

April 28, 2022

Board of County Commissioner
Clackamas County

Approval of an Intergovernmental Agreement #171384 with the State of Oregon, Department of Human Services, Aging and People with Disabilities Division for the Provision of services to Clackamas County residents. The source of the funding is the State of Oregon and Federal Medicaid funds. Total value is \$285,387.00. Funding through 6/30/2023.

No County General Funds are required.

Purpose/Outcomes	State and Federal funding to provide No Wrong Door services for Clackamas County residents age 60 and over to assist in making informed Long Term Care decisions.
Dollar Amount and Fiscal Impact	The total agreement is \$285,387.00. No County General Funds required.
Funding Source	State General Funds and Federal Medicaid Funds.
Duration	Effective July 1, 2021 through June 30, 2023
Previous Board Action	None. Item at County Issues: 4-26-2022.
Strategic Plan Alignment	1. This funding aligns with the strategic priority to increase self-sufficiency for our clients. 2. This funding aligns with the strategic priority to ensure safe, healthy and secure communities by addressing needs of older adults in the community.
County Counsel	1. Date of Counsel review: 1/20/2022 2. Initials of County Counsel performing review: AN
Procurement Review	1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> If no, provide brief explanation: This is an IGA with the State of Oregon.
Contact Person	Brenda Durbin, Director, Social Services Division 503-655-8641
Contract No.	H3S#10646

BACKGROUND:

The Social Services Division of the Health, Housing and Human Services requests approval of the Intergovernmental Agreement #10646 with the State of Oregon, Dept. of Human Services, Aging and People with Disabilities, Community Supports & Services. This agreement provides continued funding for the Social Services Division Aging & Disabilities Resource Center (ADRC) Unit to administer the No Wrong Door approach to providing access to public and private long term care services and support, including Person Centered Options Counseling. This service model links residents to resources and support to assist them in making informed Long Term Care decisions. This helps residents remain independent and involved in the community of their choosing as long as possible.

Social Services Division is the designated ADRC for the Clackamas Planning and Service area designated by the State of Oregon, Department of Human Services, Aging and People with Disabilities Division, Community Supports & Services. This agreement reflects the funding allocation for the July 1, 2021 through June 30, 2023 biennium. This agreement was reviewed and approved by County Council on January 20, 2022. No County general funds are involved.

RECOMMENDATION:

Staff recommends the Board approve this Intergovernmental Amendment, and authorization for the Chair to sign on behalf of the County.

Respectfully submitted,

Rodney A. Cook

Rodney A. Cook, Director
Health, Housing and Human Services Department

Attachment:
H3S#10646



Agreement Number 171384

**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 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 Social Services Division(CCSS)
Contact Brenda Durbin
PO Box 2950, 2051 Kaen Road
Contact Brenda Durbin
Oregon City, OR 97045
Phone: (503)655-8640
Fax: (503)-655-8889
Email:brendadur@clackamas.us**

hereinafter referred to as “County.”

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

**ODHS - Aging and People with Disabilities
Community Services and Supports Unit
Agreement Administrator Or Delegate Ann McQueen
500 Summer Street NE
Phone: (503) 930-7293
Email: ann.e.mcqueen@dhssoha.state.or.us**

1. Effective Date and Duration.

This Agreement shall become effective on the date this Agreement has been fully executed by every party and, when required, approved by Department of Justice or on July 1, 2021, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on June 30, 2023. Agreement termination or expiration 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.

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: Privacy and Security Agreement
- (8) Attachment A: ADRC - Sample Quarterly Invoice

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, 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 **\$285,387.00**. 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.
- 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: **93.778**

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): _____

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: () _____ Facsimile: () _____

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: _____

Policy #: _____ Expiration Date: _____

- b. **Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, 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 the undersigned'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.

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
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:

Mark A. Williams, DOJ Attorney-in-Charge

Email Approval on file 10/08/2021

Department of Justice

Date

EXHIBIT A

Part 1 Statement of Work

1. Background:

AAAs and CILs staff provide ‘No Wrong Door’ (NWD) access to public and private long-term services and supports, including Aging and Disability Resource Connection (ADRC) Information and Referral (I&R) and Person-Centered Options Counseling (PCOC) services. PCOC is a core ADRC service and is defined as a service that supports informed long-term care decision making through assistance provided to individuals and families to help them understand their strengths, needs, preferences, and unique situations. This knowledge is translated into support strategies, plans, and tactics based on the availability of community resources.

Local partners (“County”), may include, although not be limited to the Area Agency on Aging, Centers for Independent Living, Aging and People with Disabilities, Community Developmental Disabilities Program(s), Veterans Services, and Mental Health Services.

This Agreement is to fund a direct service position to support the ADRC– No Wrong Door that provides allowable services as described in the Program Requirements Section.

2. Definitions:

- a. AAA – Area Agency on Aging
- b. CIL - Center for Independent Living
- c. GETCARE – Software System
- d. I&R – Information and Referral Services
- e. LTSS – Long Term Services and Supports
- f. NWD – No Wrong Door
- g. OMAC – Oregon Medicaid Administration Claiming
- h. PCOC – Person Centered Options Counseling
- i. RMS – Random Moment Sampling

3. Program Requirements for County Participation:

a. System Requirements:

(1) GETCARE

- (a) County must document all ADRC activity for I&R, PCOC, and OMAC eligible activity in GETCARE immediately following the encounter when possible but no later than the next business day from the encounter.
- (b) County must ensure that staff is trained and competent using GETCARE.

- (c) There will be no other alternative data entry system for County participants.

(2) **Random Moment Sampling (RMS)**

- (a) County must use RMS for labor time tracking.
- (b) County must use codes 5.G.5- Information and Referral (I&R) Medicaid claimable 5.G.6- Options Counseling (OC) Medicaid claimable to record allowable ADRC activities eligible for OMAC.
- (c) County must ensure that staff is trained and competent using RMS.
- (d) With prior written approval from ODHS, County may use 100% timekeeping option for labor time tracking as an alternative to RMS.
- (e) There will be no other alternative labor time tracking system for County participants.
- (f) The formula to calculate percentage of cost eligible for Medicaid Match is as follows:

RMS codes 5.G.5+ RMS 5.G.6 divided by (Total Time for Day) - (RMS Codes 1.A, 1.D, 2.A and 2.B) equal to Medicaid Reimbursement percentage.

$$\frac{5.G.5 + 5.G.6}{\text{Total time} - (1.A, 1.D, 2.A, 2.B)}$$

RMS Codes

1.A On Break

1.D. Out of office on leave

2.A. Doing general administrative, clerical office work, NOT related to a specific program or case.

2.B Participating in general training

b. Required Services:

(1) **Information & Referral (I&R)**

- (a) County shall perform ADRC Information and Referral (I&R) activities as directed by the ADRC consumer-based standards located here: <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/ADRCDocuments/ADRC%20Consumer%20Based%20Standards%20for%202015.pdf>.

(2) **Person Centered Options Counseling (PCOC)**

- (a) County shall perform Person Centered Options Counseling (PCOC) activities as directed by the ADRC consumer-based standards located here: <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/ADRCDocuments/ADRC%20Consumer%20Based%20Standards%20for%202015.pdf>

c. Consumer screening protocol

- (1) County should attempt to assess if the consumer is already receiving Medicaid or Medicaid LTSS services and assist accordingly.
 - (a) Aging and People with Disabilities (APD) Medicaid LTSS beneficiaries should be redirected to their servicing APD/AAA local office for questions related to their eligibility, benefits, or LTSS needs. These consumers should not be enrolled in Options Counseling.
 - (b) All other individuals, including individuals that receive Medicaid from the Oregon Health Authority, ODHS Self-Sufficiency or Child Welfare, may receive ADRC I&R and PCOC services.

d. Oregon Medicaid Administrative Claiming (OMAC) eligible activities:

- (1) Federal matching funds under Medicaid are available for the cost of administrative activities that directly support efforts to identify and enroll potential eligible consumers into Medicaid and that directly support the provision of medical services covered under the state Medicaid plan.
- (2) County may request Federal match for allowable ADRC (I&R) and (PCOC) activities related to the Medicaid services detailed below specifically. Allowable activities include discussing Medicaid coverage options and/or Medicaid eligibility requirements, discussing Medicaid services or Medicaid long-term services and supports, and providing Medicaid application completion assistance. Federal match can only be claimed for time spent on activities related to these Medicaid services:
 - (a) Medicaid
 - i. **Physical health:** Doctor visits, preventive services, testing, treatment for most major diseases, emergency ambulance and 24-hour emergency care, family planning services, and pregnancy and newborn care.
 - ii. **Behavioral health:** Mental health and counseling, and help with addiction to tobacco, alcohol and drugs.
 - iii. **Dental health:** Cleanings and preventive treatments, dental check-ups and x-rays, fillings, tooth removal, 24-hour emergency care.
 - iv. **Prescriptions:** OHP with Limited Drug only includes drugs not covered by Medicare Part D.
 - v. **Eye care:** Medical care; glasses to treat a qualifying medical condition such as aphakia or keratoconus, or after cataract surgery.
 - vi. **Vision care:** Exams and glasses (only for pregnant women and children under age 21).

- vii. **Other needs:** OHP can pay for hearing aids, medical equipment, home health care, skilled therapy, hospital care, Medicare premiums, co-pays, and deductibles, and transportation to health care appointments.
- (b) State Plan services
 - i. **Personal Care Services:** Assistance with Activities of Daily Living for people residing in their own home. Limited to 20 hours per month.
 - ii. **Home Health Services.**
 - iii. **K Plan Services:** LTSS services including: Adult Day Health, Adult Foster Homes, Assisted Living, Community Nursing, Home Modifications, In-Home Services, Home Delivered Meals, Non-medical Transportation, Residential Care, Technology and Adaptive Equipment, Specialized Medical Equipment and Supplies, Skills Training (STEPS), Transition Services (Nursing Facility to Community)
 - iv. **Nursing Facility Services**
 - v. **PACE (Program for All-inclusive Care for the Elderly) Services**
 - vi. **Waiver services:** Case management and transition services (community-based to in-home)
- e. **Quality Assurance:**
 - (1) County will ensure appropriate and accurate NWD claiming by:
 - (a) Conducting a random monthly sample comparing the information generated from labor tracking reports (RMS) and activity documentation (GETCARE) with potential claims for NWD activities.
 - (b) Cooperating and providing additional information and claim details when requested by State and/or Federal oversight authorities.
 - (c) Participating in APD's ADRC/NWD Monitoring every two years.
 - (d) Submitting information as requested by ODHS and Federal partners by required deadlines set by ODHS.
 - (e) Consistently documenting NWD activities and the staff time spent performing these activities.
 - i. RMS, GETCARE, and invoice information must match and will be verified by ODHS.

- ii. County will be paid after the ODHS has determined that the invoice is accurate and valid.

f. Goals & Timelines: County will be held accountable for achieving measurable objectives.

- (1) County shall demonstrate an effort to incrementally increase the total number of unique consumers served, the total number of I&R contacts, and the total number of new Options Counseling enrollments over the duration of the Agreement . County shall provide a quarterly report with a narrative detailing the efforts made to increase the total number of unique consumers served, the total number of I&R contacts, and the total number of new Options Counseling enrollments during the previous quarter. ODHS will review the County’s quarterly reports along with service trends over time and determine whether the County has satisfied this requirement during the Agreement period. If ODHS determines the County is not meeting the desired outcome, ODHS will provide technical assistance to the County to help County meet the desired outcome. If County consistently fails to meet outcomes, ODHS may initiate a plan of correction with the County.
- (2) RMS survey participants are randomly and electronically selected from a pool of RMS eligible staff. At month end, the collective total of the completed survey helps determine the proportion of funding allocated between each Federal and State program by linking each activity to their appropriate funding source.
- (3) County shall submit a final invoice for service no later than 60 days after the end of a billing period. Failure to submit timely, accurate and/or complete claims will result in a denial of said claims by ODHS.
- (4) GETCARE data must be consistent with the labor information data documented in RMS and the accompanying invoice. The amount of time for activities entered into RMS must correspond to the documentation entered into GETCARE. The reimbursement percentage of the invoice will be based on the reimbursement percentage from RMS. If the GETCARE time does not support the RMS, time entry will be reduced by a percentage of time equal to the missing documentation.

4. County must ensure:

- a. Compliance with the current ADRC of Oregon Consumer Based Standards, and to the requirements of this Agreement . Oregon Consumer Based Standards can be located at: <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/ADRCDocuments/ADRC%20Consumer%20Based%20Standards%20for%202015.pdf>.
- b. County staff who deliver Information and Referral (I&R) or Person Centered Options Counseling services through this Agreement utilize the ADRC software system GETCARE located at: <https://adrcforegon.org/paceseam/> to document contact with consumers.

- c. County staff delivering (I&R) or (PCOC) services must undergo appropriate training.
 - (1) (I&R) specialists must participate in required training and work towards certification that meets state and national requirements.
 - (2) Person Centered Options Counselors must participate and earn a certificate of completion in PCOC training and other required training that meets state and national requirements.
 - (3) Person Centered Options Counselors providing care transitions must also complete specialized training that is evidence based.
- d. Person Centered Options Counselors adhere to the most recent PCOC practice standards, “Options Counseling in Oregon: Professional Standards and Tools to Support Options Counseling,” located at: <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/AAABusinessTraining/standards-tools.pdf>.
- e. Participation in regular ADRC coordination meetings and (I&R) and PCOC specific technical assistance calls to address challenges and progress.
- f. ADRC Region develops along with local partners sustainable (I&R) and (PCOC)services through blended funding, including existing Older Americans Act funds, Medicaid administrative claiming, development of private pay and sliding fee options, etc.
- g. To maintain contact with ODHS leads and liaisons for ADRC project.

5. Documentation Requirements:

County must use the ADRC software system GETCARE to document all required information for (I&R) and Person Centered Counseling (PCOC) activities as detailed in the Oregon Medicaid Administrative Claiming (OMAC) Guide for ADRC services at : <https://www.oregon.gov/DHS/SENIORS-DISABILITIES/SUA/Pages/ADRC-OMAC.aspx>

This information must be entered into the GETCARE system no later than the next business day from the encounter. Utilization of GETCARE system is critical for continuous quality improvements and demonstration of consumer-based outcomes.

EXHIBIT A

Part 2

Payment and Financial Reporting

1. Payment Provisions.

County shall prepare and submit written invoices to ODHS quarterly for work performed. (See Exhibit A, Part 1, Section 3, Program Requirements for County Participation).

County shall revise and resubmit invoices to ODHS' satisfaction.

- a. The not to exceed amount stated in Section 3. of this Agreement is based on a general funds portion amount not to exceed \$142,693.50 with an additional portion of matching funds of an additional \$142,693.50 from matching federal funds. There is no guarantee of payment of federal funds matched , these payments are contingent upon funds availability and federal funds matching requirements established for this federal program.
- b. County will be paid according to actual costs per quarter but not to exceed 1/6th of the Agreement not-to-exceed amount in section 3.c. of this Agreement . If the actual costs per quarter exceed 1/6th of the Agreement not-to-exceed amount in section 3.b., the actual costs may be rolled over to the next quarterly invoice for reimbursement.
- c. County may request general funds only for reimbursement. This will reduce the available federal fund match.
- d. The allowable activities are as follows:
 - (1) 5.G.5 Information and Referral – Medicaid claimable
 - (2) 5.G.6 Option Counseling- Medicaid claimablePreapproval is required for 5.G.6 Option Counseling. Preapproval is obtained by emailing a request to the Agreement Administrator. The Agreement Administrator will send an email either approving or denying the request. If the request is denied, Agreement Administrator will provide the reason why in the email.
- d. Invoice must be submitted using the form provided by ODHS (See Attachment A for invoice sample), and submitted to:

Community Supports & Services
tammy.l.erb@state.or.us
- e. County shall submit a final invoice for services no later than 45 days after the end of each billing period.

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, his or her 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 as mutually agreed through negotiations between County and ODHS in accordance with section c. below; 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 22 “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:
 - (1) Children (ORS 419B.005 through 419B.045);
 - (2) Elderly Persons (ORS 124.055 through 124.065);
 - (3) Residents of Long Term Care Facilities (ORS 441.630 through 441.645);
 - (4) Adults with Mental Illness or Developmental Disabilities (ORS 430.735 through 430.743).
 - (5) Oregon State Hospital Patient Abuse Investigation Rules (OAR 407-045-0405 through 407-045-0495)
- 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. County shall report suspected abuse of the elderly or abuse of patients in a medical or care facility immediately to ODHS’ Aging and People with Disabilities office or to a law enforcement agency.
- e. 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.**

County shall verify that each of County’s employees, volunteers, and subcontractors, as a condition of working with County-referred clients or having access to County clients, client information, or client funds, has not been convicted of any of the following crimes: child or elder abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of each such person. For purposes of this paragraph, “substantial relation” means the crime for which the person has been convicted of involves conduct by the person that relates to functions the person may perform for County or places the person in a position to gain access to a client or a client’s personal information so as to place the person in a position to cause harm to a client. For example, a person who is convicted of fraud may not be permitted to work in a position that directs, controls or disburses moneys for this Agreement or has access to client finances or financial information. Anyone convicted of any of the aforementioned crimes or who is listed as a sex offender shall not be allowed to work with clients referred by County under this Agreement.

a. County shall establish verification by:

- (1) Having County’s employee, volunteer, or subcontractor, apply for and receive a fingerprint-based national criminal records check from a local Oregon State Police (OSP) office, which will be shared with County; OR
- (2) Utilizing a fingerprint-based background check approval, provided within the last two years, by a federal or State of Oregon agency to demonstrate the County’s employee, volunteer, or subcontractor’s fitness to provide services under this Agreement; OR
- (3) Utilizing a third-party vendor accredited by the Professional Background Screeners Association (PBSA). The third-party vendor must provide a national criminal records check that includes review of criminal history from each state the individual has lived, studied or worked in and the National Sex Offender Public Website (NSOPW).

b. The following requirements apply to all background checks performed regardless of method (Section a.(1)-(3) above) used:

- (1) Background checks must be completed prior to performing services under this Agreement, upon a promotion or a significant change in work duties, or if there is a reasonable basis to believe a new background check may be needed. Examples include, but are not limited to:
 - (a) Any indication of possible criminal or abusive behavior by an employee, volunteer or subcontractor;
 - (b) A lapse in working or volunteering in a position under the direction and control of County, but the individual is still

considered in the position. For example, an extended period of leave by the individual due to sabbatical or military deployment.

- (c) Discovery of incorrect processes or insufficient documentation for a previously conducted background check.
- (d) Federal or state regulations require a new background check.
- (e) The County determines the need for a background check.

(2) Background checks must be completed whenever there is a break in employment, volunteering, or subcontracting greater than 30 days. For example, an individual is laid off or quits due to the school year starting but returns to working or volunteering for the employer the following semester or summer.

(3) Existing employees, volunteers, and subcontractors are not required to have a new background check conducted at the time of Agreement extension by amendment, unless required by Section b.(1) above.

(4) County shall require each of its employees, volunteers, and subcontractors receiving background checks to report to the County any and all new arrests, convictions, or investigations for any child protective service or adult protective service case within 5 business days after the new arrest, conviction or investigation took place.

- (a) Within five days of such notification, the County is required to report to County the employee, volunteer, or subcontractor's new history.
- (b) County may request a new background check to reevaluate the ongoing fitness of the employee, volunteer, or subcontractor.
- (c) County shall ensure all background checks and documentation are placed in the employee, volunteer, or subcontractor's personnel file.

c. If the position of the County's employee or subcontractor is paid in part or in whole by funds from the Centers for Medicare and Medicaid Services (CMS), the background check must also include review of the General Service Administration (GSA) System for Award Management (SAM), and the Social Security Administration (SSA) Death Masterfile. Any employee or subcontractor of County found excluded on SAM or listed on the SSA Death Masterfile shall not be permitted to work with County clients or have access to County clients, client information, or client funds.

- 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. **HIPAA Compliance.** As a Business Associate of a Covered Entity, ODHS must comply with the Health Insurance Portability and Accountability Act and the federal regulations implementing the Act (collectively referred to as HIPAA), and ODHS must also comply with OAR 943-014-0400 through OAR 943-014-0465. County is a Business Associate of ODHS and therefore must comply with OAR 943-014-0400 through OAR 943-014-0465 and the Business Associate requirements set forth in 45 CFR 164.502 and 164.504. County's failure to comply with these requirements shall constitute a default under this Agreement and such default shall not be subject to Exhibit B, Limitation of Liabilities.
 - a. **Consultation and Testing.** If County reasonably believes that the County's or ODHS' data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, County shall promptly consult the ODHS Information Security Office. County or ODHS may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the ODHS testing schedule.
 - b. **Data Transactions Systems.** If County intends to exchange electronic data transactions with ODHS or the Oregon Health Authority (OHA) in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, County shall execute an Electronic Data Interchange (EDI) Trading Partner Agreement and shall comply with EDI Rules set forth in OAR 943-120-0110 through 943-120-0160.

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EXHIBIT B

Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) between 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. 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. If billings under this Agreement, or under any other Agreement between County and ODHS, result in payments to County to which County is not entitled, ODHS, after giving to County written notification and an opportunity to object, may withhold from payments due to County such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if County objects to the withholding or the amount proposed to be withheld, County shall notify ODHS that it wishes to engage in dispute resolution in accordance with Section 18 of this Agreement.

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 Section 7.b.(1) on ODHS’ behalf, and (3) sublicense to third parties the rights set forth in Section 7.b.(1).
- 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.

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EXHIBIT C
Subcontractor Insurance Requirements

1. Subcontractor Insurance

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

2. 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.

3. COMMERCIAL GENERAL LIABILITY:

Required

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$4,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.

4. AUTOMOBILE LIABILITY INSURANCE:

Required **Not required**

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$4,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

5. PROFESSIONAL LIABILITY:

Required **Not required**

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

6. EXCESS/UMBRELLA INSURANCE:

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

7. 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.

8. ADDITIONAL INSURED:

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

9. WAIVER OF SUBROGATION:

Local Government must require its first-tier contractors and subcontractors waive rights of subrogation which Local Government's first tier contractors and subcontractors, if any, or any insurer of Local Government may acquire against the ODHS or State of Oregon by virtue of the payment of any loss. Local Government will require its first-tier contractors and subcontractors to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this

provision applies regardless of whether or not the ODHS has received a waiver of subrogation endorsement.

10. TAIL COVERAGE:

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

11. CERTIFICATE(S) AND PROOF OF INSURANCE:

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

12. NOTICE OF CHANGE OR CANCELLATION:

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

13. INSURANCE REQUIREMENT REVIEW:

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

14. STATE ACCEPTANCE:

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

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 any subcontractor 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 federal 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 federal fiscal year, Recipient 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

Non-procurement 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.** County shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a.** Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR Part 431.107(b)(1) & (2).
 - b.** Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
 - c.** Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 subpart I.
 - d.** Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. County shall acknowledge County’s understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e.** Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a)(68).
- 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. Disclosures.**
 - a.** 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address

(including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b.** County shall furnish to the State Medicaid agency or to the Health and Human Services (HHS) Secretary, within 35 days of the date of the request, full and complete information about the ownership of any subcontractor with whom County has had business transactions totaling more than \$25,000 during the previous 12 month period ending on the date of the request, and any significant business transactions between County, and any wholly owned supplier or between County and any subcontractor, during the five year period ending on the date of the request. See, 42 CFR 455.105.
- c.** 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- d.** As such, County must disclose any person with a 5% or greater direct or indirect ownership interest in County whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- e.** County shall make the disclosures required by this Section 12. to ODHS. ODHS reserves the right to take such action required by law, or where ODHS has discretion, as it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

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. 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.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

EXHIBIT E
Privacy and Security Agreement



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.*

④ Hover over **blue** text for more information.

Request type (<i>required</i>): New request (ISPO will add agreement number)	▼	Agreement number: 171384
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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 Social Services	
Contact name (<i>first, last</i>):	Brenda Durbin
Position/title:	Program Analyst
Work street address:	2051 Kaen Road, 1st Floor
City, State, ZIP:	Oregon City, OR 97045
Phone:	503-655-8640
Email:	brendadur@co.clackamas.or.us
Website address (<i>optional</i>):	

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 or 503-378-5470 or 1-888-272-5545.

Section 3. Access description

Reason for access

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

AAAs provide field support to Oregonians who need Aging and Disability Resource Connection (ADRC), AAAs provide field support to Oregonians who need Aging and Disability Resource Connection (ADRC), Older Americans Act (OAA), and Oregon Project Independence (OPI) services. For the purposes of this request (ADRC NWD), the AAA offices require access to GetCare and RMS.

Requested access start date: _____

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:

Information is exchanged in both directions between DHS/OHA and third party

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	
Name of system: GetCare	
Type of access requested: Read/write (please describe): <input type="text" value=""/>	
Description of access: Access is required to provide ADRC services and Older Americans Act Services.	
Expiration date of access:	
Information type	
Will information being shared or accessed be identifiable (<i>i.e., names, DOB, address, etc.</i>)?	
<input checked="" type="radio"/> Yes <input type="radio"/> No	
If yes, what protected information will be shared or accessed? (<i>Check all that apply.</i>)	
<input checked="" type="checkbox"/> Protected health information (PHI)	<input checked="" type="checkbox"/> Personally identifiable information (PII)
<input 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 (<i>list below</i>):	
Information owner review (internal use only)	
Name of reviewer: Ann McQueen	Review date: 06/08/2021
Access determination:	
Role or group assigned (<i>if applicable</i>):	
Access is: Choose one <input type="text" value=""/>	
Reason for determination:	
Add another system	
Remove this system (<i>above</i>)	

System 2	
Name of system: Random Moment Sampling	
Type of access requested: Read/write (please describe): <input type="text" value=""/>	
Description of access: Access is required for time-tracking for Oregon Medicaid Administrative Claiming.	
Expiration date of access:	

Information type	
Will information being shared or accessed be identifiable (<i>i.e., names, DOB, address, etc.</i>)?	
<input checked="" type="radio"/> Yes <input type="radio"/> No	
If yes, what protected information will be shared or accessed? (<i>Check all that apply.</i>)	
<input checked="" type="checkbox"/> Protected health information (PHI)	<input checked="" type="checkbox"/> Personally identifiable information (PII)
<input 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 (<i>list below</i>):	
Information owner review (internal use only)	
Name of reviewer: Ann McQueen	Review date: 06/08/2021
Access determination:	
Role or group assigned (<i>if applicable</i>):	
Access is: Choose one	<input type="text"/>
Reason for determination:	
Add another system	Remove this system (<i>above</i>)

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: 06/09/2021	
Name (<i>first, last</i>):	Ann McQueen
Position/title:	PEME
Office:	APD Design
Program:	APD
District name:	Central
Work street address:	500 Summer St NE
City, State, ZIP:	Salem, OR 97301
Phone (<i>include ext.</i>):	503-930-7293
Email:	ANN.E.MCQUEEN@dhsoha.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.

Name (<i>first, last</i>):	Dawn Rustrum
Position/title:	OPA3
Office:	APD Design
Program:	APD
District name:	Central
Work street address:	500 Summer St NE
City, State, ZIP:	Salem, OR 97301
Phone (<i>include ext.</i>):	503-779-9242v
Email:	DAWN.L.RUSTRUM@dhsoha.state.or.us

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. 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: 08.02.21	Date completed: 08.16.21
Date approved by all information owners: 06.08.21	Date executed: N/A
Notes: 785 on file. Part of the 118 process. PSA provided.	
Completed by: Shannon Corr	

Attachment A

ADRC - NWD Sample Quarterly Invoice

A. AAA: _____ Contract #: _____
 Quarter: _____

B. Quarterly Site Expenditures	Total Costs Per Category	Description
Salaries:	\$0.00 -	Cost of direct ADRC- No Wrong Door Employees
Employee Benefits:	\$0.00	
Direct Supplies	\$0.00	
Direct Rent/Utilities	\$0.00	
Telephone/Travel	\$0.00	
Indirect Rate/other Indirect cost	\$0.00	
Total	\$0.00	

* If claiming indirect cost the indirect charts needs to be filled out.

C. *See RDSS Data sheet Equals Percentage =0.000%

	Last Quarter Dates: _____	This Quarter Dates: _____	% difference (+/-)
# of unique I&R consumers served			
Total # of I&R contacts			
Total # of I&R records with Medicaid Element recorded			
Total # of new options counseling enrollments			
Total # of options counseling records with Medicaid Element recorded			
Medicaid match % rate calculated by RMS			

Describe efforts made to increase number of consumers served:
 ** State will fill out at end of each Quarter and send percentage to you.

D.

Total ADRC-NWD Medicaid Eligible Costs	\$	GF available
State Match Share	\$ -	50%
Requested federal share	\$ -	50%

If total cost of invoice does not qualify for federal match, you can request the difference between Total Cost and Total ADRC-NWD Medicaid Eligible Costs. This will reduce available Federal Match Funds.
 Amount requested in State (General Funds)
 Total= Total Cost- Total ADRC-NWD Medicaid Eligible Costs

E. All costs included in this invoice:
 - comply with OMB Circular A-122 Cost Principles for Non-Profit Organizations.
 - have not been claimed under other federal grants.
 - include only actual expenditures.

F. Certified by:
 Printed Name _____
 Signature: _____
 Date _____

G. Certified by APD:
 Printed Name _____
 Signature _____
 Date _____

Internal Use Only

GF	GF/FF
PCA: 33602	PCA: 34352
Index: 34162	Index: 34162
Obj: 4555	Obj: 4555
Amount: _____	Amount: _____

Signature: _____