

# **SALEM FIRE DEPARTMENT FIRE ADAPTED HOME AGREEMENT**

Agreement No. PO-25700-00017551

This Agreement is between the State of Oregon acting by and through its Oregon State Fire Marshal's Office ("Agency") and Salem Fire Department ("Local Government") each a "Party" and, together, the "Parties".

## **SECTION 1: AUTHORITY**

This Agreement is authorized by ORS 190.110 and Section 8, 9, and 53 of SB 762 (2021), allowing OSFM to enter into agreements with entities to support community risk reduction programs.

## **SECTION 2: PURPOSE**

The purpose of this Agreement is to clearly define the responsibilities of each Party. Local Government shall use funds provided by the Office of State Fire Marshal to emphasize education and methods of prevention with respect to wildfire risk, defensible space, and community preparedness for ("the Project").

## **SECTION 3: EFFECTIVE DATE AND DURATION**

This Agreement is effective on the date of the last signature, whichever occurs last ("Effective Date") and terminates on June 30, 2024, unless terminated earlier in accordance with Section 15.

## **SECTION 4: AUTHORIZED REPRESENTATIVES**

### **4.1 Agency's Authorized Representative is:**

Fraser Wick, Community Risk Reduction Program Analyst  
3565 Trelstad Ave. S  
Salem, Oregon 97317  
Phone: (503) 934-8283  
Email: Fraser.Wick@osp.oregon.gov

### **4.2 Salem Fire Department Authorized Representative is:**

Brian Carrara  
370 Trade St. SE  
Salem, Oregon 97301  
Phone: (503) 393-2578  
Email: bcarrara@cityofsalem.net

### **4.3 A Party may designate a new Authorized Representative by written notice to the other Party.**

## **SECTION 5: RESPONSIBILITIES OF EACH PARTY**

- 5.1** Local Government shall, to the satisfaction of Agency, perform outreach methods to emphasize education, methods of prevention with respect to wildfire risk, defensible space, and community preparedness for wildfire in accordance with the Statement of Work as set forth in Exhibit A, attached hereto and incorporated herein by this reference.
- 5.2** Agency shall pay Local Government as described in Section 6.

## **SECTION 6: COMPENSATION AND PAYMENT TERMS**

- 6.1** Agency shall pay Local Government a Not to Exceed ("NTE") sum of \$10,000.00 for the Project. Agency will not pay Local Government any amount in excess of the NTE compensation of this Agreement and will not pay for any work performed before the Effective Date or after the expiration or termination of this Agreement. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Local Government performs work subject to the amendment.
- 6.2** Upon and after execution of the Agreement, Local Government shall submit invoices to Agency in advance of expenditures incurred, up to \$10,000.00, in furtherance of the Project and in accordance with the Statement of Work. The invoices must describe all work to be performed with particularity and shall itemize and explain all expenses that this Agreement requires Agency to pay and for which Local Government claims reimbursement. Agency will not pay or reimburse any expenses incurred by Local Government during the term of this Agreement, except as authorized in the Statement Work or elsewhere in this Agreement. Funds are to be used in accordance with Exhibit A, Statement of Work, and in furtherance of the Project.
- 6.3** The invoice is subject to approval by Agency and must include a clear explanation and budget of how the funds will be used. If approved by Agency, Local Government shall expend funds received in accordance with the approval. Any funds expended by Local Government in a manner that does not comport with Agency's approval may be subject to immediate recovery by Agency in accordance with Section 12 of this Agreement.

## **SECTION 7: REPRESENTATIONS AND WARRANTIES**

Local Government represents and warrants to Agency that:

- 7.1** The making and performance by Local Government of this Agreement, (a) have been duly authorized by Local Government, (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 Local Government charter or other organizational document and, (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Local Government is party or by which Local Government may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governing body or regulatory or supervisory authority is required for the execution, delivery or performance by Local Government of this Agreement, other than those that have already been obtained;
- 7.2** This Agreement has been duly executed and delivered by Local Government and

constitutes a legal, valid and binding obligation of Local Government enforceable in accordance with its terms;

- 7.3** Local Government shall, at all times during the term of this Agreement, be professionally competent, to perform its obligations under this Agreement.

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 Local Government.

## **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 Agency or any other agency or department of the State of Oregon, or both, and Local Government 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. LOCAL GOVERNMENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

## **SECTION 9: CONTRIBUTION**

- 9.1** 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 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each 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 Section and a 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 contribution obligation under this Section 9 with respect to the Third Party Claim.
- 9.2** With respect to a Third Party Claim for which Agency is jointly liable with Local Government (or would be if joined in the Third Party Claim ), Agency shall contribute to the amount of expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of Local Government on the other hand in connection with the events that resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of Local Government 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. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

- 9.3** With respect to a Third Party Claim for which Local Government is jointly liable with Agency (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of Local Government on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Local Government on the one hand and of Agency 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. Local Government contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

## **SECTION 10: LOCAL GOVERNMENT DEFAULT**

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

- 10.1** Local Government fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
- 10.2** Any representation, warranty or statement made by Local Government in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by Local Government is untrue in any material respect when made;
- 10.3** Local Government(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 Federal 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 Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or

A proceeding or case is commenced, without the application or consent of Local Government, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Local Government, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Local Government or of all or any substantial part of its assets, or (c) similar relief in respect to Local Government 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 Local Government is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

## **SECTION 11: AGENCY DEFAULT**

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

## **SECTION 12: REMEDIES**

- 12.1** In the event Local Government is in default under Section 7 or Section 10 of this Agreement, Agency 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 this Agreement under Section 15, (b) reducing or withholding payment that Local Government has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 13 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 12.2** In the event Agency is in default under Section 11 and whether or not Local Government elects to exercise its right to terminate this Agreement under Section 15.3.3, or in the event Agency terminates this Agreement under Sections 15.2.1, 15.2.2, 15.2.3, or 15.2.5. In no event will Agency be liable to Local Government for any expenses related to termination of this Agreement.

## **SECTION 13: RECOVERY OF OVERPAYMENTS**

If payments to Local Government under this Agreement, or any other agreement between Agency and Local Government, exceed the amount to which Local Government is entitled, Agency may, after notifying Local Government in writing, withhold from payments due Local Government under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

## **SECTION 14: LIMITATION OF LIABILITY**

EXCEPT FOR LIABILITY TO THIRD PERSONS ARISING UNDER OUT OF OR RELATED TO SECTION 16, NEITHER PARTY WILL BE LIABLE TO THE OTHER 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 15: TERMINATION**

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

**15.2** Agency may terminate this Agreement as follows:

- 15.2.1** Upon 30 days advance written notice to Local Government;
- 15.2.2** Immediately upon written notice to Local Government, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;
- 15.2.3** Immediately upon written notice to Local Government, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited, or Agency is prohibited from paying for such performance from the planned funding source;
- 15.2.4** Immediately upon written notice to Local Government, if Local Government is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Local Government; or
- 15.2.5** As otherwise expressly provided in this Agreement.

**15.3** Local Government may terminate this Agreement as follows:

- 15.3.1** Immediately upon written notice to Agency, if Local Government fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Local Government's reasonable administrative discretion, to perform its obligations under this Agreement;
- 15.3.2** Immediately upon written notice to Agency, if federal or state laws, rules, regulations, or guidelines are modified or interpreted in such a way that Local Government's performance under this Agreement is prohibited, or Local Government is prohibited from paying for such performance from the planned funding source;
- 15.3.3** Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or
- 15.3.4** As otherwise expressly provided in this Agreement.  
Upon receiving a notice of termination of this Agreement, Local Government will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, Local Government will deliver to Agency all documents, information, product, and other property that are or would be deliverables under the Agreement. And upon Agency's reasonable request, Local Government will surrender all documents, research or objects or other tangible things needed to complete the project that was to have been provided by Local Government under this Agreement.

## **SECTION 16: INDEMNIFICATION**

Subject to the limits of the Oregon Tort Claims Act, ORS 30.260 *et. seq.* Local Government shall defend, save, hold harmless, and indemnify the State of Oregon and Agency 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 Local Government or its officers, employees, subcontractors, or agents under this Agreement.

Subject to Section 9, Local Government will have control of the defense and settlement of any claim that is subject to this Section 16. But neither Local Government nor any attorney engaged by Local Government may defend the claim in the name of the State of Oregon, 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 Local Government settle any claim on behalf of the State of Oregon 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 Local Government 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 at the State of Oregon desires to assume its own defense.

## **SECTION 17: INSURANCE**

With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim), the State 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 the County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the County 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 the State on the one hand and of the County 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. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

## **SECTION 18: NONAPPROPRIATION**

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, 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 Agency.

## **SECTION 19: AMENDMENTS**

The terms of this Agreement may not be altered, modified, supplemented, or otherwise amended, in any manner whatsoever, except by written agreement of the Parties.

## **SECTION 20: NOTICE**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement shall be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to a Party's Authorized Representative at the address, number or email address set forth in this Agreement, or to such other addresses or numbers as a Party may indicate pursuant to this Section 20.

## **SECTION 21: 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 7, 8, 9, 12, 14, 16, 17 and 21 hereof and those rights and obligations that by their express terms survive termination of this Agreement; 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 22: 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 23: 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 24: COMPLIANCE WITH LAW**

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state, and local law and regulations. Local Government shall cause all subcontractors to comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to this Agreement and the performance of the Statement of Work in furtherance of the Project.

## **SECTION 25: INTENDED BENEFICIARIES**

Agency and Local Government 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 26: FORCE MAJEURE**

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, 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 its obligations under this Agreement. Agency may terminate this Agreement upon written notice to Local Government after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

## **SECTION 27: ASSIGNMENT AND SUCESSORS IN INTEREST**

Local Government may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Local Government to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Local Government's assignment or transfer of its interest in this Agreement will not relieve Local Government 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 28: SUBCONTRACTS**

Local Government shall not, without Agency's prior written consent, enter into any subcontracts for any of the work required of Local Government under this Agreement. Agency's consent to any subcontract will not relieve Local Government of any of its duties or obligations under this Agreement.

## **SECTION 29: TIME IS OF THE ESSENCE**

Time is of the essence in Local Government's performance of its obligations under this Agreement.

## **SECTION 30: 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. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. 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.

## **SECTION 31: RECORDS**

The Parties shall create and maintain records documenting their performance under this Agreement. The Oregon Secretary of State's Office, the federal government, the other Party, and their duly authorized representatives shall have access to the books, documents, papers, and records of a Party that are directly related to this Agreement for the purposes of making audit, examination, excerpts, and transcripts for a period of six years after termination of this Agreement.

## **SECTION 32: 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 33: 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 (Statement of Work), Exhibit B (Insurance Certification) Exhibit C (Subcontractor Insurance) and Exhibit D (Additional Requirements).

## **SECTION 34: SIGNATURES**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

**STATE OF OREGON acting by and through its Oregon State Police, Office of State Fire Marshal**

\_\_\_\_\_  
Shirley Smith, DPO

\_\_\_\_\_  
Date

**Salem Fire Department**

\_\_\_\_\_  
Keith Stahley, City Manager

\_\_\_\_\_  
Date

**Exempt from Legal Sufficiency in accordance with ORS190.430**

## **EXHIBIT A**

### **STATEMENT OF WORK**

Salem Fire Department (Local Government) shall provide Agency, once pilot project is completed, a summary of the items completed and final report via email to: [stephanie.stafford@osp.oregon.gov](mailto:stephanie.stafford@osp.oregon.gov) by June 30, 2024.

#### **Section 1 PILOT PROJECT:**

The pilot project provides the Local Government with an outreach investment to emphasize education and methods of prevention with respect to wildfire risk, defensible space, and community preparedness for wildfires. The Local Government shall use the awarded \$10,000 to increase their wildfire community risk reduction activities and public outreach. Local Government will perform all aspects of the work themselves and no work shall be contracted out. The city shall perform activities such as Wildfire Awareness Days, and Wildfire Preparedness Days for education to the local community.

The City intends to use funds to perform Wildfire Awareness Days, Wildfire Preparedness Days and reach out to the community to educate them regarding wildfire risk, defensible space, community preparedness for wildfires.

Below are examples of allowable and non-allowable expenses:

Allowable expenses include the following:

- Supplies and materials to support prevention and/or education activities and events.
- Develop community risk reduction plans or other wildfire community risk reduction plans.
- Any other expenses directly related to wildfire risk reduction public events, outreach, or events.

Non-Allowable expenses:

- Funding shall not be used for emergency response resources such as PPE, Radios, response equipment, or response training.
- Personnel time
- Professional Services to develop plans.

Any items not listed must be preapproved by the Region Fire Risk Reduction Specialist.

#### **Deliverables:**

Each fire agency will assign a contact for the fire agency and maintain quarterly contact via email with the Fire Risk Reduction Specialist (Stephanie Stafford) and submit a final report (via email) to document their accomplishments. The final report will also include the following: what worked well with project, what needs improvement, and what other wildfire-related needs have been identified in your community?

**Fire Risk Reduction Specialist (FRRS) Role**

The FRRS would serve as the liaison and provide technical assistance to the fire agencies, maintain the status on projects, address any concerns, and collect reportable information from each fire agency.

**Timeline: Complete pilot project by June 30, 2024.****Section 2 BUDGET:**

Local Government shall be entitled to reimbursement for the Project as follows:

Agency may recover immediately from Local Government the amount of any funds expended by Local Government in a manner that does not comport with Agency's approval.

**THIS SECTION HAS BEEN INTENTIONALLY LEFT BLANK**

# EXHIBIT B

## INSURANCE CERTIFICATION



### CERTIFICATE OF INSURANCE COVERAGE

<b>ISSUED TO:</b> All State of Oregon agencies conducting official state business.	This certificate is issued pursuant to the State of Oregon Insurance Fund, <a href="#">ORS Chapter 278</a> , and the state self-insurance program.
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#### COVERAGES

This is to certify that the coverage indicated below is provided to State of Oregon agencies for the period indicated. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the coverage provided as described herein is subject to all the terms, exclusions, and conditions of the policy manuals issued by DAS Risk Management to the agency.

TYPE OF COVERAGE	EFFECTIVE DATE FOR LIMITS ONLY	EXPIRATION DATE FOR LIMITS ONLY	CURRENT YEAR LIMITS OF LIABILITY DESCRIPTION EACH OCCURRENCE
<b>GENERAL LIABILITY</b> (Refer to <a href="#">ORS 30.271</a> and <a href="#">30.273</a> ) <u>XX</u> Tort Claims Act Form <u>XX</u> Occurrence	July 1, 2022	June 30, 2023	Property damage Any single claimant \$ 128,400 All claimants \$ 641,800 All other Any single claimant \$ 2,347,700 All claimants \$ 4,695,300
<b>AUTOMOBILE LIABILITY</b> (Refer to <a href="#">ORS 30.271</a> and <a href="#">30.273</a> ) <u>XX</u> Owned Autos <u>XX</u> Hired Autos <u>XX</u> Non-Owned Autos <u>XX</u> Uninsured/Underinsured Motorist Coverage (UM/UIM)	July 1, 2022	June 30, 2023	Property damage Any single claimant \$ 128,400 All claimants \$ 641,800 All other Any single claimant \$ 2,347,700 All claimants \$ 4,695,300 UM/UIM Bodily injury to or death of one person in any one accident \$ 25,000 Bodily injury to or death of two or more persons in any one accident \$ 50,000
<b>PROPERTY</b> All Risk including Earthquake & Flood Extended Coverage	September 1, 2008	None	For most perils Deductible is: \$ 2,500

#### Description of certificate use:

This certificate of insurance coverage applies to active contracts and agreements that State of Oregon agencies are utilizing to conduct official state business between the dates of July 1, 2022 through June 30, 2023.

**Indemnification:** The State of Oregon shall indemnify, by the Oregon Insurance Fund to the limits of the Oregon Tort Claims Act, the entity that enters into a contract/agreement with a State of Oregon Agency against liability for damage to life or property arising out of the agency's activities or operations relating to the above described event, except for any liability arising out of the wrongful acts of employees or agents of the entity.

**Additional Insured:** If applicable, it is agreed that entities that are entering into a contract/agreement that specify additional insured status per the terms and conditions of contract/agreement are included as Additional Insured, to the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, [ORS 30.280-30.300](#), but only with respect to liability arising out of the activities or operations of the Agency.

**Lenders Loss Payable:** If applicable, lenders loss payable is per the terms and conditions of contract/agreement.

<b>ISSUED BY:</b> State of Oregon DAS Enterprise Goods & Services Risk Management PO Box 12009 Salem OR 97309	Anya Ivanov, Risk Analyst Authorized Representative 
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## EXHIBIT C

### SUBCONTRACTOR INSURANCE

("Local Government") shall require its first-tier contractor(s) ("Contractor") that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, CONTINUOUS CLAIMS MADE COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between Local Government and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. Local Government shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Local Government shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Local Government shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts or pursuing legal action to enforce the insurance requirements. In no event shall Local Government permit a contractor to work under a Subcontract when the Local Government is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

#### TYPES AND AMOUNTS

##### WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

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

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 \$2,000,000. Local government is self-insured and has provided coverage descriptions to the Agency. Agency has determined that this

Oregon Buys Posting # PO-25700-00017551  
provision has been satisfied.

**AUTOMOBILE LIABILITY INSURANCE:**

☐

☐ Required ☒ Not required

Automobile Liability Insurance covering Contractor'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.

**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 \$\_\_per claim. Annual aggregate limit shall not be less than \$\_\_\_\_\_. 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 and Subcontractors shall provide continuous claims made coverage as stated below.

**NETWORK SECURITY AND PRIVACY LIABILITY:**

☐ Required ☒ Not required

Contractor shall provide network security and privacy liability insurance for the duration of the contract and for the period of time in which Contractor (or its Business Associates or subcontractor(s)) maintains, possesses, stores or has access to agency or client data, whichever is longer, with a combined single limit of no less than

\$\_\_\_\_\_per claim or incident. This insurance shall include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of agency or client data (which may include, but is not limited to, Personally Identifiable Information ("PII"), Payment Card Data and Protected Health Information ("PHI")) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of agency data.

**POLLUTION LIABILITY:**

☐ Required ☒ Not required

Pollution Liability Insurance covering Contractor's or appropriate subcontractor's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Contractor, all arising out of the Goods delivered or Services (including transportation risk) performed under this Contract is required. Combined single limit per occurrence shall not be less than \$\_\_\_\_\_.

Annual aggregate limit shall not be less than \$\_\_\_\_\_.

An endorsement to the Commercial General Liability or Automobile Liability policy, covering Contractor's or subcontractor' liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related clean-up cost incurred by the Contractor that arise from the Goods delivered or Services (including transportation risk) performed by Contractor under this Contract is also acceptable.

**EXCESS/UMBRELLA INSURANCE:**

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

**ADDITIONAL COVERAGE REQUIREMENTS:**

Contractor's insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

**ADDITIONAL INSURED:**

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

**WAIVER OF SUBROGATION:**

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

**CONTINUOUS CLAIMS MADE COVERAGE:**

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Contractor's completion and Agency's acceptance of all Services required under the Contract, or
- (ii) Agency or Contractor termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

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

Local Government shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this contract. 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 Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

**NOTICE OF CHANGE OR CANCELLATION:**

The Contractor or its insurer must provide at least 30 days' written notice to Local Government

before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by Agency under this agreement and to provide updated requirements as mutually agreed upon by Contractor and Agency.

**EXHIBIT D**

**ADDITIONAL REQUIREMENTS**

**[RESERVED]**