

AGREEMENT FOR SERVICES
with Hold Harmless and Indemnification Provisions

FOR A MANAGED OUTREACH AND COMMUNITY RESOURCE
FACILITY IN SWEET HOME

THIS AGREEMENT is made by and between the City of Sweet Home, an Oregon municipal corporation, hereinafter "City" and Family Assistance and Resource Center Group (FAC) hereinafter "Contractor," jointly referred to as "Parties."

IN CONSIDERATION of the terms and conditions contained herein, the Parties agree as follows:

- 1) **Work to Be Performed**: Contractor shall provide all labor, services, and materials to satisfactorily complete the Scope of Services, attached as Exhibit A.
 - a. **Administration**. The City Manager or designee shall be the primary contact for Contractor. Upon notice from the City Manager or designee, Contractor shall commence work, perform the requested tasks in the Scope of Services, stop work, and promptly cure any failure in performance under this Agreement.
 - b. **Representations**. City has relied upon the qualifications of Contractor in entering into this Agreement. By execution of this Agreement, Contractor represents it possesses the ability, skill, and resources necessary to perform the work and is familiar with all current laws, rules, and regulations which reasonably relate to the Scope of Services.
 - c. **Standard of Care**. Contractor shall exercise the degree of skill and diligence normally employed by non-profit contractors engaged in the same activities and performing the same or similar services through its employees and volunteers at the time such services are performed.
 - d. **Modifications**. The Parties may modify this contract, including Scope of Services, by mutual agreement.
- 2) **Term of Contract**: This Agreement shall be in full force and effect upon execution and shall remain in effect until the Lease referred to below is terminated at which time it shall be terminated automatically without reference thereto when the Lease is terminated.
- 3) **Lease**: The parties hereto have entered into a Lease of real property titled Lease Agreement for City Real Property by FAC with Hold Harmless and Indemnification provisions which is hereby incorporated herein and made a part hereof as if fully set forth and herein referred to as "Lease".
- 4) **Compensation**: City will provide the land area (as set forth in Exhibit A of the Lease) for an outreach and resource facility known as the Managed Outreach and Community Resource Facility at 3225 Main Street, Sweet Home OR 97386 and in exchange Contractor will operate the facility on a day-to-day basis as an independent contractor as stated herein.

The Parties agree that the City will not and is not responsible for payment to Contractor

for its labor, services and/or materials at the outreach and resource facility and that it will look to its own sources of income to pay for the operation of the sleep center and facilities.

- 5) **Applicable Laws and Standards:** The Parties, in the performance of this Agreement, agree to comply with all applicable federal, state, and local laws and regulations. The Parties agree that the FAC shall form a seven-person committee of City Council member(s), Sweet Home Police Chief or designee, and private citizens as an oversight committee that shall make recommendations to the FAC on what rules, policies, and regulations to use in the operation of the Managed Outreach and Community Resource Facility. The Committee shall be known as the Policy Board. FAC agrees to provide the City with a Policy Manual that covers the rules, policies and regulations that shall be used at the said facility for the committee to review. The Policy Manual shall be approved by both the governing body of the FAC and the Sweet Home City Council. The FAC employees and volunteers shall have the authority to enforce said Policy Manual provisions. The parties recognize that the Sweet Home Community Health Committee will operate as an oversight committee for City of the FAC operations upon the City property.
- 6) **Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primacy Covered Transactions:**
- a. By executing this Agreement, the Contractor certifies to the best of its knowledge and belief that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - ii. Have not within a three-year period preceding this proposal been convicted of 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;
 - iii. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (a)(ii) of this certification; and
 - iv. Have not within a three-year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.

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 Agreement.

- 7) **Relationship of the Parties:** It is understood and agreed that Contractor shall be an

independent contractor and not the agent or employee of City. Any and all employees or volunteers who provide services to Contractor under this Agreement shall be deemed employees or volunteers solely of Contractor. The Contractor shall be solely responsible for the conduct and actions of all its employees or volunteers under this Agreement and any liability that may attach thereto.

- 8) **Insurance**: See Lease for insurance provisions.
- 9) **Indemnification and Hold Harmless**: Contractor shall, at its sole expense, defend, indemnify, and hold harmless City and its officers, agents, and employees, from any and all claims, actions, suits, liability, loss, costs, attorney's fees, costs of litigation, expenses, injuries, and damages of any nature whatsoever relating to or arising out of the wrongful or negligent acts, errors, or omissions in the services provided by Contractor, Contractor's agents, subcontractors, and employees to the fullest extent permitted by law, subject only to the limitations provided below.

Contractor's duty to defend, indemnify, and hold City harmless shall not apply to liability for damages arising out of such services caused by or resulting from the sole negligence of City or City's agents or employees.

Contractor's duty to defend, indemnify, and hold City harmless against liability for damages arising out of such services caused by the concurrent negligence of (a) City or City's agents or employees, and (b) Contractor, Contractor's agents, subcontractors, and employees, shall apply only to the extent of the negligence of Contractor, Contractor's agents, subcontractors, and employees.

Contractor's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liability to which it applies, City's personnel-related costs, reasonable attorneys' fees, the reasonable value of any services rendered by the office of the City Attorney, outside Contractor costs, court costs, fees for collection, and all other claim-related expenses.

Contractor specifically and expressly waives any immunity that may be granted it under the laws of the State of Oregon as allowed by said laws. These indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefits acts. Provided, that Contractor's waiver of immunity under this provision extends only to claims against Contractor by City, and does not include, or extend to, any claims by Contractor's employees directly against Contractor.

Contractor hereby certifies that this indemnification provision was mutually negotiated.

- 10) **Assignment and Delegation**: Contractor may not assign, transfer, or delegate any or all of the responsibilities of this Agreement or the benefits received hereunder without prior written consent of the City.
- 11) **Subcontracts**: Except as otherwise provided herein, Contractor shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of City.

- 12) **Non-Discrimination and Worker's Compensation**: Contractor agrees to not discriminate against an employee or volunteer of Contractor as required by law and to pay worker's compensation to its employees when due during the term of this Agreement.

- 13) **Nighttime Security**: City agrees to provide nighttime security for the Managed Outreach and Community Resource Facility. Nighttime shall be from 10 pm to 7 am but may be adjusted by the Policy Board to reflect the actual needs of the parties.

- 14) **Entire Agreement**: This Agreement and the Lease shall be considered as the entire agreement between the parties and shall be interpreted as complementary and supplemental to each other.

City of Sweet Home

Contractor

Exhibit A

Scope of Services

REQUIRED SERVICES to be performed as part of the Agreement by and between the City of Sweet Home and the FAC:

- 1) Facilitate the in-take, registration, and specific site assignment process at the sleeping site daily from 7:00 am – 10:00 pm.
- 2) Document and keep track of problematic individuals and share information with Security staff on scene so they are aware of who is causing problems.
- 3) Ensure there is reciprocal ongoing information sharing between FAC members staffing the intake/registration process and Security staff on issues taking place at the facility.
- 4) Document behaviors that would constitute a 24-hour removal. Ensure to share those documents with Security staff and Police in the event of a trespass violation.
- 5) Document ongoing behaviors that may result in elevated exclusionary timeframes (30-60-90 Day exclusions) from the facility that would be imposed by the City Manager, or designee.
- 6) Enforce facility rules as set forth in the policies set by the Policy Board.
- 7) FAC agrees to form a seven-person policy board that will be responsible for formulations of all policies and decisions related to the administration of the Managed Outreach and Community Resource Facility.
 - a. The seven-person Policy Board shall include at least one City Council member and the Sweet Home Police Chief or his/her designee,
 - b. FAC shall also endeavor to include a health care professional,
 - c. FAC shall also endeavor to include a mental or behavioral health care professional preferably with experience in trauma induced mental health issues.
- 8) FAC shall endeavor to form partnerships with various health care providers, including mental health care providers, with the purpose of arranging on site care for clients (which hereinafter includes guests in its meaning).
- 9) FAC shall endeavor to find partners to provide dental care for clients of the facility.
- 10) FAC shall endeavor to find the resources to provide financial counseling to clients of the facility.
- 11) FAC shall endeavor to connect clients with state, federal, and local programs to empower clients to transition out of homelessness.
- 12) FAC shall operate the facility with the goal of transitioning each client to permanent housing.
- 13) FAC shall provide quarterly reports to the City entailing the following information:
 - a. Clients entered
 - b. Clients exited
 - c. Services offered
 - i. Type
 - ii. Client number
 - iii. Total hours of service

VOLUNTARY SERVICES that may be performed by the FAC that are not included as part of the Agreement by and between the City of Sweet Home and FAC:

- 1) Provide each client with a tent, sleeping bag, clothing, toiletries if items are available through donations.

- 2) Assist clients to develop an individual healthy lifestyle plan to exit being unsheltered, and regularly review client progress toward the plan.
- 3) Assist clients in making and remembering appointments.
- 4) Attend client appointments upon request, when feasible.
- 5) Keep records to facilitate client services and document the needs of unsheltered people in Sweet Home.

LEASE AGREEMENT
FOR CITY REAL PROPERTY BY FAC
With Hold Harmless and Indemnification Provisions

THIS AGREEMENT is made this ___ day of _____, 2022, between City of Sweet Home, an Oregon Municipal Corporation, hereinafter called the "Lessor" and Family Assistance and Resource Center Group aka FAC, hereinafter called the "Lessee."

WITNESSETH: In consideration of the covenants hereinafter set forth, the Lessor does hereby lease, demise and let unto the Lessee, and the Lessee does hereby lease and rent from the Lessor, the real property located behind the City of Sweet Home City Hall at 3225 Main Street, Sweet Home, OR 97386, with an area depicted as the yellow area as shown in Exhibit "A" attached hereto.

RECITALS: This Lease is authorized by ORS 271.310 (Governmental Body Lease) and is entered into by the Parties for the health, safety and general welfare of the public which is benefited thereby and is part of the consideration herein.

The Parties understand that the Lessee intends to have an outreach and resource facility managed by employees and volunteers of FAC on the premises, which shall be known as the Managed Outreach and Community Resource Facility.

In consideration of the mutual promises of the parties hereto, it is agreed as follows:

- 1) TERM: The term of this Lease shall commence on _____, 2022, and continue until terminated by a party hereto as stated in Subsection 31 of the Lease. In compliance with ORS 271.310 this Lease shall not exceed 99 years.
- 2) RENT: Lessee shall pay \$1.00 for the whole term, which Lessee agrees to pay upon the Lessor executing the lease.
- 3) LESSEE'S ACCEPTANCE OF LEASE: Lessee accepts said letting and agrees to pay to the order of the Lessor, the rent above stated.
- 4) AUTHORIZED USE: Lessee shall use the leased premises for the purpose of a Managed Outreach and Community Resource Center which shall include a sleep center. Lessee shall not use or occupy the premises for any other purpose without the written consent of Lessor being first had and obtained. Lessee shall comply with all applicable Federal, State, and local laws and regulations regarding operations for a sleep center and facility including but not limited to pollution, discharge, and environmental regulations. Lessor is not, by virtue of this Lease, a partner or joint venture with Lessee in connection with the operation carried on under this Lease, and Lessor shall have no obligation with respect to Lessee's debts or other liabilities. Lessee is independent of Lessor, and Lessee's employees and volunteers shall not be deemed to be employees and volunteers of Lessor.
- 5) HAZARDOUS SUBSTANCES: Lessee shall not cause or permit any Hazardous Substance to be received, spilled, leaked, disposed of, or otherwise released on or under the premises. Lessee may use or otherwise handle on the premises only those Hazardous Substances typically used or sold in the prudent and safe operation of the

facility specified in Section 4. Lessee may store such Hazardous Substances on the premises only in quantities necessary to satisfy Lessee's reasonably anticipated needs. Lessee shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity of Hazardous Substances used, handled, or stored on the premises. Upon the expiration or termination of this Lease, Lessee shall remove all Hazardous Substances from the premises, clean up any and all Hazardous Substances caused by the Lessee, and Lessee agrees to and shall indemnify and hold Lessor harmless against any and all claims and demands arising from the negligence of the Lessee, Lessee's officers, agents, invitees, and/or employees, as well as those arising from Lessee's failure to comply with any covenant of this Lease on Lessee's part to be performed, and shall at Lessee's own expense defend the Lessor against any and all suits or actions arising out of such negligence, actual or alleged, and all appeals therefrom and shall satisfy and discharge any judgment which may be awarded against Lessor in any such suit or action. The term Environmental Law shall mean any Federal, State, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety, or the environment. The term Hazardous Substance shall mean any hazardous, toxic, infectious, or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

- 6) PAYMENT OF UTILITIES: Lessee shall pay all charges for water, sewer, electricity, security alarm, and other public and private utilities used on the leased premises throughout the term of this Lease.
- 7) REPAIRS AND IMPROVEMENTS: Lessor shall not be required to make any repairs, alterations, additions, or improvements to or upon said premises during the term of this Lease.
- 8) MAINTENANCE OF PROPERTY: The Lessee agrees to keep and maintain said premises and all improvements, alterations, additions, fixtures, and equipment now or hereinafter placed or make thereon in good condition, so that the same will always be neat, clean, and attractive, and in a good state of repair, damage by fire or other casualty excepted, and shall be at no expense to the Lessor. The Lessee agrees not to commit any strip nor waste of said premises, nor to permit said premises to be used for any unlawful purposes or in violation of any of the laws, ordinances or regulations of the United States, the State of Oregon, the City of Sweet Home and Linn County.
- 9) IMPROVEMENTS BY LESSEE: Lessee shall not make improvements on the premises without the written consent of Lessor which shall not be unreasonably withheld. Lessee further agrees that all improvements made upon said leased premises, except for those shown on the attached site plan that is part of Exhibit A, shall be removed by Lessee, at Lessee's expense, upon the termination of the Lease except Lessor, at its own option, can require Lessee to leave said improvements and if left shall become the property of Lessor.
- 10) ERECTION OF SIGNS: Lessee may place suitable signs on the leased premises for the purpose of indicating the nature of the facility, provided, however, that such signs shall be in conformance with the laws and ordinances of the State of Oregon and the City of Sweet Home, and provided further that such signs will not damage leased premises in

any manner.

- 11) PRUNING AND WATERING LANDSCAPE VEGETATION: Lessee agrees to prune, water, mow and maintain the landscape vegetation on the property as needed and keep the property neat and clean of litter, debris, and rubbish and in compliance with City ordinances and codes at all times.
- 12) RIGHT OF ENTRY BY LESSOR: Lessee will at any and all reasonable times permit and allow the Lessor and its agents and representatives to enter and go upon said leased premises or any part thereof for the purpose of examining the condition of the same or for any other lawful purpose.
- 13) PAYMENT OF TAXES AND OTHER ASSESSMENTS: Lessee shall be responsible for any Linn County real property taxes, if any, on the premises during the lease term.
- 14) PAYMENT OF FIRE INSURANCE PREMIUMS: Lessee shall carry fire insurance on the structures on the leased premises. Lessee shall provide Lessor with a copy of the fire insurance policy in effect upon the property and the Lessor shall be named as an additional insured thereon. The Lessee's fire insurance shall be the primary fire insurance and the Lessee shall provide the Lessor with a Certificate of Insurance.
- 15) ASSIGNMENT AND SUBLETTING: The Lease cannot be assigned, and the premises sublet by Lessee without the Lessor's prior written consent. Any such assignment or subletting shall in no way affect the personal liability of the Lessee for the complete performance and payment of all obligations due hereunder.
- 16) DAMAGE OR DESTRUCTION: In the event of damage to said structures by fire or other casualty the Lessee can rebuild at its own expense.
- 17) LIABILITY INSURANCE: Lessee agrees to hold Lessor harmless and defend Lessor from any and all claims and demands of any and every kind that may be made against Lessor by reason of or on account of any injury or damage of any kind received or sustained during the term of this Lease by any person or property, arising out of the operations conducted by Lessee on said leased premises. Lessee further agrees at all times during the term of this Lease, at the expense of Lessee, to maintain, keep in effect, furnish and deliver to Lessor liability insurance policies in form and with an insurer satisfactory to the Lessor, insuring both the Lessor and the Lessee against all Liability for damages to persons or property in or about said leased premises. The amount of said liability insurance shall not be less than \$2,000,000.00 for injury to one person, not be less than 2,000,000.00 for injuries arising out of any one accident and not less than \$2,000,000.00 for property damage. Lessee agrees to furnish Lessor with evidence of such insurance and the maintenance of policies during the entire term of this Lease. The Lessee's insurance policy shall name Lessor as an additional insured. The Lessee's liability insurance shall be the primary liability insurance and the Lessee shall provide the Lessor with a Certificate of Insurance and an additional insurance endorsement naming the City of Sweet Home on the insurance policy.
- 18) INJURIES AND PROPERTY DAMAGE: Lessee shall indemnify and hold harmless Lessor from any and all claims of any kind or nature arising from Lessee's use of the premises, except such as might result from the negligence of the Lessor or Lessor's

representatives. Lessee shall at all times during the term of this Lease insure and be responsible for any personal property placed upon the premises.

- 19) EMINENT DOMAIN: In case of the condemnation or purchase of all or any substantial part of the said demised premises by any public or private corporation with the power of condemnation, this Lease may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case the Lessee shall not be liable for any rent after the termination date. Lessee shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.
- 20) SURRENDER OF PREMISES: Lessee agrees to quit and deliver up said premises at the expiration of the term thereof, or any sooner termination, in good condition as the same now is, ordinary wear and tear, grading and damage by fire or other casualty excepted.
- 21) HOLDING OVER: In the event the Lessee for any reason shall hold over after the expiration of this Lease, such holding over shall not be deemed to operate as a renewal or extension of this Lease but shall only create a tenancy at sufferance which may be terminated at will at any time by the Lessor.
- 22) DEFAULT: Any default by the Lessee in the conditions and provisions of this Lease shall enable Lessor, after a thirty (30) day notice to the Lessee given as specified in this Lease requiring Lessee to fulfill such conditions and provisions, and on the failure of Lessee to do so, to take and use any and all remedies, legal or equitable, to secure the performance of this Lease, or its termination, and damages and expense of its breach, including attorney's fees and costs. This subsection is subject to the Termination subsection herein which provides that this Lease can be terminated with fifteen (15) days written notice to the other party.
- 23) LIENS: The Lessee will not permit a lien or encumbrance of any kind, type or description to be placed or imposed upon the leased property.
- 24) NOTICES: Any notice required or permitted to be given hereunder shall be deemed sufficient, if in writing and given by hand delivery to the City Manager for the Lessor at the below address and to the person in charge of the Managed Outreach and Community Resource Facility at the time of service who is on site for the Lessee; or if given by a communication in writing by United States mail, postage prepaid and addressed as follows: If to the Lessor at the following address: 3225 Main Street, Sweet Home, Oregon 97386, and if to the Lessee at the following address: PO Box 714, Lebanon, OR 97355. Any such notice shall be deemed conclusively to have been delivered to the address thereof forty-eight (48) hours after the deposit thereof in said United States mails.
- 25) RIGHTS OF SUCCESSORS AND ASSIGNS: This Lease shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.
- 26) ATTORNEY'S FEES AND COURT COSTS: In the event any party shall institute and prevail in any action or suit for the enforcement of any of their rights hereunder, the party at fault will pay to the other party reasonable attorney's fees and account thereof, plus their costs and expenses incurred therein, and attorney's fees and costs on any appeal to any court shall be allowed to the party prevailing.

- 27) WAIVER: Failure by Lessor at any time to require performance of any of the provisions hereof shall in no way affect Lessor's rights hereunder to enforce the same, nor shall any waiver by Lessor of any breach hereof be held to be a waiver of any succeeding breach or a waiver of this non-waiver clause.
- 28) TIME: Time is of the essence of this Lease and every term, covenant and condition therein contained.
- 29) LANGUAGE: The language in all parts of this Lease shall be in all cases construed simply according to its fair meaning and not strictly for or against Lessor or Lessee.
- 30) COUNTERPARTS: This Lease may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on the parties notwithstanding the parties are not signatories to the same counterpart. Each copy of this Lease so executed shall constitute an original.
- 31) TERMINATION: Either party can terminate this lease with fifteen (15) days written notice to the other party for cause or without cause, no reason need be stated.

Ray Towry, City Manager Date

Brock Byers, Director Date

Mayor Greg Mahler Date

Shirley Byrd, Chairperson Date