

# BCOOPERATIVE OPERATIONAL AGREEMENT

## between

### BENTON COUNTY and THE COMMUNITY HEALTH CENTERS OF BENTON & LINN COUNTIES HEALTH BOARD

This Co-Applicant Agreement for the operation of the Community Health Centers of Benton & Linn Counties (CHC), a Public Agency Community Health Center under the U.S. Department of Health and Human Services (DHHS) (the "Agreement"), is entered into by and between Benton County, and the Community Health Centers of Benton & Linn Counties Board (CHC Board) to provide oversight for the operation, administration and provision of integrated community health center services in the CHC.

## PREAMBLE

The CHC is a "health center" with expectations for governance as outlined in the Health Resources Services Administration (HRSA) Compliance Manual Chapter 1: Health Center Eligibility, Public Agency Organizations. The HRSA Compliance Manual replaces Policy Information Notice 2014-01: Health Center Program Governance. The Health Center fulfills the requirements through a Co-Applicant Agreement between the CHC Board and Benton County, a public agency. In reference to the HRSA Compliance Manual: "When the public agency's board cannot independently meet all applicable health center governance requirements<sup>1</sup>, a separate "co-applicant" must be established whose governing board meets section 330 governance requirements. In the co-applicant arrangement, the public agency receives the section 330 grant and co-applicant serves as the "health center board" with the two collectively considered as the "health center" or "public center." The HRSA Compliance Manual provides further clarification on governance expectations for the co-applicant (CHC Board) and the public agency (Benton County).

**WHEREAS**, Since 2004 Benton County has been awarded Federal grant support under Section 330 of the Public Health Service Act (42 U.S.C. 254c et seq. as now or hereafter amended) Grant (hereafter "Section 330") for operating a CHC from the U.S. Department of Health and Human Services ("DHHS"); and

**WHEREAS**, Benton County provides health care services to medically underserved communities and populations, and special medically underserved populations comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing through its CHC; and

**WHEREAS**, the CHC Board was established and serves as the co-applicant governing body for the CHC; and

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<sup>1</sup> Information on why Benton County's Board of Commissioners, as the public agency board, cannot independently meet all applicable health center governance requirements can be found in the Health Center Program Governing Board Workbook produced by the National Association of Community Health Centers (NACHC) in July 2015.

**WHEREAS**, the Parties agree to comply with the regulations set forth at 42 C.F.R. Part 51c, related to the Health Resources Services Administration (HRSA) policies, including but not limited to the HRSA Compliance Manual; and

**WHEREAS**, the Parties wish to set forth in this Agreement their respective responsibilities with respect to governance and operation of the CHC.

## **AGREEMENT**

**NOW THEREFORE**, Benton County and the CHC Board agree as follows with respect to their responsibilities for the CHC:

### **CHC BOARD**

#### **1.1 Composition of the Governing Body.**

The composition of the CHC Board shall comply with CHC Board Bylaws, which shall be consistent with the requirements of the HRSA Compliance Manual and Section 330, its implementing regulations, and applicable HRSA policies.

#### **1.2 Authorities and Responsibilities of the CHC Board.**

The CHC Board has specific responsibilities for oversight of the CHC. The CHC Board shall develop bylaws, consistent with and cooperative with County policies, assures that the CHC is operated in compliance with applicable Federal, State, and local laws and regulations, holds monthly meetings where a quorum is present, and records in meeting minutes the CHC Boards attendance, key actions, and decisions; must approve the selection and termination/dismissal of the health centers CHC Executive Director, and shall exercise the authorities and responsibilities described in the CHC Board's Bylaws and as described below:

- 1.2.1 Adopting health care policies including the scope and availability of services to be provided by the CHC, including decisions to sub award or contract for substantial portion of the services, any changes in scope, the location and hours of operation, quality-of care audit procedures, and the CHC quality improvement and quality assurance plan.
- 1.2.2 Evaluating the CHC's activities, including service utilization patterns, productivity, patient satisfaction, achievement in health center project objectives, and development of a process for hearing and resolving patient complaints.
- 1.2.3 In consultation with the CHC's management team, evaluating the performance of the CHC based on quality assurance/quality improvement assessments and operational information received from the CHC management.

- 1.2.4 Approving the CHC's annual operating and capital budgets, which outline the proposed uses of both Section 330 and non-Federal resources and revenue, consistent with Section 2.1.1. All revisions proposed to Benton County's biennial Health Services budget that impact the portion of the annual CHC operating and capital budget, applicable to the CHC, shall be presented to and approved by the CHC Board prior to final approval and implementation by the County.
- 1.2.5 Approving the selection, evaluation and, if necessary, the dismissal or termination of the CHC Executive Director in accordance with Sections 1.3 and 1.4.2.
- 1.2.6 Monitoring the financial status of the CHC, including reviewing the results of the annual audit and ensuring appropriate follow-up actions are taken, consistent with Section 2.2.7.
- 1.2.7 Adopting a policy for eligibility for services, including a sliding fee discount schedule, related eligibility and verification policies and procedures, billing and collections policies, and other policies and procedures related to the CHC's Sliding Fee Discount Program consistent with the requirements of Section 330, consistent with Section 2.1.4.
- 1.2.8 Conducting long-range/strategic planning at least once every three years, that includes at a minimum financial management, which includes operating and capital expenditure needs; and
- 1.2.9 Exercising all other authorities and responsibilities, except those specified in Section 2.1 of this Agreement, which are required by Section 330, the implementing regulations, and HRSA policies, including but not limited to the Compliance Manual, to be vested in a Section 330-compliant governing board.

The Parties understand and agree that no other individual, entity, or committee shall reserve or have approval or veto power over the CHC Board.

### 1.3 Selection, Evaluation and Dismissal of the CHC Executive Director.

- 1.3.1 Selection of a CHC Executive Director. The County shall be responsible for recruiting any CHC Executive Director vacancy. The County shall consult with the CHC Board on special qualifications and the recruitment process for the CHC Executive Director position. The County and the CHC Board appoint the members of a Search Committee. The Search Committee shall be comprised of representatives appointed by CHC Board and representatives appointed by the County. The Search Committee is responsible for evaluating qualifications, reviewing applicant materials, and conducting preliminary interviews. The County shall present to the Search Committee the salary/compensation/benefits package that the county is able to offer any final candidate based on county employee personnel and financial policies. The County shall present to the Search Committee its

process for determining qualifications in relation to compensation. the Search Committee shall provide candidates to the CHC Board for final selection. The CHC Board shall have the authority to approve or reject the selection of the CHC Executive Director candidate(s) presented for consideration. In the event that the CHC Board rejects the candidate(s) presented, the Search Committee will present additional candidate(s) until the CHC Board approves a candidate. Once the CHC Board approves of a candidate, pursuant to federal, state, or local law or rule, and county personnel rules, policies and procedures, the County will determine whether or not to extend an offer of employment. In the event that the County determines that the candidate cannot be offered employment due to non-compliance with federal, state or local law or rule, or county personnel rules, policies and procedures, the County will present additional candidate(s) until the CHC Board approves the candidate, and the County determines that an offer of employment can be extended. Appointment will be made by the Health & Human Services Director as the appointing authority.

- 1.3.2 Evaluation of the CHC Executive Director. Both the County and the CHC Board conduct separate annual performance evaluations of the CHC Executive Director. Each party provides feedback to the other party to consider in the separate performance evaluation of the CHC Executive Director. Both evaluations shall be submitted to the County's Human Resources department.
- 1.3.3 Dismissal of the CHC Executive Director. Except where in conflict with Section 1.4.2, the CHC Board shall have the authority to approve the dismissal of the CHC Executive Director from the role of Director of the Community Health Center, if such dismissal is warranted based on performance or pursuant to federal, state, or county personnel rules, and performance deficiencies. If the CHC Board votes to dismiss the CHC Executive Director pursuant to this subsection, Benton County shall terminate the employment of the CHC Executive Director.
- 1.3.4 Duties of the CHC Executive Director. The CHC Executive Director shall have chief executive responsibility for the general care, day-to-day management, supervision, and direction of the CHC's affairs in furtherance of established policies, procedures and programs. The CHC Executive Director shall have the authority to approve the assignment of Benton County personnel to the CHC, to supervise and terminate the employment of such individuals, in accordance with the personnel policies established by Benton County. The CHC Executive Director or designee shall also have the authority to negotiate, execute, and administer all contracts for goods and services as required for the operation of the CHC subject to the rules and policies applicable to Benton County's procurement, purchasing and administration of contracts, and the budget approved for the CHC. The CHC Executive Director shall report to (1) the CHC Board and (2) the Health & Human Services Director relative to their respective authorities and responsibilities outlined herein.

1.3.5 Appointment of an Interim CHC Executive Director. In the event that the CHC Executive Director vacates the position or is unable to perform the duties in the section above an Interim CHC Executive Director shall be appointed in a timely manner. The Interim CHC Executive Director shall be appointed by the County, consistent with County personnel and financial policies, with approval from the CHC Board. The interim appointee shall be presented to HRSA for final approval.

#### 1.4 Employer-Employee Relations.

1.4.1 Except where in conflict with Section 1.3 of this Agreement regarding the selection, approval, evaluation and dismissal of the CHC's Executive Director, Benton County shall have sole authority over employment matters and personnel policies and procedures applicable to the CHC staff, including selection and dismissal procedures, salary and benefit scales, employee grievance procedures and processes, equal employment opportunity practices, labor disputes and other human resource issues.

1.4.2 The CHC's Executive Director shall, at all times, be an employee of Benton County. As the CHC Executive Director's employer, Benton County shall have authority to terminate the CHC Executive Director's employment if such termination is warranted pursuant to federal, state, or local law or rule, or County personnel rules, and performance deficiencies. If the County seeks to terminate the CHC Executive Director for reason that is not warranted by federal, state, or local law or rule, or County personnel rules, and performance deficiencies, it may do so only with the CHC Board prior approval.

## **BENTON COUNTY**

#### 2.1 Authorities and Responsibilities

Benton County, via the Board of Commissioners (BOC), shall exercise certain responsibilities and authorities with respect to the CHC. These authorities and responsibilities include:

2.1.1 Developing the CHC's annual operating and capital budgets, consistent with Section 1.2.4 of this Agreement, which will be prepared under the direction of the CHCs management team and incorporated into Benton County's overall biennial Health Services budget. In the event that Benton County proposes revisions to the biennial Health Services budget that impact the portion of the annual CHC operating budget, such revisions shall be presented to and approved by the CHC Board prior to final approval and implementation by Benton County.

2.1.2 Establishing personnel policies and procedures applicable to any Benton County employee assigned to the CHC except where in conflict with

Section 1.3 regarding the CHC Executive Director. Policies and procedures should include, but are not limited to, selection and dismissal policies and procedures, salary and benefit scales, position descriptions and classifications, and employee grievance policies and procedures.

- 2.1.3 Adopting policy for financial management practices and accounting systems, including a system to assure accountability for CHC resources and assets. Benton County shall be responsible for the selection of an independent auditor and provision of an annual audit, long-range financial planning consistent with the provisions of 1.2.11, and establishing purchasing policies and procedures consistent with DHHS administrative requirements set forth in 45 C.F.R. Part 75.
- 2.1.4 Supporting the CHC Board approved policies, consistent with the provisions of 1.2.8, by providing and maintaining procedures and systems for billing and collections activities, which include processes for determining eligibility for services, a schedule of fees and charges; and a schedule of discounts for services provided to uninsured and underinsured patients.

## 2.2 Operational Responsibilities

Benton County shall fulfill the following obligations with respect to CHC:

- 2.2.1 Applying for and maintaining all licenses, permits, certifications, and approvals necessary and appropriate for the operation of the CHC.
- 2.2.2 Receiving, managing and disbursing grant funds consistent with the budget approved in accordance with this Agreement. Benton County shall not be required to disburse funds for any expenditure not authorized by a budget approved in accordance with this Agreement. Consistent with Section 2.1.1, Benton County shall seek and obtain the CHC Board's prior written approval before implementing any line-item change in the portion of the CHC Board's approved budget that is specific to the CHC.
- 2.2.3 Maintaining the financial affairs of the CHC. This includes debt financing and borrowing, controlling funds received for services, and all income otherwise generated by the CHC, including fees, premiums, third party reimbursements and other State, Federal and local operational funding (collectively, "Program Income"), as well as all Program Income greater than the amount budgeted to the CHC ("Excess Program Income"). All Program Income and Excess Program Income shall be used as permitted under, and for such other purposes that are not specifically prohibited by Section 330. All Income shall solely be used to further the objectives of the CHC's federally approved program, consistent with Section 330 and the policies and priorities applicable to the CHC.
- 2.2.4 Supporting the business administrative needs of the CHC, including but not limited to the following, Human Resources, IT, Accounting, Budget, Facilities, Payroll, Fleet, and Legal.

- 2.2.5 Developing management, reporting and internal control systems for the CHC, in consultation with the CHC Board, that are in accordance with sound financial management procedures, including:
  - 2.2.5.1 The provision for an audit of the CHC on an annual basis, consistent with the requirements of 45 C.F.R. Part 75 and the current compliance supplement applicable to the consolidated Health Center Program (or any subsequent regulations that may replace and supersede 45 C.F.R. Part 75 and the applicable compliance supplement), to determine, at a minimum, the fiscal integrity of financial transactions and reports.
  - 2.2.5.2 Implementing accounting procedures and controls in accordance with generally accepted accounting principles utilized in operating the CHC, as well as the systems for the development, preparation, and safekeeping of records and books of account relating to the business and financial affairs of the CHC.
  - 2.2.5.3 Maintaining the CHC's business and financial records separate from records related to other County finances to ensure that revenues and expenditures of the CHC may be properly allocated and accounted for, and that CHC funds will be distinguished and accounted for separately from other funds of Benton County. All expenditures pertaining to the operation of the CHC (including but not limited to, direct and indirect costs associated with staffing, operational systems, additional administrative support services, and overhead) shall be allocated as CHC costs in accordance with a cost allocation methodology.
  - 2.2.5.4 Preparing and submitting cost reports, supporting data, and other materials required in connection with reimbursement under Medicare, Medicaid, and other third-party payment contracts and programs, in which the CHC may from time to time participate.
  - 2.2.5.5 Preparing regular financial statements of the CHC's budgeted and actual revenues and expenses, and other financial status reports for the CHC Board.
- 2.2.6 Providing to patients of the CHC access to Benton County's other programs, based on Benton County's established eligibility requirements for such programs.
- 2.2.7 Preparing operational reports reasonably requested by the CHC Board, to enable the CHC Board to fulfill its responsibilities for the CHC.

2.2.8 Submitting the required Section 330 grant-related information and reports to DHHS, including but not limited to the Uniform Data System (“UDS”) data and the Federal Financial Report (“FFR”).

2.2.9 Complying with the terms and conditions of the Section 330 grant.

## **MUTUAL OBLIGATIONS**

### **3.1 Compliance and Representatives.**

The Parties shall have a mutual commitment and responsibility to work together to ensure that the CHC provides care in compliance with all federal, state and local laws and regulations. The CHC Executive Director, the County Administrator, and the CHC Board Chairperson shall promote opportunities for the CHC Board and Benton County to work collaboratively in communicating strategic priorities, maintaining regular communication, and sharing information about the CHC’s operations.

The CHC Board and Benton County shall comply with Benton County’s code-of-conduct and harassment policies, including the CHC’s standards of conduct, which shall be drafted in a manner consistent with Chapter 13 of the Compliance Manual. Consistent with 45 C.F.R. Part 75, the Parties further agree that no employee, officer, or agent of either Party may participate in the selection, award, or administration of a contract supported by the Section 330 grant award if he or she has a real or apparent conflict of interest.

### **3.2 Financial Responsibility and Expenses of the Parties.**

Each Party agrees not to undertake expenditures in excess of overall available resources, to materially change or modify the adopted budget without their mutual agreement, or to otherwise take actions inconsistent with the financial management protocols developed hereunder.

### **3.3 Record Keeping and Reporting.**

3.3.1 Each Party shall comply with all Federal mandated record retention requirements, and grant-related record maintenance, and reporting requirements. The Parties shall make available to each other, upon appropriate notice, financial systems, records, reports, books, documents, and papers as may be necessary for audit, examination, excerpt, transcription, and copy purposes, for as long as such systems, records, reports, books, documents, and papers are retained.

3.3.2 The Parties agree that Benton County shall be the custodian of all health records established and maintained relating to diagnosis and treatment of patients served through the CHC.

### **3.4 Legal Services.**

Benton County shall provide the services of Benton County's employed or contracted counsel, as requested by the CHC Board, to offer legal consultation for the operation of the CHC. If the CHC Board wishes to retain independent legal counsel, the CHC Board will follow Benton County policy to request such services.

### 3.5 Ownership of Property Acquired with Grant Funds.

The provisions of 45 C.F.R. §75.316, et seq. (and/or any subsequent regulations that replace and supersede 45 C.F.R. Part 75) apply to tangible property acquired under this Agreement. The Parties agree that Benton County shall be the title holder of all property purchased with Section 330 grant funds. Benton County shall further assure that all contracts executed by the CHC are consistent with procurement standards contained in 45 C.F.R. Part 75 (and/or any subsequent regulations that replace and supersede 45 C.F.R. Part 75).

## **GOVERNING LAW**

### 4.1 Applicable Laws, Regulations and Policies.

This Agreement shall be governed and construed in accordance with, and both Parties shall comply with, applicable Federal and State laws, regulations, and policies, including but not limited to: Section 330 of the Public Health Service Act; implementing regulations at 42 C.F.R. Part 51c; the terms and conditions of Section 330 grants awarded to County; the legislative mandates issued by the Office of Federal Assistance Management (OFAM); HRSA policies and other guidance (including, but not limited to, Health Center Program Compliance Manual); the DHHS Grants Policy Statement in effect as of the date the Agreement is executed; and the DHHS Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards set forth in 45 C.F.R. Part 75 (and/or any subsequent regulations that replace and supersede 45 C.F.R. Part 75).

### 4.2 Compliance with State and Local Law.

This Agreement is governed by the laws of the State of Oregon. Each Party covenants to comply with all applicable laws, ordinances and codes of the State of Oregon and local governments in the performance of the Agreement, including all licensing standards and applicable accreditation standards.

### 4.3 HRSA Communication.

Benton County and the CHC Executive Director shall submit promptly to the CHC Board HRSA communication, including Notice of Grant Awards, directives and/or policies that are received from or issued by HRSA after execution of this Agreement and are pertinent to the CHC.

## **TERM**

This Agreement shall remain in effect unless terminated in accordance with the Termination clause in the following section.

## **TERMINATION**

If the CHC Board and Benton County no longer operate as a CHC/FQHC, this Agreement shall terminate. Any party may terminate this Agreement upon 60 days written notice to the other; a copy of any notice of termination shall be provided to HRSA. This agreement may also terminate upon the effective date of any termination in full of Benton County's Section 330 grant funding.

## **DISPUTE RESOLUTION**

The CHC Board and Benton County will use their best efforts to carry out the terms of this agreement in a spirit of cooperation. In the unlikely event of disagreement, the Parties shall first attempt to resolve any dispute arising under this Agreement by informal discussions. In the event the Parties are unable to resolve the dispute through informal negotiations within a reasonable period of time of the commencement of such discussions, the Parties shall attempt formal mediation, if they mutually agree to do so. If the Parties are unable to resolve the dispute, either Party may pursue any remedy available by law.

## **NOTICES**

All notices permitted or required by this Agreement shall be deemed given when in writing and delivered personally or deposited in the United States Mail, first class postage prepaid, Certified and Return Receipt Requested, addressed to the other Party at the address set forth below, or such other address as the Party may designate in writing:

For Benton County:  
Benton County Chairperson  
4500 SW Research Way  
Corvallis, OR 97333

For the CHC Board:  
Community Health Center Board Chairperson  
530 NW 27th St,  
Corvallis, OR 97330

## **SEVERABILITY**

In the event that any one or more provisions of this Agreement are deemed null, void, illegal or unenforceable, or should any part of this Agreement, as determined by DHHS or any other governmental authority, cause Benton County and the CHC Board (as co-applicants) not to comply with Section 330, the Parties agree to attempt to amend this Agreement as shall be reasonably necessary to achieve compliance. In the event that the Parties reach such

agreement, this Agreement shall be construed in all respects as if such invalid or unenforceable provisions have been omitted. In the event that no such amendments or agreements for amendments can reasonably be made, the Parties will follow the Dispute Resolution process as outlined in this Agreement.

### **WAIVER**

No provision of this Agreement shall be waived by any act, omission or knowledge of a Party or its agents or employees except by an instrument in writing expressly waiving such provision and signed by a duly authorized officer of the waiving Party.

### **THIRD-PARTY BENEFICIARIES**

None of the provisions of this Agreement shall be for the benefit of or enforceable by any third party, including, without limitation, any creditor or patient. No third party shall obtain any right under any provision of this Agreement or shall by reason of any provisions make any claim relating to any debt, liability, obligation or otherwise against any Party to this Agreement.

### **ENTIRE AGREEMENT**

This Agreement represents the complete understanding of the Parties with respect to the subject matter herein and as such, supersedes any other agreements or understandings between the Parties, whether oral or written, relating to such subject matter.

No such other agreements or understandings may be enforced by either Party, nor may they be employed for interpretation purposes in any dispute involving this Agreement.

### **AMENDMENTS AND MODIFICATIONS**

Any amendment or modification to this Agreement shall be in writing and signed by both Parties. Modification or amendment of any provision(s) of this Agreement shall not affect the remaining provisions and, except for the specific provision(s) of this Agreement which thereby may be modified or amended, this Agreement shall remain in full force and effect as originally executed.

Notwithstanding anything set forth herein, in the event of a change in law or regulation, or upon the issuance of an order from a lawful authority, including but not limited to a court of law or a regulatory agency, that is binding upon a Party and will affect the provisions of this Agreement, the Parties shall meet and confer to amend this Agreement as necessary to incorporate any such change in law, regulation, or order, if a Party determines, in good faith and upon advice of counsel, that such amendment is necessary for purposes of compliance with such change in law or regulation or order.

**INCORPORATION OF RECITALS**, the Recitals are incorporated into this Agreement by this reference.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement.

**BENTON COUNTY:**

By:  Pat Malone  
DocuSigned by: 77DE823985E941E...

Print: Pat Malone

Board of Commissioners Chairperson

Date: 07/25/2023

**COMMUNITY HEALTH CENTER BOARD:**

By:  Jeff Bethel  
DocuSigned by: 29E47A7D7A9647E...

Print: Jeff Bethel

CHC Board Chairperson

Date: 07/26/2023

Reviewed as to form:

Vance M. Croney 7-25-2023  
Benton County Counsel