must immediately cease all Project activities dependent on Grant Funds, or if that is impossible, must take all necessary steps to minimize the Project activities allocable to Grant Funds. If HECC subsequently projects that it will have sufficient funds, HECC will notify Grantee that it may resume activities. If sufficient funds do not become available, Grantee and HECC will work together to amend this Grant to revise the amount of Grant Funds and Project activities to reflect the available funds. If sufficient funding does not become available or an amendment is not agreed to within a period of 180 days after issuance of the notice, HECC will either (i) cancel or modify the stop-work order by a supplemental written notice or (ii) terminate this Agreement as permitted by either the termination at HECC's discretion or for cause provisions of this Agreement.
- 6.8** [Optional] As of [Insert Date original end date or NOA: Month Day, Year], any unused Grant Funds are considered not "obligated funds" for purposes of compliance with the federal award and are immediately re-obligated to Grantee.

**SECTION 7: REPRESENTATIONS AND WARRANTIES**

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Grantee represents and warrants to HECC that:

- 7.1 Grantee is a **Entity Type** duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Grantee has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder;
- 7.2 The making and performance by Grantee of this Agreement (a) have been duly authorized by Grantee according to its governing laws and organizational documents, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Grantee's enabling law, organizational documents or other organizational rules or policies; and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Grantee is a party or by which Grantee or any of its properties may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Grantee of this Agreement, other than those that have already been obtained;
- 7.3 This Agreement has been duly executed and delivered by Grantee and, when executed by HECC, constitutes a legal, valid and binding obligation of Grantee enforceable in accordance with its terms; and
- 7.4 The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Grantee.
- 7.5 Grantee acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action or conduct by Grantee pertaining to this Agreement that constitutes a "claim" (as defined by the Oregon False Claims Act, ORS 180.750 (1)). By its execution of this Agreement, Grantee certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement or to the Project. In addition to other penalties that may be applicable, Grantee further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Grantee. Nothing in this Section or this Agreement may be construed as limiting or derogating from any authority granted the Oregon Attorney General under 180.750 to 180.785.
- 7.6 Grantee shall immediately report in writing, to HECC, any credible evidence that a principal, employee, agent, or subcontractor of Grantee, or any subgrantee or other person, has made a false claim or committed a prohibited act under the Oregon False Claims Act, or has committed a criminal or civil violation of laws pertaining to fraud, bribery, gratuity, conflict of interest, or similar misconduct in connection with this Agreement or monies paid by HECC under this Agreement.
- 7.7 Grantee must include subsections 7.5 through 7.6 of this Section in each subcontract or subgrant Grantee may award in connection with the performance of this Agreement. In doing so, Grantee may not modify the terms of those subsections, except to identify the

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subcontractor or subrecipient who will be subject to those provisions.

- 7.8** Grantee must comply with the assurances in Exhibit B.
- 7.9** Grantee must comply with the terms and conditions of the federal Notice of Award, (CFDA) 84.002A-WIOA Adult Education and Family Literacy Act State Grant (FAIN) V002A210038 and Special Conditions of Award posted May 10, 2021 (“NoA”), found here:

[https://www.oregon.gov/highered/about/Documents/Grantscontracts/NOFA/CFDA%2084.002A%20Adult%20Ed\\_State%20FAIN%20V002A210038%20FY2021-2022%20posted%2005-10-2022.pdf](https://www.oregon.gov/highered/about/Documents/Grantscontracts/NOFA/CFDA%2084.002A%20Adult%20Ed_State%20FAIN%20V002A210038%20FY2021-2022%20posted%2005-10-2022.pdf)

To the extent that there are terms in this Agreement, including those stated in Exhibit B, that conflict or are duplicative of the terms of the NoA, those terms are inapplicable and the terms of the NoA control.

## **SECTION 8: GOVERNING LAW, CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively “Claim”) between HECC or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

## **SECTION 9: OWNERSHIP OF WORK PRODUCT**

### ***[OPTION 1: GRANTEE THE OWNS IP]***

- 9.1** As used in this Section 9 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- 9.1.1** **"Third Party Intellectual Property"** means any intellectual property owned by parties other than Grantee or HECC.
- 9.1.2** **"Work Product"** means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that Grantee is required to deliver to HECC under this Agreement, and all intellectual property rights therein.

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- 9.2** Grantee retains ownership of all Work Product, and grants HECC an irrevocable, non-exclusive, perpetual, royalty-free, fully paid-up, world-wide license to use, to reproduce, to prepare derivative works based upon, to distribute, to perform and to display the Work Product, to authorize others to do the same on HECC's behalf, and to sublicense the Work Product to other entities without restriction.
- 9.3** If the Work Product created by Grantee under this Agreement is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee shall secure on HECC's behalf and in the name of HECC an irrevocable, non-exclusive, perpetual, royalty-free, fully paid-up, world-wide license allowing HECC and other entities the same rights listed above for to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing element of the Third party Intellectual Property employed in the Work Product.
- 9.4** If state or federal law requires that HECC or Grantee grant to the United States a license to any intellectual property in the Work Product then Grantee shall execute such further documents and instruments as HECC may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or HECC.

**[OPTION 2: HECC OWNS THE IP]**

- 9.1** As used in this Section 9 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- 9.1.1** "**Grantee Intellectual Property**" means any intellectual property owned by Grantee and developed independently from the work under this Agreement.
- 9.1.2** "**Third Party Intellectual Property**" means any intellectual property owned by parties other than Grantee or HECC.
- 9.1.3** "**Work Product**" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that Grantee is required to deliver to HECC under this Agreement, and all intellectual property rights therein.
- 9.2** All Work Product created by Grantee under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of HECC.
- 9.2.1** If the Work Product uses pre-existing elements of Grantee Intellectual Property, Grantee hereby grants to HECC an irrevocable, non-exclusive, perpetual, royalty-free, fully paid-up, world-wide license to use, reproduce, prepare derivative works based upon, distribute copies of, perform, and display the pre-existing elements, and to authorize others to do the same on HECC's behalf.
- 9.2.2** If the Work Product uses Third Party Intellectual Property, Grantee shall secure on HECC's behalf and in the name of HECC an irrevocable, non-exclusive, perpetual, royalty-free, fully paid-up, world-wide license to use, reproduce, prepare derivative works based

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upon, distribute copies of, perform and display the pre-existing element, and to authorize others to do the same on HECC's behalf.

- 9.3 If state or federal law requires that HECC or Grantee grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires that HECC or the United States own the intellectual property in the Work Product, then Grantee shall execute such further documents and instruments as HECC may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or HECC.
- 9.4 The Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: i) the copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant; and ii) any rights of copyright to which the recipient, subrecipient or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. Federal funds may not be used to pay any royalty or license fee for use of a copyrighted work, or the cost of acquiring by purchase a copyright in a work, where the Department has a license or rights of free use in such work, although they may be used to pay costs for obtaining a copy which is limited to the developer/seller costs of copying and shipping. If revenues are generated by selling products developed with grant funds, including intellectual property, these revenues are considered as program income. Therefore, program income must be used in accordance with the provisions of this grant award and 2 CFR 200.307. If applicable, the following needs to be on all products developed in whole or in part with grant funds:

***“This workforce product was funded by a grant awarded by the U.S. Department of Labor’s Employment and Training Administration. The product was created by the recipient and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This product is copyrighted by the institution that created it.”***

- 9.5 All small business firms, and non-profit organizations (including Institutes of Higher Education) must adhere to the Bayh Dole Act, which requirements are provided at 37 CFR 401.3(a) and at <https://doleta.gov/grants/pdf/BayhDoleGrantTerm.pdf>. To summarize, these requirements describe the ownership of Intellectual Property rights and the government’s nonexclusive, nontransferable, irrevocable, paid-up license to use any invention conceived or first actually reduced to practice in the performance of work under

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this grant. These requirements are in addition to those found in the Intellectual Property Rights term provided in this document.

- 9.6** As required at 2 CFR 2900.13, any intellectual property developed under a competitive award process must be licensed under a Creative Commons Attribution 4.0 (CC BY) license, which allows subsequent users to copy, distribute, transmit and adapt the copyrighted work and attribute the work in the manner specified by the recipient. For general information on CC BY, please visit <http://creativecommons.org/licenses/by/4.0>. The Instructions for marking your work with CC BY can be found at [http://wiki.creativecommons.org/Marking\\_your\\_work\\_with\\_a\\_CC\\_license](http://wiki.creativecommons.org/Marking_your_work_with_a_CC_license).

**SECTION 10: INDEMNIFICATION**

- 10.1** Grantee shall defend, save, hold harmless, and indemnify the State of Oregon and HECC and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney’s fees, resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subcontractors, or agents under this Agreement or in connection with the Project.
- 10.2** Grantee will have control of the defense and settlement of any claim that is subject to this Section. But neither Grantee nor any attorney engaged by Grantee may defend the claim in the name of the State of Oregon or any of its agencies, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Nor may Grantee settle any claim on behalf of the State of Oregon or any of its agencies without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon’s interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

**SECTION 11: BACKGROUND CHECK/CRIMINAL HISTORY VERIFICATION**

This Section 11 is only applicable to Grantee if their employee, potential employee, or volunteer will be interacting unsupervised and in-person with “Vulnerable Populations” (defined as minors, elderly, and persons with disabilities) in the completion of the Project Activities under this Agreement.

- 11.1** To the extent permitted by law, Grantee shall obtain a criminal history record check on any employee, potential employee or volunteer working with Vulnerable Populations and funded with resources from this Grant, as follows:
- 11.1.1** By having the applicant as a condition of employment or volunteer service, apply for and

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receive a criminal history check from a local Oregon State Police office and furnish a copy thereof to Grantee; or

- 11.1.2** As the employer, by contacting a local Oregon State Police office for an “Oregon only” criminal history check on the applicant/employee/volunteer; or
  - 11.1.3** By use of another method of criminal history verification that is at least as comprehensive as those described in Sections 11.1.1 and 11.1.2 above.  
A criminal record check will indicate convictions of child abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of an employee or volunteer scheduled to work with Vulnerable Populations.
- 11.2** To the extent permitted by law, in addition to information resulting from checks or screening required by applicable federal, state, tribal, or local law, and/or by Grantee’s written policies and procedures, current and appropriate information includes the results of public sex offender and child abuse websites/registries. A search (by current name, and, if applicable, by previous name(s) or aliases), of the pertinent and reasonably- accessible federal, state, and (if applicable) local and tribal sex offender and child abuse websites/public registries, including:
- 11.2.1** The Dru Sjodin National Sex Offender Public Website ([www.nsopw.gov](http://www.nsopw.gov));
  - 11.2.2** The website/public registry for each state (and/or tribe, if applicable) in which the individual lives, works, or goes to school, or has lived, worked, or gone to school at any time during the past five years; and
  - 11.2.3** The website/public registry for each state (and/or tribe, if applicable) in which the individual is expected to, or reasonably likely to, interact with a participating Vulnerable Populations in the course of activities under the award.
- 11.3** Grantee shall develop a policy or procedures to review criminal arrests or convictions of employees, potential employees or volunteers. The review must examine:
- 11.3.1** The severity and nature of the crime;
  - 11.3.2** The number of criminal offenses;
  - 11.3.3** The time elapsed since commission of the crime;
  - 11.3.4** The circumstances surrounding the crime;
  - 11.3.5** The subject individual’s participation in counseling, therapy, education or employment

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evidencing rehabilitation or a change in behavior; and

- 11.3.6** The police or arrest report confirming the subject individual's explanation of the crime.
- 11.4** Grantee must determine after receiving the criminal history check whether the employee, potential employee or volunteer has been convicted of child abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of an employee, or volunteer scheduled to work with Vulnerable Populations, and whether based upon the conviction the person poses a risk to working safely with Vulnerable Populations. If Grantee intends to hire or retain the employee, potential employee, or volunteer, Grantee must confirm in writing the reasons for hiring or retaining the individual. These reasons must address how the applicant, employee, or volunteer is presently suitable or able to work with Vulnerable Populations in a safe and trustworthy manner, based on the policy or procedure described in the preceding paragraphs of this Section. Grantee will ensure that all information related to the criminal background check of the applicant, employee, or volunteer is filed and retained in the appropriate file.
- 11.5** Grantee must make determinations of suitability, in advance, before individuals may interact with participating Vulnerable Populations, regardless of the individual's employment status. All required background check information must be completed before the determination regarding suitability.

## **SECTION 12: GRANTEE DEFAULT**

Grantee will be in default under this Agreement upon the occurrence of any of the following events:

- 12.1** Grantee fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
- 12.2** Any representation, warranty or statement made by Grantee in this Agreement or in any documents or reports relied upon by HECC to measure the activities under this Agreement, the expenditure of Grant Funds or the performance by Grantee is untrue in any material respect when made;
- 12.3** Grantee (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the U.S. Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the U.S. Bankruptcy Code (as now or hereafter in effect), or (h) takes any action for the purpose of effecting any of the foregoing;

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- 12.4** A proceeding or case is commenced, without the application or consent of Grantee, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Grantee, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Grantee or of all or any substantial part of its assets, or (c) similar relief in respect to Grantee under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Grantee is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect); or
- 12.5** Grantee uses or expends Grant Funds for any purpose other than that permitted in this Agreement.

## **SECTION 13: HECC DEFAULT**

HECC will be in default under this Agreement if HECC fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

## **SECTION 14: REMEDIES**

- 14.1** In the event Grantee is in default under Section 12, HECC may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of its obligations under this Agreement pursuant to Section 18, (b) reducing or withholding disbursement of Grant Funds, (c) requiring Grantee to complete, at Grantee's expense, additional activities necessary to satisfy its obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, (e) exercise of its right of recovery of overpayments under Section 15 of this Agreement or setoff, or both, or (f) declaring Grantee ineligible for the receipt of future awards from HECC. These remedies are cumulative to the extent the remedies are not inconsistent, and HECC may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 14.2** In the event HECC is in default under Section 13 and whether or not Grantee elects to exercise its right to terminate this Agreement under Section 18.3, or in the event HECC terminates this Agreement under Sections 18.2.1, 18.2.2, 18.2.3, or 18.2.5, Grantee's sole monetary remedy will be for reimbursement of Project activities completed and accepted by HECC, within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, less any claims HECC has against Grantee under this Agreement. In no event will HECC be liable to Grantee for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Grantee exceed the amount due to Grantee under this Section 14.2, Grantee shall promptly pay any excess to HECC.

## **SECTION 15: RECOVERY OF GRANT FUNDS**

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Any Grant Funds disbursed to Grantee under this Agreement that exceed the amount to which Grantee is entitled, or are expended in violation or contravention of one or more of the provisions of this Agreement, or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to HECC unless otherwise agreed to by HECC in writing.

**SECTION 16: LIMITATION OF LIABILITY**

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

**SECTION 17: INSURANCE**

Grantee shall maintain insurance as set forth in Exhibit C.

**SECTION 18: TERMINATION**

**18.1** This Agreement may be terminated at any time by mutual written consent of the Parties.

**18.2** HECC may terminate this Agreement as follows:

**18.2.1** Upon 30 days advance written notice to Grantee;

**18.2.2** Immediately upon written notice to Grantee, if HECC fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in HECC's reasonable administrative discretion, to perform its obligations under this Agreement;

**18.2.3** Immediately upon written notice to Grantee, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that HECC's performance under this Agreement is prohibited or HECC is prohibited from paying for such performance from the planned funding source;

**18.2.4** Immediately upon written notice to Grantee, if Grantee is in default under this Agreement and such default remains uncured 30 days after written notice thereof to Grantee; or

**18.2.5** As otherwise expressly provided in this Agreement.

**18.3** Grantee may terminate this Agreement as follows:

**18.3.1** Immediately upon written notice to HECC, if HECC is in default under this Agreement and

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such default remains uncured 30 days after written notice thereof to HECC; or

**18.3.2** As otherwise expressly provided in this Agreement.

**18.4** Upon receiving a notice of termination of this Agreement, Grantee will immediately cease all activities under this Agreement, unless HECC expressly directs otherwise in such notice. Upon termination, Grantee will deliver to HECC all documents, information, works-in-progress, work product and other property that are or would be deliverables under the Agreement. And upon HECC's reasonable request, Grantee will surrender all documents, research or objects or other tangible things needed to complete the Project activities that were to have been performed by Grantee under this Agreement.

## **SECTION 19: CONFLICT OF INTEREST**

If Grantee is currently performing work for the State of Oregon or the federal government, Grantee by signature to this Agreement declares and certifies that Grantee's activities under this Agreement and the Projects activities to be funded by this Agreement, create no potential or actual conflict of interest as defined by ORS Chapter 244.

## **SECTION 20: NONAPPROPRIATION**

HECC's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon HECC receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow HECC, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of HECC.

## **SECTION 21: AMENDMENTS**

The terms of this Agreement may only be altered, modified, supplemented or otherwise amended by written agreement signed by authorized representatives of both Parties, unless explicitly stated in other sections of this Agreement.

## **SECTION 22: NOTICE**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Grant Administrator at the physical address or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 22. Any notice so addressed and mailed becomes effective five days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

## **SECTION 23: SURVIVAL**

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 6.5, 6.6, 8, 9, 10, 14, 15, 16, 23 and 34 hereof and those rights and obligations that by their express terms survive termination of this Agreement, such as any report required to be submitted after the termination date; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

## **SECTION 24: 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 will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

## **SECTION 25: COUNTERPARTS**

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

## **SECTION 26: COMPLIANCE WITH LAW**

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law. Including but not limited to:

- 26.1** Grantee shall, throughout the duration of this Agreement, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state.
- 26.2** Grantee shall comply with ORS 652.220 and shall not discriminate against any of Grantee's employees in the payment of wages or other compensation for work of comparable character, the performance of which requires comparable skills, or pay any employee at a rate less than another for comparable work, based on an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. Grantee's compliance with this section constitutes a material element of this Agreement

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and a failure to comply constitutes a breach that entitles HECC to terminate this Agreement for cause.

- 26.3** If any of the Project Activities described in Exhibit A involve the hiring of minors, Grantee must comply with all federal and state laws applicable to minor workers. See State of Oregon BOLI website: <https://www.oregon.gov/boli/employers/Pages/minor-workers.aspx>

**SECTION 27: INDEPENDENT CONTRACTORS**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Grantee is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

**SECTION 28: INTENDED BENEFICIARIES**

HECC and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

**SECTION 29: FORCE MAJEURE**

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by any and all unforeseen fire, riot, civil unrest, labor unrest, pandemic, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of the Project activities under this Agreement. HECC may terminate this Agreement upon written notice to Grantee after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

**SECTION 30: ASSIGNMENT AND SUCCESSORS IN INTEREST**

Grantee may not assign or transfer its interest in this Agreement without the prior written consent of HECC and any attempt by Grantee to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. HECC's consent to Grantee's assignment or transfer of its interest in this Agreement will not relieve Grantee of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

**SECTION 31: SUBCONTRACTS AND SUBGRANTS**

**GRANT #**

Grantee shall not, without HECC's prior written consent, enter into any subcontracts or subgrants for any of the Project activities required of Grantee under this Agreement. HECC's consent to any subcontract or subgrant will not relieve Grantee of any of its duties or obligations under this Agreement.

**SECTION 32: TIME IS OF THE ESSENCE**

Time is of the essence in Grantee's performance of the Project activities under this Agreement.

**SECTION 33: MERGER, WAIVER**

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties or otherwise agreed to as explicitly stated in other sections of this Agreement. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

**SECTION 34: RECORDS MAINTENANCE AND ACCESS**

Grantee shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Grantee shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Grantee, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Grantee performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Grantee, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Grantee acknowledges and agrees that HECC and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Grantee shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, Grantee shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

**SECTION 35: PUBLIC RECORDS**

All information and records submitted to HECC are subject to the Public Records Law, ORS 192.311 to 192.478, and may be subject to disclosure. If Grantee believes that any information or records it submits to HECC may be a trade secret under ORS 192.345(2), or otherwise is exempt from disclosure under the Oregon Public Records Law, Grantee must identify such information with particularity and include the following statement:

**GRANT #**

“This data is exempt from disclosure under the Oregon Public Records Law pursuant to ORS 192.[insert], and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS 192.311 through 192.478.”

If Grantee fails to identify with particularity the portions of such information that Grantee believes are exempt from disclosure, Grantee is deemed to waive any future claim of non-disclosure of that information.

**SECTION 36: HEADINGS**

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

**SECTION 37: AGREEMENT DOCUMENTS**

This Agreement consists of the following documents, which are listed in descending order of precedence:

- This Agreement less all exhibits,
- Attached Exhibit A (the “Project”)
- Exhibit B, (“Assurances and Certifications”)
- Exhibit C, (“Required Insurance”)

**SECTION 38: SIGNATURES**

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. The Parties agree that by the exchange of this Agreement electronically, each has agreed to the use of electronic means. By inserting an electronic signature below, each authorized representative acknowledges that it is their signature, that each intends to execute this Agreement and that their electronic signature should be given full force and effect to create a valid and legally binding contract.

**SIGNATURE PAGE FOLLOWS**

**GRANT #**

Grantee

**By:** \_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

**HIGHER EDUCATION COORDINATING COMMISSION**

**By:** \_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

**HECC - Review for procurement sufficiency**

**Reviewed by:** \_\_\_\_\_  
Derek Dizney, Procurement Manager

\_\_\_\_\_  
Date

**DOJ - Review for legal sufficiency**

**By:** \_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

# EXHIBIT A

## THE PROJECT

Insert description of Project activities to be performed by Grantee. The headings show below are examples; modify as needed.

### **Part 1 - General Info**

### **Part 2 - Background and Goals**

### **Part 3 - Project Activities**

### **Part 4 - Project Schedule and Budget**

The Parties agree that Grantee's Project budget is estimated. With prior written consent from HECC, minor modifications (up to 10% of the total amount of this Agreement) to adjust line item amounts can be made without requiring an amendment to this Agreement, however, in no instance shall HECC's payments to Grantee exceed the amount identified in Section 6 of this Agreement. Email approval is acceptable for minor modifications.

### **Part 5 - Project Evaluation/ Reporting Requirements**

## EXHIBIT B

### ASSURANCES AND CERTIFICATIONS

By signing the Agreement, Recipient hereby certifies and assures that it will fully comply with the following, as applicable:

- A. Assurances - Non-Construction Programs (SF 424 B)**
- B. Certification Regarding Debarment and Suspension. (29 CFR Part 98)**
- C. Certification Regarding Lobbying (29 CFR Part 93)**
- D. Drug Free Workplace Certification (29 CFR Part 98)**
- E. Nondiscrimination & Equal Opportunity Assurance (29 CFR Part 37)**
- F. Certification U.S. DOL Contract Provisions and Record Retention and Access Requirements**

**A. ASSURANCES - NON-CONSTRUCTION PROGRAMS. NOTE:** Certain of these Assurances may not be applicable to your project or program. If you have questions, please contact HECC.

As the duly authorized representative of Recipient, I certify that Recipient:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
  - a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;
  - b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex;
  - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;

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- d. the Age Discrimination Act of 1975, as amended (42 U. S.C. §§6101-6107), which prohibits discrimination on the basis of age;
  - e. the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
  - f. the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - g. §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
  - h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
  - i. any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
  - j. the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis- Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327- 333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

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13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from;
  - a. Engaging in severe forms of trafficking in persons during the period of time that the award is in effect,
  - b. Procuring a commercial sex act during the period of time that the award is in effect, or
  - c. Using forced labor in the performance of the award or subawards under the award.

**B. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS.**

1. As required by Executive Order 12549, Debarment and Suspension, the prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a three-year period preceding this proposal been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (B) of this certification; and,
  - d. Have not within a three-year period preceding this application/proposal had one or more public

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transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal [or plan].

**C. CERTIFICATION REGARDING LOBBYING** - Certification for Contracts, Grants, Loans, and Cooperative Agreements.

As the duly authorized representative of Recipient, I certify that to the best of my knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**D. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS.**

Recipient certifies that it will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about:
  - a. The dangers of drug abuse in the workplace;
  - b. Recipient's policy of maintaining a drug-free workplace;
  - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
  - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (1);

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4. Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the Contract, the employee will:
    - a. Abide by the terms of the statement; and
    - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
  5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (4) (B) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number (s) of each affected Contract;
  6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (4) (b), with respect to any employee who is so convicted:
    - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
    - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5) and (6).
  8. Recipient may insert in the space provided below the site(s) for the performance of work done in connection with the specific Contract:
  9. Place of Performance (Street address, city, county, state, zip code):
- 

Check ( ) if there are workplaces on file that are not identified here.

**E. NONDISCRIMINATION & EQUAL OPPORTUNITY ASSURANCE:**

*Note: This particular assurance (portions which are duplicated elsewhere in other assurances) is applicable to the extent that the program activities are conducted with Federal grant funding (See 29 CFR 37.2).*

As a condition to the award of financial assistance from the Department of Labor under Title I of WIA WIOA, the grant Recipient or participant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

1. Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title IB financially assisted program or activity;
2. Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin;
3. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against

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qualified individuals with disabilities;

4. The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
5. Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant Recipient or participant also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant Recipient or participant's operation of the WIOA Title IB financially assisted program or activity, and to all agreements the grant Recipient or participant makes to carry out the WIOA Title IB financially assisted program or activity. The grant Recipient or participant understands that the United States has the right to seek judicial enforcement of this assurance.

**F. CERTIFICATION U.S. DOL CONTRACT PROVISIONS AND RECORD RETENTION AND ACCESS REQUIREMENTS:**

Recipient certifies that under this Grant that it will comply with the following provisions, as required by Title 29 CFR Part 200.318-326 and Appendix II (Contract Provisions); and Part 200.333-337 (Retention and access requirements for records). Recipient further certifies that it will apply the following provisions of 29 CFR 200.326 and 200.333-337 to, and include them in, all subcontracts for which Recipient shall make payment, in whole or in part, with funds received under this Grant:

**1. 2 CFR Section 200 Part 322, 324, and 326**

**§200.322 Procurement of recovered materials.**

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

**§200.324 Federal awarding agency or pass-through entity review.**

- a. The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- b. The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
  - i. The non-Federal entity's procurement procedures or operation fails to comply with the

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- procurement standards in this part;
- ii. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
  - iii. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;
  - iv. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
  - v. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- c. The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this Section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
- i. The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
  - ii. The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

**§200.326 Contract provisions.**

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

**Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- a. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- b. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- c. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as

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amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

- d. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- f. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- g. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

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- h. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- i. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- j. See §200.322 Procurement of recovered materials

## 2. 2 CFR Part 200 Section 333-337 Record Retention and Access

If the record retention provisions in Section 12 of the Agreement require record retention for longer than required by 2 CFR §200.333, Section 12 governs.

### §200.333 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

- a. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- b. When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- c. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
- d. When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.
- e. Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.
- f. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation

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plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

- iii. If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
- iv. If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

### **§200.334 Requests for transfer of records.**

The Federal awarding agency must request transfer of certain records to its custody from the non-Federal entity when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.

### **§200.335 Methods for collection, transmission and storage of information.**

In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

### **§200.336 Access to records.**

- a. Records of non-Federal entities. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.
- b. Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

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- c. Expiration of right of access. The rights of access in this Section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

**§200.337 Restrictions on public access to records.**

No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under §200.315 Intangible property. Unless required by Federal, state, local, and tribal statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

## EXHIBIT C

### REQUIRED INSURANCE

**INSURANCE REQUIREMENTS**

Grantee shall obtain, at Grantee's expense, the insurance specified in this Exhibit C prior to performing under this Agreement and shall maintain it in full force and at its own expense throughout the duration of this Agreement, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Grantee shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon ("State") and that are acceptable to HECC. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Grantee shall pay for all deductibles, self-insured retention and self-insurance, if any.

**WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

All employers, including Grantee, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Grantee shall require and ensure that each of its subcontractors or subgrantee complies with these requirements. If Grantee is a subject employer, as defined in ORS 656.023, Grantee shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. Grantee is an employer subject to any other state's workers' compensation law, Grantee shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

**COMMERCIAL GENERAL LIABILITY:**

**Required**  **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$1,000,000.

**AUTOMOBILE LIABILITY INSURANCE:**

**Required**  **Not required**

Automobile Liability Insurance covering Grantee's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

**PHYSICAL ABUSE AND SEXUAL MOLESTATION LIABILITY:**

**Required**  **Not required**

Abuse and Molestation Insurance in a form and with coverage that are satisfactory to HECC covering damages arising out of actual, perceived, or threatened physical abuse, mental injury, sexual molestation, negligent:

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hiring, employment, supervision, training, investigation, reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not limited to Contractor and Contractor's employees and volunteers. Policy endorsement's definition of an insured shall include the Contractor, and the Contractor's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. These limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.

**PROFESSIONAL LIABILITY:**

Required  Not required

Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability Insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

**EXCESS/UMBRELLA INSURANCE:**

A combination of primary and excess/ umbrella insurance may be used to meet the required limits of insurance.

**TAIL COVERAGE:**

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of (i) Contractor's completion and HECC's acceptance of all Services required under this Contract, or, (ii) HECC or Contractor termination of contract, or, iii) The expiration of all warranty periods provided under this Contract.

**CERTIFICATE(S) AND PROOF OF INSURANCE:**

Grantee shall provide to HECC Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Agreement. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/ umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/ umbrella insurance. As proof of insurance HECC has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Agreement.

**NOTICE OF CHANGE OR CANCELLATION:**

Grantee or its insurer must provide at least 30 days' written notice to HECC before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**INSURANCE REQUIREMENT REVIEW:**

Grantee agrees to periodic review of insurance requirements by HECC under this Grantee and to provide updated requirements as mutually agreed upon by Grantee and HECC.

**STATE ACCEPTANCE:**

All insurance providers are subject to HECC acceptance. If requested by HECC, Grantee shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to HECC's representatives responsible for verification of the insurance coverages required under this Exhibit C.

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## EXHIBIT C

### CONTRIBUTION LANGUAGE

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third-Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third-Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third-Party Claim. Either party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third-Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third-Party Claim.

With respect to a Third-Party Claim for which HECC is jointly liable with Grantee (or would be if joined in the Third-Party Claim), HECC shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Grantee in such proportion as is appropriate to reflect the relative fault of HECC on the one hand and of Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of HECC on the one hand and of Grantee on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. HECC's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if HECC had sole liability in the proceeding.

With respect to a Third-Party Claim for which Grantee is jointly liable with HECC (or would be if joined in the Third-Party Claim), Grantee shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by HECC in such proportion as is appropriate to reflect the relative fault of Grantee on the one hand and of HECC on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Grantee on the one hand and of HECC on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

Grantee shall take all reasonable steps to cause its contractor(s) that are not units of Local Government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee's contractor or any of the officers, agents,

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employees or subcontractors of the contractor( "Claims"). It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.