



**JUVENILE DEPARTMENT**  
**JUVENILE INTAKE AND ASSESSMENT CENTER**  
2121 KAEN ROAD | OREGON CITY, OR 97045

April 28, 2022

Board of County Commissioners  
Clackamas County

Members of the Board:

**Approval of Intergovernmental Agreement #172608 with the State of Oregon Acting by and through its Oregon Department of Human Services for the provision of County’s participation in the United States Department of Health and Human Services, Administrative for Children and Families, “Title IV-E Reimbursement Program.” County General Funds are not involved.**

<b>Purpose/Outcomes</b>	This IGA provides reimbursement dollars through the federal “Title IV-E Reimbursement Program” for reimbursement of both maintenance and administrative claims provided by the Juvenile Dept. to the State of Oregon.
<b>Dollar Amount and Fiscal Impact</b>	The maximum, not-to-exceed revenue to Clackamas County is \$400,000. No County General Funds are involved.
<b>Funding Source</b>	Oregon Department of Human Services-Office of Child Welfare Programs (ODHS) Title IV-E Reimbursement Program.
<b>Duration</b>	Effective the date this agreement is approved by the Oregon Department of Justice through September 30, 2023.
<b>Previous Board Action</b>	This is a new IGA. The previous Intergovernmental Agreement (IGA) for this revenue was IGA number 145855. The original IGA was signed by Ellen Crawford, Juvenile Director on August 26, 2014; Amendment 1 signed by Ellen Crawford, Juvenile Director on June 3, 2015; Amendment 2 signed by Christina McMahan, Juvenile Director on April 12, 2016; Amendment 3 signed by Jim Bernard, Chair, on September 28, 2017; Amendment 4 signed by Jim Bernard, Chair, on September 19, 2019.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Provide targeted evaluation services, treatment referrals and skills group’s referrals, and individualized case planning services to youth referred to the Department so they can successfully complete individualized case plan goals that promote positive change.</li> <li>2. Ensure safe, healthy, and secure communities.</li> </ol>
<b>Counsel Review</b>	March 17, 2022 Counsel Initials: JM

<b>Procurement Review</b>	Was the item processed through Procurement? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no This is an IGA
<b>Contact Person</b>	Ed Jones, Juvenile Dept. Administrative Services Manager – 503-650-3169
<b>Contract No.</b>	IGA #172608

**BACKGROUND:**

The Oregon Department of Human Services, Office of Child Welfare Programs has worked collaboratively with the Counties in Oregon, including Clackamas County Juvenile Department, to bring the United States Department of Health and Human Services, Administration for Children and Families, Title IV-E Reimbursement Program funding to the county. Title IV-E partially reimburses the Juvenile Department a variable percentage of the allowable cost of services rendered to youth at risk of being placed out of their home, based on multiple factors, such as family income and youth eligibility. The amount of reimbursement varies from quarter to quarter. However, prior to the start of COVID Pandemic in March 2020, the average quarterly reimbursement was \$26,170. Due to the Pandemic’s impact on utilization and provider capacity, the current average quarterly reimbursement since March 2020, has decreased by 16%, to approximately \$21,900 per quarter. While it is anticipated that the average quarterly revenue will increase as operations return to pre-pandemic levels, it is unknown at this time the long-term impact the pandemic will have on the variable factors that influence future quarterly reimbursements. Reimbursements received, are used to partially offset the cost of short term residential placement beds.

**RECOMMENDATION:**

Staff recommends the Board of County Commissioners approve the attached Intergovernmental Agreement.



Respectfully submitted,

Christina L. McMahan, Director  
Juvenile Department



**Agreement Number 172608**

**STATE OF OREGON  
INTERGOVERNMENTAL AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to [dhs-oha.publicationrequest@state.or.us](mailto:dhs-oha.publicationrequest@state.or.us) or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Agreement is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “ODHS” and

**Clackamas County  
Acting by and through its Juvenile Department  
2121 Kaen Road,  
Oregon City, OR 97045  
Attention: Ed Jones  
Telephone: 503-650-3169  
Fax: 503-655-8448  
E-mail address: [EJones@clackamas.us](mailto:EJones@clackamas.us)**

hereinafter referred to as “County.”

Work to be performed under this Agreement relates principally to ODHS’

**Office of Child Welfare Programs  
Federal Policy and Resources  
500 Summer Street NE, E16  
Salem, OR 97301  
Agreement Administrator: Sherril Kuhns or delegate  
Telephone: 503-569-6148  
E-mail address: [Sherril.kuhns@dhsoha.state.or.us](mailto:Sherril.kuhns@dhsoha.state.or.us)**

**1. Effective Date and Duration.** This Agreement shall become effective on the date this Agreement is approved in writing by the Oregon Department of Justice, provided it is (a) when required, approved in writing by the Oregon Department of Administrative Services, and (b) is signed by all parties, regardless of the date of the parties' signatures. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **September 30, 2023**. Agreement termination shall not extinguish or prejudice ODHS' right to enforce this Agreement with respect to any default by County that has not been cured.

**2. Agreement Documents.**

**a.** This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Federal Terms and Conditions
- (7) Exhibit E: Information Required by 2 CFR 200.332(a)(1)
- (8) Exhibit F: Privacy and Security Agreement

This Agreement constitutes the entire agreement between the parties on the subject matter in it; there are no understandings, agreements, or representations, oral or written, regarding this Agreement that are not specified herein.

**b.** In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits, Exhibits D, F, B, A, C, and E.

**3. Consideration.**

- a.** The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is **\$400,000.00**. ODHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties and approved by the Oregon Department of Justice.
- b.** ODHS will pay only for completed Work under this Agreement, and may make interim payments as provided for in Exhibit A. For purposes of this Agreement, "Work" means specific work to be performed or services to be delivered by County as set forth in Exhibit A.

**4. Contractor or Subrecipient Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, ODHS' determination is that:

County is a subrecipient     County is a contractor     Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 93.658

**5. County Data and Certification.**

- a. **County Information.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:**

**County Name (exactly as filed with the IRS):** Clackamas County

**Street address:** 2051 Kaen Road

**City, state, zip code:** Oregon City, OR 97045

**Email address:** ejones@clackamas.us

**Telephone:** ( 503 ) 650-3169 **Facsimile:** ( 503 ) 655-8448

**Proof of Insurance:** County shall provide the following information upon submission of the signed Agreement. All insurance listed herein must be in effect prior to Agreement execution.

**Workers' Compensation Insurance Company:** Self- Insured

**Policy #:** \_\_\_\_\_ **Expiration Date:** \_\_\_\_\_

- b. **Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, each signatory for County hereby certifies under penalty of perjury that:

- (1) County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) County and that pertains to this Agreement or to the project for which the Agreement work is being performed. County certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against County;
- (2) The information shown in Section 5a. "County Information", is County's true, accurate and correct information;
- (3) To the best of County's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (4) County and County's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;

- (5) County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at: <https://www.sam.gov/SAM>;
- (6) County is not subject to backup withholding because:
  - (a) County is exempt from backup withholding;
  - (b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (c) The IRS has notified County that County is no longer subject to backup withholding; and
- (7) County's Federal Employer Identification Number (FEIN) provided is true and accurate. If this information changes, County is required to provide ODHS with the new FEIN within 10 days.

**EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**COUNTY: YOU WILL NOT BE PAID FOR WORK PERFORMED PRIOR TO NECESSARY STATE APPROVALS**

**6. Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

**Clackamas County acting by and through its Juvenile Department  
By:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**State of Oregon, acting by and through its Oregon Department of Human Services  
By:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency:**

Approved via email by Ben Eckstein  
Department of Justice

\_\_\_\_\_  
2/23/2022  
Date

## EXHIBIT A

### Part 1 Statement of Work

#### 1. Purpose.

- a. This Agreement is for the provision of County’s participation in the United States Department of Health and Human Services “DHHS”, Administration for Children and Families “AFC”, “Title IV-E Reimbursement Program”.
- b. The populations effected by this Agreement are youth who are within the County’s juvenile justice system and meet the eligibility requirements for federal benefits under Title IV-E of the United States Social Security Act “Title IV-E”. Federal regulations require that delinquents and status offenders placed in Title IV-E eligible placements meet the same requirements as dependent youth in the State of Oregon's legal custody and in placement. The objectives of the Title IV-E Reimbursement Program also include strengthening foster care services and ensuring that the needs for safety, permanency, and wellbeing of foster youth are met.
- c. County agrees to use Federal Financial Participation (FFP) funds provided through this Agreement to create, implement, and operate programs pursuant to this Agreement that support the goals of the Title IV-E State Plan and to improve youth services to emphasize the development of community and neighborhood based foster care resources. The Title IV-E State Plan can be found at: <https://www.oregon.gov/dhs/children/Pages/data-publications.aspx>.
- d. The FFP funds distributed through the terms and conditions of the Title IV-E State Plan originates with DHHS’ Administration for Children and Families. ODHS is the sole state agency responsible for administering the Title IV-E Reimbursement Program within the State of Oregon pursuant to 42 U.S.C. §671(a)(2), 45 CFR §1355.30(p), 45 CFR §205.100, and Oregon’s Title IV-E State Plan. As a result, ODHS will submit all claims for the Title IV-E Reimbursement Program to DHHS and after ODHS receives the FFP funds from DHHS, will in turn make reimbursement payments to County pursuant to Exhibit A, Part 2, “Payments and Financial Reporting”.

#### 2. Services to be Provided by County: County shall create, implement, and operate programs with the goal to reduce juvenile delinquency, increase offender accountability, and rehabilitate juvenile offenders through a comprehensive, coordinated, community-based juvenile probation system. County shall ensure the following program requirements are met:

- a. **Staffing Requirements.** County shall employ and supervise the following positions:
  - (1) A “Title IV-E Reimbursement Program Coordinator” to:
    - (a) Serve as the primary liaison between County and ODHS; ODHS’ representatives, providers, and auditors; and any federal or other state agencies regarding programmatic and operational



components of County's participation in the Title IV-E Reimbursement Program.

- (b) Act as County's primary representative in any meetings relating to programmatic and operational issues of County's participation in the Title IV-E Reimbursement Program and assist ODHS employees in any manner necessary for ODHS, its designee or any federal or state governmental entity, to monitor County's participation in the Title IV-E Reimbursement Program.
- (2) A "Title IV-E Reimbursement Program Fiscal Coordinator" to:
- (a) Serve as the primary liaison between County and ODHS; ODHS' representatives, providers, and auditors; and any federal or other state agencies regarding the County's Title IV-E claims, reimbursements, or other financial issues.
  - (b) Act as County's primary representative in any meetings relating to County's Title IV-E claims, reimbursements, or other financial issues, and assist ODHS employees in any manner necessary for ODHS, its designee or any federal or state governmental entity, to monitor County's participation in the Title IV-E Reimbursement Program.

**b. Training Requirements:** All training curriculums must be approved by ODHS prior to being provided.

- (1) Prior to County's implementation and operation of any program under this Agreement, County shall require its staff, contractors, subcontractors, and consultants who will be providing services under County's program(s) to attend training, provided by a contractor of County's choosing, on the documentation requirements for Title IV-E foster care eligibility compliance and documentation for both placement and in-home foster care candidacy cases, and
- (2) County shall require its staff, contractors, subcontractors, and consultants who will be involved in operating any program under this Agreement to also attend training, provided by a contractor of County's choosing, on the required billing and documentation procedures.

**c. Records Keeping Requirements:**

- (1) County shall, and require all of its contractors and subcontractors to, maintain true and accurate general, financial, personnel, and licensing records appropriate to disclose the extent of all services and financial transactions under this Agreement and to support all claims County submits to ODHS pursuant to Exhibit B, Section 14., Records Maintenance; Access.
- (2) County shall make available to ODHS all fiscal and other documents necessary to ascertain County's compliance with the Title IV-E State Plan requirements and this Agreement, including but not limited to,

documents that verify the amounts and uses of all reimbursement payments of FFP funds provided to County through this Agreement. County shall allow authorized ODHS employees, federal officials authorized by the ODHS Agreement Administrator, and other qualified persons access to all financial and programmatic records relating to County's participation in the Title IV-E Reimbursement Program. The federal government shall have the same access to all financial and other documents pertaining to the Title IV-E Reimbursement Program as ODHS.

- (3) Pursuant to Exhibit B Section 14., Records Maintenance; Access, County shall make available to ODHS, DHHS, or their respective designees for review, audit, or both all books and records relating to County's participation in the Title IV-E Reimbursement Program. County shall, and require all of its contractors and subcontractors to assist ODHS or DHHS, or both, in its functions of reviewing financial and programmatic records and monitoring and evaluating County's participation in the Title IV-E Reimbursement Program. County shall, and require all of its contractors and subcontractors performing work under this Agreement to cooperate fully with ODHS and DHHS, or their respective designees, during any review or audit.
- (4) The failure of County or any of its contractors or subcontractors performing work or delivering a service under a County program under this Agreement to maintain any required books or records shall establish a rebuttable presumption in favor of ODHS for the recovery of any funds reimbursed by ODHS for which the required books or records are not available.
- (5) County shall maintain time and attendance records, in a manner consistent with generally accepted business practices, for all staff whose salaries are funded, in whole or in part, with funds provided through this Agreement. .

**d. Case Plan Requirements.** County shall develop and implement a case plan for each youth that is equivalent to that required by the Title IV-E State Plan. The case plan must include the following:

- (1) A description of the placement setting;
- (2) A plan for ensuring the youth receives safe and proper care and that services are provided to all involved parties to the court case to facilitate permanency;
- (3) Health and education records for the youth;
- (4) For youth 16 years of age and older, a description of services and programs available to assist the youth with transition to independent living; and
- (5) For youth with a goal of adoption, provide documentation of steps taken to facilitate that goal.

- e. **Placement and Care of Youth Requirements.** County shall assume full and direct responsibility for each youth’s placement and care.
  - (1) County shall not deliberately adjudicate a youth unruly or delinquent for the sole purpose of receiving FFP funds under this Agreement.
  - (2) County shall not adjudicate a youth to be dependent, neglected, or abused who it would otherwise adjudicate as unruly or delinquent for the sole purpose of placing the youth into the custody of County.
  
- f. **Prevention and Family Services or Programs Requirements:**
  - (1) County shall provide the following services or programs to youth who are a candidate for foster care as defined in the Title IV-E State Plan or is a pregnant or parenting foster youth; and the youth’s parents or kin caregivers when the need for the services or programs are directly related to the safety, permanence, or well-being of the youth, or to prevent the youth from entering foster care:
    - (a) Mental health and substance abuse prevention and treatment services provided by a qualified clinician as required in the Title IV-E State Plan.
    - (b) In-home parent skill-based programs that include parenting skills training, parent education, and individual and family counseling as required in the Title IV-E State Plan.
  - (2) County shall create and maintain a “Prevention Plan” for each youth receiving prevention and family services or programs. The Prevention Plan must include, but is not limited to, the following information:
    - (a) For candidates for foster care:
      - i. Identify the foster care prevention strategy for the youth so that the youth may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver; and
      - ii. List the services or programs to be provided to or on behalf of the youth to ensure the success of that prevention strategy.
    - (b) For pregnant or parenting foster youth, the Prevention Plan must be included in the youth’s case plan and:
      - i. List the services or programs to be provided to or on behalf of the youth to ensure that the youth is prepared (in the case of a pregnant foster youth) or able (in the case of a parenting foster youth) to be a parent; and
      - ii. Describe the foster care prevention strategy for the infant born to the youth so that the infant may remain safely with the youth.

**g. Qualified Residential Treatment Program (QRTP) Requirements:**

- (1) County shall operate a QRTP that has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of youth with serious emotional or behavioral disorders or disturbances and, with respect to a youth, is able to implement the treatment identified for the youth by the assessment of the youth as required in the Title IV-E State Plan. The QRTP must have registered or licensed nursing staff or other licensed clinical staff who:
  - (a) Provide care within the scope of their practice as defined by State of Oregon law;
  - (b) Are on-site according to the treatment model; and
  - (c) Are available 24 hours a day, 7 days a week.
- (2) County shall provide a QRTP assessment of a youth to the court within 30-days of youth's placement in the QRTP by a qualified individual to determine the appropriateness of the placement in a QRTP.
- (3) Upon request from ODHS, County shall provide documentation demonstrating:
  - (a) The ongoing assessments of the youth's needs continue to be best met in a QRTP and are consistent with the youth's short and long term goals;
  - (b) What specific treatment or service needs will be met by the QRTP and the length of time the youth is expected to need those treatment or services; and
  - (c) What efforts are being made to prepare the youth to exit care or to be placed in a foster family home.
- (4) Upon request from ODHS, for youth in a QRTP for 12 consecutive or 18 nonconsecutive months (or for more than six consecutive months for youth under age 13) County shall provide the most recent evidence and documentation supporting the placement with a signed approval by the Director of ODHS' Child Welfare.

**h. Data Reporting Requirements.** County shall collaborate with ODHS to create and maintain federal reporting requirements. The County and ODHS will ensure all required data is captured in ODHS' OR-Kids system and will ensure all data is included in the National Adoption and Foster Care Analysis and Reporting System (AFCARS).

**i. Documentation Requirements:**

- (1) Understanding and Implementation of all Title IV-E State Plan requirements. Upon the request of ODHS, County shall submit documentation evidencing County's understanding and implementation of all Title IV-E State Plan requirements to the ODHS Agreement

Administrator, or delegate, including copies of approved policies, activities, etc., as necessary.

- (2) Compliance. County shall be, and require that its staff, contractors, and subcontractors are, up to date and in compliance with all federal terms and conditions within the Title IV-E State Plan and provide ODHS or DHHS, or both, documentation of such upon request.
- (3) Case Records. County shall require that all case records contain the following information necessary to meet the Title IV-E State Plan requirements:
  - (a) Copies of the court orders that contain the court's determination of reasonable efforts to finalize a permanency plan; and
  - (b) For Foster Care Maintenance (FCM) to be claimed, documentation is required showing a youth is under the age of 18, unless the youth is enrolled full-time in high school or an equivalent vocational or technical course and can reasonably be expected to complete the course prior to their 19th birthday.

**j.** County shall ensure that its client records contain the following information necessary to meet the foster care program eligibility requirements of the Title IV-E State Plan and shall provide copies of such records to ODHS' Federal Policy and Resources Unit:

- (1) A social history or investigative report, or both, containing information related to the household from which the youth was removed;
- (2) A copy of the motion or petition for custody, or both;
- (3) A copy of the court order which led to the youth's removal from the home and containing the court's "contrary to the welfare" determination;
- (4) A copy of the court order containing the "reasonable efforts" determination made within 60 days of the youth being removed from the home;
- (5) A copy of the court order giving County responsibility for placement and care or a copy of the Voluntary Placement/Custody Agreement "VPA";
- (6) Copies of documentation establishing Aid to Families with Dependent Children (AFDC) relatedness, meeting Oregon's AFDC Plan approved under the Social Security Act, Title IV-E Section 402 (42 USC § 602) as in effect July 16, 1996;
- (7) Foster care placement information; and
- (8) Other items as ODHS deems necessary and appropriate.

**k.** Voluntary Placement/Custody Agreement Policy. County shall provide ODHS with a copy of their policy regarding what a valid VPA should look like. County shall follow the County's policy in regard to effective date and signatures required on a VPA. County shall also obtain a court order within 180 days that contains the court's determination, "contrary to welfare".

3. **Allowable Expenses.** The following are expenses allowable for reimbursement under the Title IV-E Reimbursement Program through this Agreement pursuant to Exhibit A, Part 2, “Payment and Financial Reporting”:

a. **Title IV-E Administrative Costs.** All administrative costs for which County seeks reimbursement shall be documented by actual costs incurred and paid by County and documented by accounting records maintained by County.

(1) Foster care programs. Reimbursement rate can vary depending on the type of activity.

(a) County shall comply with the procedures required to claim Title IV-E foster care administration costs based on the Title IV-E State Plan.

(b) Reimbursable foster care program administrative costs include the following:

- i. The referral of a youth to services;
- ii. Preparation for and participation in judicial determination;
- iii. The arrangement of the placement of the youth;
- iv. The development, on-going management and implementation, and supervision of the youth's case plan, excluding the cost of any therapeutic, treatment, or counseling services required there under;
- v. Preparation for and participation in case reviews;
- vi. Activities related to youth, in-home or supervised by the County, who are at-risk of becoming a sex trafficking victim or who is determined as a sex trafficking victim such as:
  - A. Developing and implementing policies and procedures to identify, document in ODHS records, and determine appropriate services for victims of sex trafficking;
  - B. Conducting human trafficking screenings and documenting victims of sex trafficking in ODHS records;
  - C. Determining appropriate services for individuals identified as such victims, including referrals to services; and
  - D. Completing reports required for law enforcement and ACF of youth who ODHS identifies as being a sex trafficking victim. This also includes activities on behalf of any youth missing from foster care.
- vii. Recruitment of eligible foster homes;

- viii. Preparing agreements for the recruitment and licensing of foster homes;
  - ix. The supervision of the youth's placement;
  - x. Participation by caseworker staff in formal and organized training activities necessary to perform their duties under this Agreement. For claiming purposes, such costs are limited to the salary and fringe benefits of such staff performing work under this Agreement proportionate to the time spent in training reasonably related to their duties within the parameters of the Title IV-E Reimbursement Program;
  - xi. Case management on behalf of eligible youth; and
  - xii. Costs related to data collection and reporting if appropriately documented.
- (c) Foster Care Candidacy. County may seek reimbursement of foster care administrative costs for youth who have not yet been placed in foster care as described in the Title IV-E State Plan. To claim administrative costs based on foster care candidacy, County shall demonstrate the youth is at serious risk of removal due to abuse, neglect, or other egregious circumstances and will be placed in foster care if conditions do not improve. Youth who are likely to enter a detention setting do not qualify as foster care candidates. Foster Care candidacy must be re-determined every six months. A youth in an out-of-home placement setting that is not foster care cannot be considered a foster care candidate. Foster care candidacy must be documented in a case plan, an eligibility determination, or a court order indicating the youth will be removed from the home when a placement becomes available. County shall:
- i. Implement and operate a time study which uses service and activity codes that mirror those used by ODHS;
  - ii. For in-home cases, provide documentation of foster care candidacy that must be reviewed and approved by ODHS; and
  - iii. Provide quarterly administrative claims and documentation to ODHS' Federal Policy and Resources Unit.
- (d) Title IV-E Foster Care Training. Any potential Title IV-E foster care training costs incurred by County will only be eligible for enhanced FFP funds if County, in cooperation with ODHS' Training Division, has submitted the necessary amendments to the State of Oregon's Title IV-B State Plan which includes a description of all proposed Title IV-E trainings; a determination of the appropriate portion of the training that qualifies as Title IV-E;

and an estimated budget for said training. No training expenditures will be claimed or reimbursed until the amended Title IV-B State Plan has been approved by DHHS ACF.

- (2) Management of Title IV-E Foster Care: Administrative activities may be performed by County staff or by contractors and subcontractors of County. To be claimable under any circumstances, the activity must be performed on behalf of youth eligible to receive Title IV-E FCM payments or youth determined by the Court to be at serious risk of removal from their home and for whom County have undertaken a plan of reasonable efforts to prevent such removal.
- (a) County may seek reimbursement of training costs for personnel who perform claimable administrative tasks under Title IV-E FCM, provided that the original source of costs claimed for all such activities is solely from state or local funds appropriated by County and are not charged to any other federal program.
  - (b) In those cases where County seeks to claim administrative and training costs for activities performed by their staff, County agrees to do so solely with respect to staff who perform activities claimable under Title IV-E FCM.
  - (c) In those cases where County contracts with a third party to perform some or all of the claimable Title IV-E FCM administrative and/or training activities, such contracts shall expressly enumerate the following requirements:
    - i. The services to be performed by the County's contractor or subcontractor;
    - ii. Establish a specific and discrete rate of compensation that County will pay for the performance of the services provided on behalf of Title IV- E eligible youth, such rate of compensation not being greater than what is also charged for youth who are not Title IV-E eligible;
    - iii. County retains control and responsibility for the care, maintenance, treatment, supervision, and case planning for youth to whom services are delivered or on behalf of whom the contract is entered into;
    - iv. Specify an officer of the Juvenile Services Division of County who will be responsible for supervising their contractors and subcontractor's performance; and
    - v. Identify the procedures County will follow for supervising the performance of their contractors and subcontractors including, but not limited to, reporting requirements by the contractors and subcontractors to County, and standards for determining satisfactory and unsatisfactory performance.



- (d) If County contracts with another public entity for the performance of any activity claimable under Title IV-E FCM, payments County makes to the public entity must represent a reimbursement of actual costs of the other public entity incurred in the performance of its contractual duties.
- (e) Training and other administrative costs claimable under Title IV-E FCM are expressly limited to those articulated under Title IV-E State Plan and its implementing regulations, as amended.
- (3) Prevention Programs. Administrative costs associated with a youth who is determined a candidate for entering foster care and may be direct charged to Title IV-E at 50% FFP . Administrative activities for prevention program candidates do not have to be performed on behalf of youth eligible to receive Title IV-E FCM reimbursement.
- (4) Legal Representation. Administrative costs must be performed on behalf of youth eligible to receive Title IV-E FCM at 50% FFP for independent legal representation by an attorney for a youth who is a candidate for title IV-E foster care, or in foster care, and the youth's parent to prepare for and participate in all stages of legal proceedings, such as court hearings related to a youth's removal from the home. County must have an ODHS approved cost allocation methodology before claiming.

**b. Title IV-E FCM costs reimbursements:**

- (1) As a condition of the receipt of FCM reimbursements with respect to a youth who meets the eligibility requirements for federal benefits under the Social Security Act, County agrees that during the period of time that County has responsibility for the placement and care of such youth, County shall comply with all applicable federal regulations, state laws, Title IV-E State of Oregon Plan and rules pertaining to the Title IV-E Reimbursement Program. County shall seek Title IV-E FCM cost reimbursements only for:
  - (a) Youth for whom County has assumed care and responsibility and met all requirements set forth in the Title IV-E State of Oregon Plan. For purposes of this Section, the following documentation of the County's assumption of care and responsibility for a youth is required:
    - i. Orders entered by the court must give County placement and care authority and explicitly expresses the following language: that continuation in the home would be "contrary to the youth's welfare" (specific to the youth, not the family or community) and that County made "reasonable efforts" to:
      - A. Maintain the family unit and prevent the unnecessary removal of a youth from the home, as long as the youth's safety is ensured; and

- B. Make and finalize a permanency plan for delinquent youth.
  - ii. The court conducts permanency hearings for the delinquent population and makes findings related to reasonable efforts toward the permanency goal at least annually.
  - iii. County places youth in the least restrictive settings and in close proximity to the youth's family consistent with the best interests of the youth.
- (b) Youth ODHS has determined to be eligible for FFP funds under the Title IV-E Reimbursement Program.
- (c) Youth placed in facilities that are licensed by ODHS and who qualify for Title IV-E foster care FFP funds. County may recruit foster homes that meet ODHS' certification standards.
- (2) County may request reimbursement for services permitted by the Title IV-E State Plan, at the rates established in 45 CFR § 1356.60, which include:
  - (a) FCM expenses; and
  - (b) Administrative and other expenses, including training expenses, necessary for the administration of County's program in support of the Title IV-E State Plan.
- (3) County shall meet the following requirements to claim FCM cost reimbursements under Title IV-E:
  - (a) All Title IV-E FCM cost reimbursement claims under this Agreement must be made during the term of this Agreement. Only actual costs are reimbursable under this Agreement.
  - (b) Transmit or deliver all required documentation of Title IV-E eligibility to ODHS' Federal Policy and Resources Unit for review and final eligibility determination. All cases that County has placement and care responsibility for will be considered in determining an eligibility ratio. Cases shall be considered ineligible and shall not be sent to ODHS if eligibility determination has not been made by the County.
    - (1) County and ODHS must develop a procedure for the transfer of federal Title IV-E foster care reimbursements.
    - (2) County shall transmit all cost information for claiming to ODHS in the format prescribed by ODHS. Claims for Title IV-E reimbursement of eligible administrative costs must be adequately documented in a cost allocation plan approved by ODHS.

- (3) County shall maintain a payment system that allows County records to be transferred to ODHS in a format prescribed by ODHS. The payment system must include youth-specific payment records, youth specific eligibility data, and must identify claimable portions of each type of youth-specific payment as mutually agreed.

**c. Prevention and Family Services or Programs.** County may request reimbursement for providing the following services or programs pursuant to Section 2.f. of this Exhibit A, Part 1, “Statement of Work”.

- (1) Mental health and substance abuse prevention and treatment services provided by a qualified clinician as required in the Title IV-E State Plan.
- (2) In-home parent skill-based programs that include parenting skills training, parent education, and individual and family counseling as required in the Title IV-E State Plan.

**d. Training.**

- (1) Enhanced Training 75/25: Training of personnel employed or preparing for employment by the County’s Juvenile Department administering the County’s program supporting the Title IV-E State Plan, (including travel and per diem expenses). Allowable Title IV-E enhanced training costs are reimbursed at 75% FFP and must be performed on behalf of youth eligible to receive Title IV-E FCM.
- (2) Training 50/50: New employee trainings and additional trainings not related to those subjects defined in enhanced or prevention training. Allowable Title IV-E training costs are reimbursed at 50% FFP and must be performed on behalf of youth eligible to receive Title IV-E FCM
- (3) Prevention Training 50/50: Allowable prevention training for personnel employed or preparing for employment by County administering the County’s program supporting the Title IV-E State Plan and County contracted providers providing services to youth who are candidates for foster care and pregnant or parenting foster youth (and their parents or kin caregivers) are reimbursed at 50% FFP and does not have to be performed on behalf of youth eligible to receive Title IV-E FCM.

**4. Unallowable Activities:**

- a.** County shall not submit claims for cost reimbursement of maintenance expenses related to placement of youth in secured pre-adjudication detention, short-term (holdover), or secured post- adjudication correctional facilities, or any related costs.
- b.** County shall not use expenditures which are claimed under Title IV-E foster care as match or as maintenance of effort under any other federal program.
- c.** County shall not request cost reimbursement for services that include, but are not limited to, the following:

- (1) Physical/mental examinations;
- (2) Medications of any type;
- (3) Counseling of any type;
- (4) Testing/evaluation of any type;
- (5) Homemaker or housekeeping services;
- (6) Education expenses, with the exception of school supplies;
- (7) Recreational expenses (unless it is a form of the youth's personal incidentals);
- (8) Social services are not reimbursable, unless part of the Prevention Services Program, regardless of what type of professional/non-professional provides them. This also includes costs that are incurred for social services that provide treatment to the youth, the youth's family, or foster family to remedy personal problems, behaviors, or home conditions; and
- (9) Contingency fees.

**5. Monitoring Requirements:**

- a. ODHS will monitor and periodically evaluate activities County conducts under the Title IV-E Reimbursement Program and program expenditures.
- b. County shall provide ODHS access to County's case records, reports, and other materials related to its participation in the Title IV-E Reimbursement Program. Monitoring will take various forms, including, but not limited to, scheduled on-site monitoring visits, desk audits, and unannounced on-site monitoring visits.
- c. If unallowable expenditures are discovered through any means, County shall be required to reimburse ODHS pursuant to Exhibit A, Part 2, "Payment and Financial Reporting", Section 1.d.
- d. County shall be required to repay ODHS all funds paid to County for ineligible administrative and foster care claims retroactive to the earliest date of ineligibility. County shall notify ODHS immediately when it is discovered a youth has become ineligible for Title IV-E funding.

**6. Reporting Requirements:**

- a. County shall submit Title IV-E claiming information to ODHS quarterly, in accordance with this Agreement. The information will be processed in the next Federal Fiscal Quarter upon receipt. Changes in a youth's placement and ongoing eligibility shall be submitted within the month in which it occurs.
- b. County shall make such reports, in such form and containing such information as ODHS may require from time to time, and County shall comply with such provisions as ODHS deems necessary to ensure the correctness and verification of such reports are consistent with federal law and regulations pertaining to the Title IV-E State Plan.

## EXHIBIT A

### Part 2 Payment and Financial Reporting

#### 1. Payment Provisions.

- a. During the period specified in Section 1., **Effective Date and Duration**, of this Agreement, ODHS will reimburse County, a maximum not-to-exceed amount as specified in Section 3., **Consideration** of this Agreement, to be paid in accordance with Exhibit A, Part 1, “Statement of Work”, and this Exhibit A, Part 2, “Payment and Financial Reporting”. ODHS will determine the amounts of reimbursement quarterly and will submit reimbursement payments to County within sixty days of the end of each quarter.
- b. **Administration Fee:**
  - (1) County shall provide ODHS compensation in the form of an administrative fee according to the following percentages. The percentages shall be paid to ODHS based on the total sum of each quarterly claim:
    - (a) Year 1: 3% of the administrative reimbursement total;
    - (b) Year 2: 1% of the administrative reimbursement total; and
    - (c) Any additional years beyond Year 2 shall be at 1% of the administrative reimbursement total.
  - (2) ODHS will email an invoice to County for the appropriate administration fee.
- c. **Routine and Non-Routine Adjustments.**
  - (1) ODHS will reimburse County for actual eligible Title IV-E costs. If there is a need to make adjustments to previously claimed and approved cost reimbursement amounts, ODHS shall notify County concerning adjustments to administrative and training cost reimbursements.
  - (2) Routine maintenance claiming adjustments will be made by ODHS without prior notification to County, but ODHS will provide the detail of such adjustments to County upon request.
  - (3) If maintenance adjustments are needed due to non-routine occurrences, such as an audit disallowance, ODHS will notify County prior to making any said non-routine adjustments.

County may provide justification if they believe there is an error in the adjustment, but if both parties are unable to come to an agreement about the adjustment, the final decision will be made by ODHS.
- d. County shall repay ODHS all Title IV-E funds ODHS reimburses to County for ineligible administrative, training, and foster care maintenance claims, retroactive to the earliest date of ineligibility. County has a continuing

obligation to notify ODHS immediately when it is discovered a youth has become ineligible for Title IV-E reimbursement. ODHS will follow the procedure described above in Section 1.c., before seeking repayment or making adjustments. In the event County must repay funds it has already received from ODHS, ODHS may exercise the following options at its discretion:

- (1) ODHS may deduct the amount of money owed to County from the next scheduled Title IV-E reimbursement payment, owed to County;
  - (2) If ODHS' next scheduled reimbursement payment to County is insufficient to satisfy the money owed to ODHS, ODHS will require County to pay ODHS the outstanding required amount within 45 calendar days of the date of written notice from ODHS; or
  - (3) If County fails to reimburse ODHS for ineligible claims as detailed herein, ODHS may withhold funds from any or all programs in which County participates, until the arrearage is paid in full.
- e. County shall establish an account within County's general ledger into which the County will record Title IV-E FFP funds received and how those funds were used.
- f. County agrees that any Title IV-E FFP funds received pursuant to this Agreement whether past, present, or anticipated will not be treated as countervailing income or resources in the determination of current or future general appropriations made in support of the operation of County.
- g. At the close of any fiscal year, should County show a net positive balance in FFP funds received under this Agreement, County shall re-appropriate such balance as available for the next subsequent fiscal year.
- h. County shall develop and implement accounting procedures and standards which will provide an audit trail adequate to assess their performance of this Agreement.
- i. **County Invoice.**
- (1) County shall generate an invoice number through County's financial department for use on all Title IV-E claims and provide the invoice number to any subcontractor who is submitting invoices on behalf of County to ODHS. The invoice number must be included on all Title IV-E Reimbursement Request Forms submitted to ODHS.
  - (2) County shall have all invoices sent to the ODHS Agreement Administrator at the address specified on page 1, or to any other address as ODHS may indicate in writing to County.
2. **Travel and Other Expenses.** ODHS will not reimburse County for any travel or additional expenses under this Agreement.

## EXHIBIT A

### Part 3 Special Provisions

#### 1. Confidentiality of Client Information.

- a. All information as to personal facts and circumstances obtained by County on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, the client's guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- b. The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- c. ODHS, County and any subcontractor will share information as necessary to effectively serve ODHS clients.

#### 2. Amendments.

- a. ODHS reserves the right to amend or extend the Agreement under the following general circumstances:
  - (1) ODHS may extend the Agreement for additional periods of time up to a total Agreement period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on ODHS' satisfaction with performance of the work or services provided by County under this Agreement.
  - (2) ODHS may periodically amend any payment rates throughout the life of the Agreement proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if ODHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b. ODHS further reserves the right to amend the Statement of Work for the following:
  - (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Agreement or previous amendments to the Agreement;
  - (2) Implement additional phases of the Work; or
  - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Agreement.

- c. Upon identification, by any party to this Agreement, of any circumstance which may require an amendment to this Agreement, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Agreement before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 21 “Amendments” of this Agreement.

**3. County Requirements to Report Abuse of Certain Classes of Persons.**

- a. County shall comply with, and cause all employees to comply with, the applicable laws for mandatory reporting of abuse for certain classes of persons in Oregon, including: Children (ORS 419B.005 through 419B.045);
- b. County shall make reports of suspected abuse of persons who are members of the classes established in Section 3.a. above to Oregon’s Statewide Abuse Reporting Hotline: 1-855-503-SAFE (7233), as a requirement of this Agreement.
- c. County shall immediately report suspected child abuse, neglect or threat of harm to ODHS’ Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 through 419B.045). If law enforcement is notified, County shall notify the referring ODHS caseworker within 24 hours. County shall immediately contact the local ODHS Child Protective Services office if questions arise as to whether or not an incident meets the definition of child abuse or neglect.
- d. If known, the abuse report should contain the following:
  - (1) The name and address of the abused person and any people responsible for their care;
  - (2) The abused person’s age;
  - (3) The nature and the extent of the abuse, including any evidence of previous abuse;
  - (4) The explanation given for the abuse;
  - (5) The date of the incident; and
  - (6) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

**4. Background Checks.** Reserved

**5. Equal Access to Services.** County shall provide equal access to covered services for both males and females under 18 years of age, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270.

**6. Media Disclosure.** County will not provide information to the media regarding a recipient of services purchased under this Agreement without first consulting the ODHS office that referred the child or family. County will make immediate contact with the ODHS office when media contact occurs. The ODHS office will assist County with an appropriate follow-up response for the media.

**7. Nondiscrimination.** County must provide services to ODHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as



defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language and other special needs of clients.

**8. Audit Exceptions.**

- a.** ODHS will be responsible for receiving, replying to, and arranging compliance with any audit exceptions found by any state or federal audit of County's participation in the Title IV-E Reimbursement Program. ODHS will notify County of any adverse findings attributable to County in a timely manner. Upon County receiving notice from ODHS, County shall cooperate fully with ODHS and prepare and send to ODHS its written response to the audit exceptions in a timely manner. County's responses will not be modified by ODHS without collaboration and County approval. County's failure to timely and adequately respond to audit exceptions will result in liability for any repayment necessitated by the audit exceptions. County shall be responsible for correcting audit exceptions to the satisfaction of ODHS.
- b.** County shall be liable for any audit exceptions which result solely from the acts or omissions of County in the performance of its responsibilities specified in this Agreement. Similarly, ODHS will be liable for any audit exceptions which result solely from the acts or omissions of ODHS in the performance of its responsibilities specified in this Agreement. In the event that an audit exception results from the combined acts or omissions of ODHS and County, the financial liability for the audit exception shall be shared by the parties in proportion to their relative fault.

## EXHIBIT B

### Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed and enforced 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 the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives 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, from any Claim or from the jurisdiction of any court. Subject to the foregoing, the parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and ODHS, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers’ Compensation coverage, unless such employers are exempt under ORS 656.126. Nothing in this Agreement shall require County or ODHS to act in violation of state or federal law or the Constitution of the State of Oregon.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that County is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
  - a. County represents and warrants as follows:
    - (1) **Organization and Authority.** County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.
    - (2) **Due Authorization.** The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by

County and (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 County's 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 County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.

- (3) Binding Obligation. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession;
- (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
- (6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

**b.** ODHS represents and warrants as follows:

- (1) Organization and Authority. ODHS has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
- (2) Due Authorization. The making and performance by ODHS of this Agreement (a) have been duly authorized by all necessary action by ODHS and (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 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 ODHS is a party or by which ODHS may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by ODHS of this Agreement, other than approval by the Department of Justice if required by law.
- (3) Binding Obligation. This Agreement has been duly executed and delivered by ODHS and constitutes a legal, valid and binding obligation of ODHS, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

- c. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**5. Funds Available and Authorized Clause.**

- a. The State of Oregon’s payment obligations under this Agreement are conditioned upon ODHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than ODHS. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. ODHS represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.
- b. **Payment Method.** Payments under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Agreement. County shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, County shall provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from County.

**6. Recovery of Overpayments.** Reserved.

**7. Ownership of Intellectual Property.**

- a. **Definitions.** As used in this Section 7 and elsewhere in this Agreement, the following terms have the meanings set forth below:
  - (1) “County Intellectual Property” means any intellectual property owned by County and developed independently from the Work.
  - (2) “Third Party Intellectual Property” means any intellectual property owned by parties other than ODHS or County.
- b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, ODHS will not own the right, title and interest in any intellectual property created or delivered by County or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that County owns, County grants to ODHS a perpetual, worldwide, non-exclusive, royalty-free and

irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in this Section 7.b on ODHS' behalf, and (3) sublicense to third parties the rights set forth in this Section 7.b.

- c. If state or federal law requires that ODHS or County grant to the United States a license to any intellectual property, or if state or federal law requires that ODHS or the United States own the intellectual property, then County shall execute such further documents and instruments as ODHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or ODHS. To the extent that ODHS becomes the owner of any intellectual property created or delivered by County in connection with the Work, ODHS will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to County to use, copy, distribute, display, build upon and improve the intellectual property.
- d. County shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as ODHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

**8. County Default.** County shall be in default under this Agreement upon the occurrence of any of the following events:

- a. County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- b. Any representation, warranty or statement made by County herein or in any documents or reports relied upon by ODHS to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;
- c. County (1) 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, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) 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 (8) takes any action for the purpose of effecting any of the foregoing; or
- d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County 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 County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

- 9. ODHS Default.** ODHS shall be in default under this Agreement upon the occurrence of any of the following events:
- a.** ODHS fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or
  - b.** Any representation, warranty or statement made by ODHS herein or in any documents or reports relied upon by County to measure performance by ODHS is untrue in any material respect when made.

**10. Termination.**

- a. County Termination.** County may terminate this Agreement:
  - (1) For its convenience, upon at least 30 days advance written notice to ODHS;
  - (2) Upon 45 days advance written notice to ODHS, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;
  - (3) Upon 30 days advance written notice to ODHS, if ODHS is in default under this Agreement and such default remains uncured at the end of said 30-day period or such longer period, if any, as County may specify in the notice; or
  - (4) Immediately upon written notice to ODHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.
- b. ODHS Termination.** ODHS may terminate this Agreement:
  - (1) For its convenience, upon at least 30 days advance written notice to County;
  - (2) Upon 45 days advance written notice to County, if ODHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODHS under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODHS may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces ODHS' legislative

authorization for expenditure of funds to such a degree that ODHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;

- (3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that ODHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
- (4) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as ODHS may specify in the notice;
- (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or
- (6) Immediately upon written notice to County, if ODHS determines that County or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.

**c. Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

## **11. Effect of Termination.**

### **a. Entire Agreement.**

- (1) Upon termination of this Agreement, ODHS shall have no further obligation to pay County under this Agreement.
- (2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.

**b. Obligations and Liabilities.** Notwithstanding Section 11.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

## **12. Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION

OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

13. **Insurance.** County shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.
14. **Records Maintenance; Access.** County shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." County acknowledges and agrees that ODHS and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.
15. **Information Privacy/Security/Access.** If the Work performed under this Agreement requires County or its subcontractor(s) to have access to or use of any ODHS computer system or other ODHS Information Asset for which ODHS imposes security requirements, and ODHS grants County or its subcontractor(s) access to such ODHS Information Assets or Network and Information Systems, County shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
16. **Force Majeure.** Neither ODHS nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of ODHS or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODHS may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.
17. **Assignment of Agreement, Successors in Interest.**
  - a. County shall not assign or transfer its interest in this Agreement without prior written approval of ODHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions as ODHS may deem necessary. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in the Agreement.



- b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
18. **Alternative Dispute Resolution.** The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
19. **Subcontracts.** County shall not enter into any subcontracts for any of the Work required by this Agreement without ODHS' prior written consent. In addition to any other provisions ODHS may require, County shall include in any permitted subcontract under this Agreement provisions to require that ODHS will receive the benefit of subcontractor performance as if the subcontractor were County with respect to Sections 1, 2, 3, 4, 7, 15, 16, 18, 19, 20, and 22 of this Exhibit B. ODHS' consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.
20. **No Third Party Beneficiaries.** ODHS and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that County's performance under this Agreement is solely for the benefit of ODHS to assist and enable ODHS to accomplish its statutory mission. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
21. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and, when required, approved by the Department of Justice. Such amendment, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.
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 shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
23. **Survival.** Sections 1, 4, 5, 6, 7, 10, 12, 13, 14, 15, 18, 20, 21, 22, 23, 24, 25, 26, 27, and 28 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.
24. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or ODHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the

recipient, or on the next business day if transmission was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

**ODHS:** Office of Contracts & Procurement  
635 Capitol Street NE, Suite 350  
Salem, OR 97301  
Telephone: 503-945-5818  
Facsimile: 503-378-4324

25. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
26. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
27. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with 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 County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of 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.

With respect to a Third Party Claim for which County is jointly liable with the State (or would be if joined in the Third Party Claim), County 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 State in such proportion as is appropriate to reflect the relative fault of County on the one hand and of the State 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 County on the one hand and of the State 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. County's 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.

- 28. Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.
- 29. Stop-Work Order.** ODHS may, at any time, by written notice to County, require County to stop all, or any part of the work required by this Agreement for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, ODHS shall either:
- a.** Cancel or modify the stop work order by a supplementary written notice; or
  - b.** Terminate the work as permitted by either the Default or the Convenience provisions of Section 10. Termination.

If the Stop Work Order is canceled, ODHS may, after receiving and evaluating a request by County, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

## EXHIBIT C

### Subcontractor Insurance Requirements

County 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 County 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 ODHS. County shall not authorize Contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County 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 County permit a Contractor to work under a Subcontract when County 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 County directly enters into a Subcontract. It does not include a subcontractor with which the Contractor enters into a contract.

#### TYPES AND AMOUNTS

- 1. 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.

- 2. 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 of Oregon. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Subcontract, and have no limitation of coverage to designated premises, project or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit must not be less than \$2,000,000.

**3. Automobile Liability:**

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 \$\_\_\_\_\_ 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.

**4. 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 Subcontract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$\_\_\_\_\_ per claim. Annual aggregate limit must not be less than \$\_\_\_\_\_. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months must be included in the Professional Liability Insurance coverage, or the Contractor and subcontractors shall provide Continuous Claims Made coverage as stated below.

**5. Network Security and Privacy Liability:**

Required  Not required

Contractor shall provide Network Security and Privacy Liability Insurance for the duration of this Subcontract and for the period of time in which Contractor (or its business associates or subcontractor(s)) maintains, possesses, stores or has access to State of Oregon or client data, whichever is longer, with a combined single limit of no less than \$\_\_\_\_\_ per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of State of Oregon 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 State of Oregon data.

**6. Physical Abuse and Molestation:**

Required  Not required

Physical Abuse and Molestation Insurance in a form and with coverage that are satisfactory to the Agency covering damages arising out of actual, perceived, or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, training, investigation, reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not limited to Contractor and Contractor's employees and volunteers. Policy endorsement's definition of an insured must include the Contractor, and the Contractor's employees and volunteers. Coverage must be written on an occurrence basis in an amount of not less than \$\_\_\_\_\_ per occurrence. Any annual aggregate limit must not be less

than \$ \_\_\_\_\_. Coverage can be provided by a separate policy or as an endorsement to the Commercial General Liability or Professional Liability policies. These limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, must be treated as a separate occurrence for each victim. Coverage must include the cost of defense and the cost of defense must be provided outside the coverage limit.

7. **Excess/Umbrella Insurance.** A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.
8. **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.
9. **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 services to be performed under this Subcontract. Coverage must 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.
10. **Waiver of Subrogation.** Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against ODHS or State of Oregon by virtue of the payment of any loss. Contractor shall 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).
11. **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 this Subcontract, for a minimum of 24 months following the later of: (i) Contractor's completion and Agency's acceptance of all services required under this Subcontract, or (ii) Agency's or Contractor's termination of this Subcontract, or (iii) The expiration of all warranty periods provided under this Subcontract.
12. **Certificate(s) and Proof of Insurance.** County 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 Subcontract. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) must also include all required endorsements or copies of the applicable policy language effecting coverage required by

this Subcontract. 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 County has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Subcontract.

- 13. Notice of Change or Cancellation.** The Contractor or its insurer must provide at least 30 days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).
- 14. Insurance Requirement Review.** Contractor agrees to periodic review of insurance requirements by ODHS under this Subcontract and to provide updated requirements as mutually agreed upon by Contractor and ODHS.
- 15. State Acceptance.** All insurance providers are subject to ODHS acceptance. If requested by ODHS, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to ODHS' representatives responsible for verification of the insurance coverages required under this Exhibit.

## EXHIBIT D

### Federal Terms and Conditions

**General Applicability and Compliance.** Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, County shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to County, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** County shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, County expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then County shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then County shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to ODHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. County shall include and require all subcontractors to include in all



contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.

4. **Energy Efficiency.** County shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, County certifies, to the best of the County's knowledge and belief that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
  - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c. County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
  - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
  - e. No part of any federal funds paid to County under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f.** No part of any federal funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
  - g.** The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
  - h.** No part of any federal funds paid to County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.
- 6. Resource Conservation and Recovery.** County shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
- 7. Audits.**
- a.** County shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
  - b.** If County expends \$750,000 or more in federal funds (from all sources) in a fiscal year, County shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to ODHS within 30 days of completion. If County expends less than \$750,000 in a fiscal year, County is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, “Records Maintenance, Access”.
- 8. Debarment and Suspension.** County shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal Procurement or

Nonprocurement Programs” in accordance with Executive Orders No. 12549 and No. 12689, “Debarment and Suspension”. (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

9. **Pro-Children Act.** County shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
10. **Medicaid Services.** Reserved.
11. **Agency-based Voter Registration.** If applicable, County shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
12. **Disclosure.** Reserved.
13. **Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. County agrees that it has been provided the following notice:
  - a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
    - (1) The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
    - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
  - b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
  - c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or agreement under a grant or subgrant.
14. **Super Circular Requirements.** 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, including but not limited to the following:
  - a. **Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally

describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

- b. Procurement Standards.** When procuring goods or services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C or 2 CFR § 200.318 through 200.327, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
  - c. Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of County, and County shall also include these contract provisions in its agreements with non-Federal entities.
- 15. Federal Whistleblower Protection.** County shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

**EXHIBIT E**

**Information Required by 2 CFR § 200.332(a)(1)\***

Federal Award Identification:

1. Subrecipient name (which must match registered name in DUNS): County of Clackamas, Oregon
2. Subrecipient’s DUNS number: 096992656
3. Federal Award Identification Number (FAIN): 2201ORFOST
4. Federal Award Date: 10/01/2021
5. Sub-award Period of Performance and Budget Start and End Date: From 10/01/2021 to 09/30/2022
6. Total Amount of Federal Funds Obligated by this Agreement: \$400,000
7. Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this Agreement\*\*: \$400,000
8. Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: \$400,000
9. Federal award project description: Title IV-E Foster Care
10. Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity:
  - (a) Name of Federal awarding agency: Department of Health and Human Services, Administration for Children and Families
  - (b) Name of pass-through entity: Department of Human Services (DHS)
  - (c) Contact information for awarding official of the pass-through entity: Sherril Kuhns
11. CFDA Number and Name: 93-658 Foster Care Title IV-E  
Amount: \$400,000
12. Is Award Research and Development?  Yes  No
13. Indirect cost rate for the Federal award: 0%

\*For the purposes of this Exhibit, the term “Subrecipient” refers to Recipient, and the term “pass-through entity” refers to ODHS.

\*\*The Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity is the Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity during the current Federal fiscal year 2021-2022.

## EXHIBIT F

### Privacy and Security Agreement

#### 1. PURPOSE OF THIS EXHIBIT.

- 1.1. The terms and conditions of this Exhibit F, "Privacy and Security Agreement" (PSA) govern County's use of Data, and County's Access to State of Oregon Information Assets and Systems.
- 1.2. County needs the Access described in Exhibit F-1, Third Party Information System Access Request(s) (MSC 0785), hereby incorporated into this PSA by reference, to perform the services described in the Agreement.

#### 2. DEFINITIONS. The following capitalized terms have the following meanings, and apply to the Access granted County under the Agreement:

- 2.1. "Access" means the ability or the means necessary to read, communicate, or otherwise use State of Oregon Data, Network and Information Systems, and Information Assets.
- 2.2. "Breach" means the acquisition, access, exposure, use, disclosure, of an Information Asset (such as Data) in a manner not in compliance with applicable law, rule, or policy, or data loss, misuse, or compromise.
- 2.3. "Client Records" includes any client, applicant, or participant information regardless of the media or source, exchanged between the parties.
- 2.4. "Data" means information created, transmitted, and stored pursuant to the Agreement, including metadata, personal information, and Client Records.
- 2.5. "Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of any Network and Information System or Information Asset. An Incident is an observable, measurable occurrence that is a deviation from expected operations or activities. An Incident may be a Breach, failure to protect a User's identification (ID), or theft of computer equipment that uses or stores Data.
- 2.6. "Individual Access Request (IAR)" refers to the ODHS/OHA form used to authorize a User, identify the User's job assignment, and the required access to Network and Information System(s). It generates a unique alpha/numeric code used to access State of Oregon Network and Information Systems.
- 2.7. "Information Asset(s)" refers to all information provided through ODHS and OHA, regardless of the source, which requires measures for security and privacy. Includes Data.
- 2.8. "Network and Information System(s)" or "Systems" means the State of Oregon's computer infrastructure which provides personal communications, Data, and

Information Assets, regional, wide area, and local networks, and the internetworking of various types of networks.

2.9. “User” means any individual (authorized or unauthorized) who Accesses the Network and Information Systems or Information Assets through County’s Access under this Agreement. Authorized Users each have an assigned unique log-on identifier.

**3. AMENDMENTS TO THIS PSA.** Other than as allowed under this section, the parties may amend this PSA only via a written amendment executed in accordance with Section 21 of Exhibit B of the Agreement, and which identifies any amended terms of this PSA.

3.1. **Point of Contact Changes.** Each party will provide timely notification to the other of any change of its respective point(s) of contact, including any technical lead, and will name an interim or replacement person in any such notice. Exhibit F-1 will be deemed amended to include the updated information.

3.2. **Administrative Changes.** Either party may request other updates to Exhibit F-1 that are, in the sole discretion of ODHS/OHA’s Information Security and Privacy Office, administrative in nature and do not modify the mode of Access or type of Data by submitting a written request to the other party. Upon written authorization of both parties and subsequent written approval by ODHS/OHA’s Information Security and Privacy Office, Exhibit F-1 will be deemed amended to include the updated information.

**4. NOTIFICATIONS.**

4.1. **Points of Contact.** The parties have designated their respective points of contact in Exhibit F-1. The parties will facilitate direct communication between their points of contact. The parties will provide timely written notification to the other of any changes in point of contact information.

4.2. **Incident and Breach Notifications.** In the event County or its subcontractors or agents discover or are notified of an Incident or a Breach, including a failure to comply with County’s confidentiality obligations, County shall notify the Agency point of contact, identified in Section 4 of Exhibit F-1 (or delegate) of the Incident or Breach immediately, and in no event more than 24 hours following discovery or notification. If State of Oregon determines that the Incident or Breach requires notification of State of Oregon clients, or other notification required by law, State of Oregon will have sole control over the notification content, timing, and method, subject to County’s obligations under applicable law. Notwithstanding the foregoing, the parties acknowledge and agree that this section constitutes notice by County to ODHS of the ongoing existence and occurrence of security incidents that are “unsuccessful,” such as “pings” on a firewall, and do not represent Incidents or Breaches.

4.3. **Requests for Data.** In the event County receives a third-party request for Data, including any electronic discovery, litigation hold, or discovery searches, County

shall first give ODHS notice and provide such information as may be reasonably necessary to enable the State of Oregon to protect its interests.

**5. GRANT OF LICENSE.**

5.1. **State Systems and Data.** Subject to County's compliance with the Agreement and this PSA, County and its authorized Users are hereby granted a non-exclusive, non-transferable, and revocable authorization to access and use Network and Information Systems and Information Assets only in accordance with this Exhibit F and applicable laws, rules, and policies. County and its Users shall not participate in any unauthorized transfer or sale of, create derivative works of, or in any way exploit the Data made available through this Access.

**6. DATA PRIVACY.** In addition to County's obligations under Exhibit A, Part 3, "Special Provisions", Section 1 regarding Confidentiality of Information:

6.1. **Generally.** County shall hold all Client Records and other information as to personal facts and circumstances obtained by County on ODHS clients as confidential, using the standard of care applicable to the Client Records, and shall not divulge any Client Records without the written consent of the client, the client's attorney, the responsible parent of a minor child, or the minor child's guardian except as required by other terms of this PSA, or applicable law. Disclosure of de-identified or aggregate information in summaries, statistical analyses, or on other forms may be agreed upon by the parties in a separate writing.

6.2. **Limited Purposes.** County shall limit the use or disclosure of Data concerning clients to persons directly connected with the Work and administration of the Agreement.

6.3. **Privacy Protections.** Data may include information, such as Client Records, subject to specific confidentiality protections under state or federal law. County shall comply with laws and regulations applicable to the information described in Exhibit F-1, including as specified in the Agreement.

6.4. **Training.** County's employees, subcontractors, and agents who will be granted Access have received training on the privacy and security obligations relating to the Access, including on Client Records. County shall provide periodic privacy and security training to its employees, subcontractors, and agents. This periodic training may include State of Oregon trainings available to third parties on security and use and disclosure of Data.

**7. SECURITY REQUIREMENTS.**

7.1. **Compliance with Laws, Regulations, and Policies.** County and its employees, contractors, and agents shall comply with all applicable state and federal laws and regulations, and State of Oregon policies governing use and disclosure of Data (including Client Records) and Access, including as those laws, regulations,



and policies may be updated from time to time. Applicable laws, regulations, and policies include but are not limited to:

- 7.1.1. Oregon's Statewide Information Security Standards:  
<https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf>
- 7.1.2. Oregon's Statewide Information Security Plan,  
<https://www.oregon.gov/das/OSCIO/Documents/StatewideInformationSecurityPlan.pdf>.
- 7.1.3. Oregon's Statewide Policies:  
<https://www.oregon.gov/das/Pages/policies.aspx#IT>.
- 7.1.4. ODHS and OHA Information Security and Privacy Policies:  
<https://www.oregon.gov/oha/FOD/OIS-ISPO/Pages/Policies.aspx?>
- 7.1.5. ODHS and OHA Privacy and Confidentiality administrative rules, OAR Chapter 407, Division 14, and OAR Chapter 943, Division 14.
- 7.1.6. The Oregon Consumer Information Protection Act, ORS 646A.600 through 646A.628, to the extent applicable.
- 7.1.7. The Health Insurance Portability and Accountability Act (HIPAA), including as amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 ("ARRA"), and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164.
- 7.2. **Responsible for Compliance.** County is responsible for the compliance of its employees, agents, and contractors with this PSA and with any third-party licenses to which Access is subject.
- 7.3. **Subcontractors.** Upon written request, County shall disclose its subcontractors acquiring Access under this PSA to the ODHS Program Requestor identified in Section 4 of Exhibit F-1 (or delegate).
- 7.4. **Privacy and Security Measures.** County represents and warrants it has established and will maintain privacy and security measures that meet or exceed the standards set in laws, rules, and regulations applicable to the safeguarding, security and privacy of all Information Assets, including Client Records, regardless of the media, and all Network and Information Systems. County shall monitor, periodically assess, and update its security controls and risk to ensure continued effectiveness of those controls.
- 7.5. **Security Risk Management Plan.** County shall ensure the level of security and privacy protection required in accordance with this PSA is documented in a security risk management plan. County shall make its security risk management plan available to ODHS for review upon request.

- 7.6. **Audit Rights and Access.** County shall maintain records in such a manner as to clearly document its compliance with and performance under this PSA, and provide ODHS, the Oregon Secretary of State, the federal government, and their duly authorized representatives, access to County's officers, agents, contractors, subcontractors, employees, facilities and records for ODHS to:
- 7.6.1. Determine County's compliance with this PSA,
  - 7.6.2. Validate County's written security risk management plan, or
  - 7.6.3. Gather or verify any additional information ODHS may require to meet any state or federal laws, rules, or orders regarding Data.
  - 7.6.4. Access to facilities, systems, and records under this section will be granted following reasonable notice to County. Records include paper or electronic form, system security logs, and related system components and tools (including hardware and software), required to perform examinations and audits, and to make excerpts and transcripts, including for data forensics.

## 8. **ACCESS TO ODHS SYSTEMS.**

- 8.1. **Review of User Requests.** If required for Access, ODHS will timely review requests, including forms such as the IAR, and will:
- 8.1.1. Notify County of the approval or denial of its request for each User for whom Access has been requested;
  - 8.1.2. Provide any unique log-on identifier required for authorized individual Access;
  - 8.1.3. Provide updates to approved inquiry processes and instructions to County.
- 8.2. **County's Responsibilities for User Accounts.** County will provide contact information to the ODHS Program Requestor identified in Section 4 of Exhibit F-1 (or delegate) for each person for whom Access is requested.
- 8.2.1. County is responsible for all activities that occur through its Access, including for any acts related to a lost or stolen User ID or password.
  - 8.2.2. Except as otherwise specified or approved by ODHS, neither County nor its Users shall modify, alter, delete, or destroy any Information Asset.
  - 8.2.3. County shall immediately notify ODHS when a User, group of Users, or County, no longer requires Access whether due to changes in duties or due to changes in County's programs related to this Agreement.
  - 8.2.4. County is responsible for ensuring account information for its Users is accurate, complete, and up to date.

- 8.3. **Security.** County shall maintain security of equipment and hardware, and ensure the proper handling, storage and disposal of all State of Oregon Information Assets accessed, obtained, or reproduced by County and its Users to prevent inadvertent destruction or loss.
- 8.4. **Prevention of Unauthorized Access.** County shall employ privacy and security controls that meet or exceed the standards set in laws, rules, and regulations that are applicable to Access to prevent any Access to State of Oregon Network and Information Systems or Information Assets by its Users that is not authorized in accordance with this PSA and applicable law and shall implement and maintain such safeguards to prevent unauthorized Access.
- 8.5. **Access from Outside the US and its Territories.** Access to Systems from outside the United States and its territories is prohibited unless approved in advance in writing by the ODHS|OHA Chief Information Risk Officer (CIRO). If approved, County shall provide the ODHS Program Requestor identified in Section 4 of Exhibit F-1 with the IP addresses, or IP address range, to be used for Access. County shall immediately communicate to ODHS any changes to the provided IP addresses or IP range, or Access may be affected. Notwithstanding the foregoing, County shall not allow use of any Information Asset in any country or in any manner prohibited by governing applicable law, rule, or policy.
- 8.6. **Authorized Access and Use Only.** No User may Access or use State of Oregon Network and Information Systems or Information Assets for any purpose other than those specifically authorized under the Agreement and this PSA.
- 8.6.1. Users shall not use Access to obtain or attempt to obtain Access, or any Data or Information Assets not authorized or intentionally made available.
- 8.6.2. The use and disclosure of any Data is strictly limited to the minimum information necessary for the Work described in the Agreement.
- 8.7. **Revocation or Termination of Access.** Breach, or wrongful use or disclosure of Data by County or its Users, may cause the immediate revocation of the Access granted through this PSA, in the sole discretion of ODHS, or ODHS may specify a reasonable opportunity for County to cure the unauthorized use or disclosure and end the violation, and terminate the Access if County does not do so within the time specified by ODHS. Legal actions also may be taken for violations of applicable regulations and laws.
- 8.8. **No Unauthorized Distribution.** County shall not sell, make available, or provide Information Assets in any form to any other persons or organizations, and shall not use the Data for any purposes other than as allowed under the Agreement, this PSA, and applicable law.
- 8.9. **No Impairment.** County shall not use this Access in any manner which could damage, disable, overburden, or impair Network and Information Systems, or

interfere with any other entity's use or benefit of Network and Information Systems.

8.10. **Prohibition on Data Mining.** County shall not use any data-mining technology on Network and Information Systems or State of Oregon Data for any non-authorized activity. For purposes of this requirement, "non-authorized activity" means the data mining or processing of State of Oregon Data, stored or transmitted for unrelated commercial purposes, advertising or advertising-related purposes, or for any other purpose other than security analysis that is not explicitly authorized under this PSA.

8.11. **Incidents and Breaches.** County shall comply, and shall cause its subcontractors to comply, with any requirements for identifying and addressing an Incident or Breach. This requirement applies regardless of whether the Incident or Breach was accidental or otherwise.

## 9. **SUSPENSION OR TERMINATION.**

9.1. Access may be terminated at any time by written agreement of the parties.

9.2. Access may be terminated by either party upon 30 calendar days' written notice to the other party.

9.3. Access may be terminated immediately upon written notice from County if the Access is no longer needed by County.

9.4. ODHS may immediately revoke the Access granted County for County's failure to comply with the requirements of this PSA. In such event, ODHS will provide immediate written notice to County's point of contact. ODHS may, to the extent it determines it is reasonable and able to do so, provide advance written notice to County to cure any deficiency or breach under this PSA.

9.5. Either party may terminate Access, and ODHS may modify Access, upon written notice if there are changes to or revised interpretations of federal or state laws, rules, or regulations, or either party's policies that require such change.

## 10. **RETURN OF INFORMATION ASSETS.** Upon expiration or termination of the Agreement for any reason whatsoever, County shall comply with its obligations under this Agreement for return of property. In addition:

10.1. **Disposal.** County shall ensure the proper handling, storage and disposal of all State of Oregon Information Assets accessed, obtained, or reproduced by County and its Users to prevent inadvertent destruction or loss. County shall ensure proper disposal of equipment and Information Assets when authorized use ends, consistent with County's record retention obligations and obligations regarding Data under the Agreement, including this PSA.

10.2. **Sanitization.** Except as necessary to meet its records maintenance and audit obligations under the Agreement and applicable law, County shall not retain any copies of State of Oregon Data following expiration or termination of the

Agreement. County shall notify ODHS of any conditions that make returning all such Data not feasible. Upon ODHS' written acknowledgement that returning all Data is not feasible, County shall purge or destroy retained State of Oregon Data in all its forms in accordance with the most current version of NIST SP 800-88 (or other agreed-upon standard) and on request provide ODHS with written certification of sanitization.

- 10.3. **Protections.** County shall maintain protections required by law and the Agreement, including this PSA, for any retained State of Oregon Data for so long as County (including through any third party) retains it.
11. **COSTS.** Each party will bear its own costs related to the acquisition of all equipment, software, data lines or connections necessary for Access, unless otherwise agreed to by written agreement between the parties. Each party is responsible for securing compatible hardware, equipment, and software, and network connections.
12. **SURVIVAL.** The provisions of this PSA which by their nature survive expiration or termination of this Agreement do so survive. This PSA applies to any Access by County, its employees, agents, providers, and subcontractors following its termination.

Exhibit F-1

Third Party Information System Access Request (MSC 0785)



SHARED SERVICES
Information Security and Privacy Office



Third Party Information System Access Request

Reset form

An DHS or OHA program completes this form to request access for a third-party entity\* (organization or individual) to data within an DHS or OHA information system or network.

\*Please note that each entity only needs one form.

Hover over blue text for more information.

Request type (required): New request (ISPO will add agreement number) Agreement number: 172608

Section 1. Third party information

This section defines the third party needing access to DHS/OHA network and information system(s). A third party is any individual or entity that is not part of the DHS/OHA workforce. Workforce means employees, volunteers, trainees and other individuals whose DHS or OHA work is under that agency's direct control. This applies to paid and unpaid workforce members.

Third-party agreement administrator contact information

This individual signs the contracts for the third party. (This is NOT a DHS/OHA employee.)

Organization/entity name: Clackamas County
Contact name (first, last): Ed Jones
Position/title: Administrative Services Manager
Work street address: 2121 Kaen Road
City, State, ZIP: Oregon City, Oregon 97045
Phone: 503-650-3169
Email: EJones@clackamas.us
Website address (optional):

Additional contact for third party

This individual will be the contact for setting up or terminating users for the third party. (This is not a DHS/OHA employee.)

Same contact information as above.

## Section 2. Governing contract details

A DHS/OHA employee fills out this section. If a [governing contract](#) applies, please complete all applicable fields, below.

Does a governing contract establish a need for access?  Yes  No

### Background checks

Please ensure all applicable required background checks are completed. DHS and OHA systems containing or accessing regulated data may require additional background check requirements beyond the pre-employment background checks. Regulated data sets requiring additional background checks include but are not limited to:

- Criminal Justice Information (CJI) in the Criminal Justice Information Services (CJIS) policy, 5.12.1 Personnel Security Policy and Procedures
- Federal tax information (FTI) as documented in Internal Revenue Service (IRS) Publication 1075, 5.1.1 Background Investigation Minimum Requirements.

Direct questions related to the background check process to [BCU.Info@state.or.us](mailto:BCU.Info@state.or.us) or 503-378-5470 or 1-888-272-5545.

## Section 3. Access description

### Reason for access

Describe in detail the [business need](#) for access:

3rd party requires access to OR-Kids to make eligibility determinations and document Title IV-E Youth in the care/custody of the juvenile department and support the pass through of Title IV-E Maintenance Funding reimbursement.

[Requested access start date:](#) 10/01/2021

### Method of access

Check all methods the third party will use to access DHS/OHA information systems.

- DHS/OHA on-site Will only use DHS/OHA supplied PC, laptop or workstation:  Yes  No
- Remote access via [VPN](#) Will only use DHS/OHA supplied PC, laptop or workstation:  Yes  No
- Remote access via [Citrix](#)
- Access to folder on [Secure File Transfer Protocol \(SFTP\) server](#)
- Other (*explain below*): Will only use DHS/OHA supplied PC, laptop or workstation:  Yes  No

### Access and information flow will occur from:

DHS/OHA to third party (i.e., third party has access to DHS/OHA's information assets and systems)

### Scope of access

List all system names the third party needs to access. (*This form authorizes access for the third-party organization as a whole. A partner number [P#] and a network login are needed to access the following information systems. The system-specific [individual user access request forms](#) must be used to request access for individual third-party employees using the system.*)

- Email:** DHS/OHA email account authorized. This authorizes the third party to get DHS/OHA email accounts after receiving a completed individual user access request form for each individual.

- Network:** Network login authorized. This authorizes the third party to get DHS/OHA network login IDs after receiving a completed individual user access request form for each individual.

System 1	
<b>Name of system: OR-Kids</b>	
Type of access requested: Read/write (please describe): <input type="text"/>	
Description of access: OR-Kids access using OR ID and user connection to security group JD / OYA *This is dependent on the role within JD / OYA* .	
Expiration date of access:	
<b>Information type</b>	
Will information being shared or accessed be identifiable (i.e., names, DOB, address, etc.)?	
<input checked="" type="radio"/> Yes <input type="radio"/> No	
If yes, what protected information will be shared or accessed? (Check all that apply.)	
<input type="checkbox"/> Protected health information (PHI)	<input checked="" type="checkbox"/> Personally identifiable information (PII)
<input checked="" type="checkbox"/> Financial information	<input type="checkbox"/> Federal tax information (FTI)
<input type="checkbox"/> Criminal justice information (CJI)	<input type="checkbox"/> Payment card information (PCI)
<input type="checkbox"/> Social Security Administration (SSA data)	
<input type="checkbox"/> Other (list below):	
<b>Information owner review (internal use only)</b>	
Name of reviewer: Cassie Budeau	Review date: 12/13/2021
<b>Access determination:</b>	
Role or group assigned (if applicable): JD - Basic View Only, JD - Eligibility, JD/OYA - Caseworker	
Access is: Choose one	<input type="text"/>
Reason for determination:	
Add another system	Remove this system (above)

Check all methods the third party will use to access DHS/OHA information systems.

#### Section 4. Program sponsor

The **program sponsor** is the DHS or OHA manager who sponsors the requested access. That person must monitor and ensure the third party complies with the terms and conditions of the access agreement. (Note that the program sponsor is usually the contract administrator of the governing contract authorizing the access.)

Verification of need to know:	
<input checked="" type="checkbox"/> As program sponsor, I certify that sections 1 through 3 of this form note the minimum necessary access.	
Date: <u>10/01/2021</u>	
Name (first, last):	Sherril Kuhns
Position/title:	Program Manager
Office:	Office of Child Welfare
Program:	Federal Policy & Resources Program



District name:	Central Office
Work street address:	500 Summer Street NE, E16
City, State, ZIP:	Salem, OR 97301
Phone (include ext.):	503-569-6148
Email:	sherril.kuhns@state.or.us

**Section 5. Program requestor**

The **program requestor** is the DHS or OHA staff person who works with the third party on a day-to-day basis. That person requests the access agreement for the third party. The requestor can be the same person as the program sponsor or contract administrator. However, a program can list separate requestors/contract administrators. This will ensure all relevant parties receive contract communication and expiration notices.

**Check this box and skip this section if the program requestor is also the program sponsor.**

**Submission**

Click the submit button below to submit electronically, or email this completed form to the Information Exchange (InfoEx) Program within the Information Security and Privacy Office at [DHSOHA.InfoEx@dhsoha.state.or.us](mailto:DHSOHA.InfoEx@dhsoha.state.or.us). You can also email this address if you need more help.

Policy reference: <https://apps.state.or.us/Forms/Served/de090-003.pdf>

**Submit by email**

**DHS/OHA Information Security and Privacy Office use only**

Date received: 12.13.21	Date completed: 12.13.21
Date approved by all information owners: 12.13.21	Date executed: N/A
Notes: 785 on file. Part of the 118 process. County PSA provided.	
Completed by: Shannon Corr	

**Confidential**  
**CONTRACTOR TAX IDENTIFICATION INFORMATION**  
**For Accounting Purposes Only**

The State of Oregon requires contractors to provide their Federal Employer Identification Number (FEIN) or Social Security Number (SSN). This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(2). Social Security numbers provided pursuant to this section will be used for the administration of state, federal and local tax laws. The State of Oregon may report this information to the Internal Revenue Service (IRS). Contractors must keep this information current at all times. Contractors are required to notify the State of Oregon contract administrator within 10 business days if this information changes. The State of Oregon reserves the right to ask contractors to update this information at any time during the document term.

**Document number:** \_\_\_\_\_

Legal name *(tax filing)*: \_\_\_\_\_

DBA name *(if applicable)*: \_\_\_\_\_

Billing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

FEIN: \_\_\_\_\_

**- OR -**

SSN: \_\_\_\_\_

# DOCUMENT RETURN STATEMENT

Please complete the following statement and return with the completed signature page and the Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable.

If you have any questions or find errors in the above referenced Document, please contact the contract specialist.

**Document number:** \_\_\_\_\_, hereinafter referred to as "Document."

I, \_\_\_\_\_  
Name Title

received a copy of the above referenced Document, between the State of Oregon, acting by and through the Department of Human Services, the Oregon Health Authority, and

\_\_\_\_\_ by email.

**Contractor's name**

On \_\_\_\_\_,  
Date

I signed the electronically transmitted Document without change. I am returning the completed signature page, Contractor Data and Certification page and/or Contractor Tax Identification Information (CTII) form, if applicable, with this Document Return Statement.

\_\_\_\_\_  
Authorizing signature

\_\_\_\_\_  
Date

Please attach this completed form with your signed document(s) and return to the contract specialist via email.