

February 8, 2024

BCC Agenda Date/Item: \_\_\_\_\_

Board of County Commissioners  
 Clackamas County

**Approval of Intergovernmental Grant Agreement with Oregon Department of Human Services for Oregon Money Management Program. Agreement value is \$486,437 for two years. Funding is through the State of Oregon. No County General Funds are involved.**

<b>Previous Board Action/Review</b>	Briefed at Issues – 2/6/2024		
<b>Performance Clackamas</b>	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.		
<b>Counsel Review</b>	Yes	<b>Procurement Review</b>	No
<b>Contact Person</b>	Brenda Durbin, Director	<b>Contact Phone</b>	503-655-8641

**EXECUTIVE SUMMARY:** The Social Services Division of the Health, Housing and Human Services requests approval of an Intergovernmental Grant Agreement with the State of Oregon, Dept. of Human Services. This agreement provides grant funding in fiscal years 2024 and 2025 for the Social Services Division to administer the Oregon Money Management Program, an ODHS-funded program made available statewide to seniors and people with disabilities who may benefit from assistance with money management tasks.

The OMMP includes a variety of money management tasks that fall under three primary categories: budgeting, making payments for monthly expenses, and use of personal funds for desired items and activities. These OMMP services are provided to assist Consumers with maintaining independence and financial protection. The OMMP depends on Volunteers or staff coordinators who are trained and supervised by the County to work one-on-one with Consumers.

The Money Management Program served 179 County residents in FY2023. Clackamas County Money Management Program (MMP) became Jane’s payee in 2003 when she was in her early 30s. MMP services were requested by Jane’s caseworker because of Jane’s mental health issues and substance abuse, which affected her ability to pay her bills consistently. Although she lived independently, her apartment was in poor condition, and she became involved in some illegal internet activities, which caused her to incur a large sum of legal fees.

Jane was matched one-on-one with a MMP volunteer, who worked with Jane to build trust and create stability

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with Jane's monthly budget. This gave Jane more confidence in her finances and living situation. A payment plan was negotiated for her to pay off the legal fees over time. The debt is now fully paid off at \$50/month for 40 months.

Now in her 50s, Jane continues to live independently. She has gained confidence and is able to advocate for herself, taking advantage of energy assistance programs and other available resources whenever possible. She was able to move into an apartment that is in much better condition and reaches out to MMP for additional spending requests beyond the regular monthly payment when needed.

**RECOMMENDATION:** The staff respectfully recommends that the Board of County Commissioners grant approval for this Intergovernmental Grant Agreement and authorize Chair Smith to sign on behalf of the County.

Respectfully submitted,

*Rodney A. Cook*

Rodney A. Cook  
Director of Health, Housing & Human Services



**Agreement Number 181181**

**STATE OF OREGON  
INTERGOVERNMENTAL AGREEMENT**

You can get this document in other languages, large print, braille, or a format you prefer free of charge. Contact the Agreement Administrator at the contact information found below. We accept all relay calls.

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  
by and through its Social Services Division  
Attn: Brenda Durbin  
2051 Kaen Road  
Oregon City, Oregon 97045  
Telephone: 503.655.8640  
[brendadur@clackamas.us](mailto:brendadur@clackamas.us); [thunt@clackamas.us](mailto:thunt@clackamas.us); [jbutler@clackamas.us](mailto:jbutler@clackamas.us)**

hereinafter referred to as “County” or “Provider” interchangeably.

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

**Aging and People with Disabilities  
Community Services and Supports Unit – Central Office  
500 Summer Street NE  
Salem OR 97301  
Agreement Administrator: Deborah Spere or delegate  
Telephone: 971.301.1023  
Email: [Deborah.L.spere@odhs.oregon.gov](mailto:Deborah.L.spere@odhs.oregon.gov)**

**1. Effective Date and Duration.** This Agreement is effective on **July 1, 2023** provided it is (i) approved in writing by the Oregon Department of Justice, and (ii) when required, approved in writing by the Oregon Department of Administrative Services and (iii) is signed by all parties, regardless of the date of the parties' signatures. Unless extended or terminated earlier in accordance with its terms, this Agreement expires on **June 30, 2025**. Agreement termination shall not extinguish or prejudice ODHS' right to enforce this Agreement with respect to any default by County that has not been cured.

**2. Agreement Documents.**

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

- (1) Exhibit A, Part 1: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Provisions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements

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 B, A, and C.

**3. Consideration.**

**a.** The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is **\$486,437.00**. 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: n/a

**5. County Information and Certification.**

**a. County Information.** This information is requested pursuant to ORS 305.385.

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

**County Name (exactly as filed with the IRS):** \_\_\_\_\_  
Clackamas, County of \_\_\_\_\_

Street address: \_\_\_\_\_  
2051 Kaen Road

City, state, zip code: \_\_\_\_\_  
Oregon City, OR 97045

Email address: \_\_\_\_\_  
FinanceGrants@clackamas.us

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
( 503 ) 742-5429 ( )

**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: \_\_\_\_\_  
County is self-insured

Policy #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
NA

**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 5.a. "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, connected with the Program(s) funded with this Agreement, 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 to ODHS is true and accurate. If this information changes, County will 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 and through its Social Services Division 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:**  
 Ratified: Approved via e-mail by John McCormick, Attorney-in-Charge      October 30, 2023  
 Oregon Department of Justice      Date

Approved as to form:  
 01/18/2024

## EXHIBIT A

### Part 1 Statement of Work

1. Definitions. For purposes of this Agreement, the terms below have the following meanings:
  - a. **Abuse** means any of the following: physical abuse, neglect, abandonment, verbal or emotional abuse, financial exploitation, sexual abuse, involuntary seclusion, or wrongful use of physical or chemical restraint as defined in OAR 411-020-0002.
  - b. **Adult Protective Services (APS)** means an ODHS program funded through the State of Oregon with the responsibility to provide protection and intervention for older adults and adults with physical disabilities who are unable to protect themselves from harm and neglect.
  - c. **Background Check** means the process as outlined in Exhibit A, Part 3, Special Provisions, Section 4. Background Checks.
  - d. **Bill Pay** means an Oregon Money Management Program service delivered through a network of providers. Bill Pay is offered to seniors and people with disabilities. Volunteers or staff provide one-on-one assistance to Consumers who have the capacity to manage their financial benefits but need help keeping on track.
  - e. **Consumer** means Oregon seniors and people with disabilities receiving Oregon Money Management Program services. Consumer and Client are interchangeable terms for the purposes of this Agreement.
  - f. **Cultural Responsiveness** means Provider responds respectfully and effectively to people of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, sexual orientations, and other diversity factors in a manner that recognizes, affirms, and values their worth.
  - g. **Employee** means any paid person who provides direct service to Consumers enrolled in Oregon Money Management Program or provides administrative support to Provider.
  - h. **Linguistic Responsiveness** means to engage in practices that support the learning, development, and engagement of people from diverse linguistic backgrounds, in a way that allows for meaningful access to services outlined in this Agreement.
  - i. **Oregon Department of Human Services or ODHS** means the State of Oregon, Department of Human Services.
  - j. **Oregon Money Management Program (OMMP)** is a part of the State Plan

Personal Care Services authorized under OAR 411-034-0020(2)(b)F). OMMP is an ODHS funded program that is offered statewide to perform or assist Consumers with budgeting, making payments for monthly expenses, and use of personal funds for desired items and activities.

- k. **Oregon Administrative Rule (OAR)** is the official compilation of rules and regulations having the force of law in the state of Oregon. OARs are available at [https://sos.oregon.gov/archives/Pages/oregon\\_administrative\\_rules.aspx](https://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx)
- l. **Oregon Revised Statute (ORS)** is the codified body of statutory law governing the state of Oregon, as enacted by the Oregon Legislative Assembly, and occasionally, by citizen initiative. The statutes are subordinate to the Oregon Constitution. Oregon Revised Statutes are available at [https://www.oregonlegislature.gov/bills\\_laws/pages/ors.aspx](https://www.oregonlegislature.gov/bills_laws/pages/ors.aspx)
- m. **Provider** means the office that administers and coordinates OMMP services in a Region. Provider must meet certain qualifications and be approved through a federal process which allows Provider to then enter into a contract with ODHS to provide OMMP services. Provider and County are interchangeable terms for the purposes of this Agreement.
- n. **Region** is the geographical area in which Provider provides services. Region is more specifically described in Exhibit A, Part 1, Section 2 of this Agreement,
- o. **Satellite Office** means a community service agency that has a written agreement with Provider to provide OMMP services in their Region.
- p. **Statewide Advisory Council (SAC)** means an advisory body which brings local expertise and issues to the group for a collaborative resolution process. The SAC is responsible for adopting an annual strategic plan with a timeframe and objectives and develop/adopt OMMP standards. The SAC meets, at a minimum, on a quarterly basis and is comprised of the following:
  - 1) A representative from each Provider.
  - 2) Community Services and Supports Unit (CSSU) Aging and Disability Resource Connect (ADRC) representative.
  - 3) Office of Adult Abuse Prevention and Investigations(OAAPI) representative.
  - 4) ODHS OMMP program manager.
- q. **Underserved Populations** means groups identified that are receiving services at less than their proportional rate in their county's population.
- r. **Volunteer** means the person who enters into an agreement with Provider, to provide direct service to Consumers or provides administrative support to Provider without financial reimbursement.



- s. **Work** means the services, activities, tasks, deliverables, reporting, and invoicing requirements described in this Agreement.

## 2. **Oregon Money Management Program**

- a. Background.

The OMMP is an ODHS funded program made available statewide to seniors and people with disabilities that may benefit from receiving assistance with money management tasks. The Social Security Act (SSA) establishes parameters and qualifications for Providers. Once Provider has been approved through a federal process, Provider must then enter into an agreement with ODHS to provide services within their approved Region. Notwithstanding SSA regulations, Provider must adhere to the State Plan Personal Care Services Rules in OAR Chapter 411, Division 34 when providing OMMP services.

- b. OMMP Services Overview.

The OMMP includes a variety of money management tasks that fall under three primary categories: budgeting, making payments for monthly expenses, and use of personal funds for desired items and activities. These OMMP services are provided to assist Consumers with maintaining independence and financial protection. The OMMP depends on Volunteers or staff coordinators who are trained, and supervised by Provider, to work one-on-one with Consumers.

- c. Provider will perform the following services.

- 1) Receive Consumer referrals from ODHS and other sources.
- 2) Prioritize Consumer referrals.
- 3) Provide initial and on-going training to Volunteers and staff including, but not limited to, training on properly providing Linguistic and Cultural Responsiveness services.
- 4) Coordinate and provide assistance to Consumers throughout Provider's designated Region of: Clackamas County.
- 5) Maintain a list of all Volunteers who provide OMMP services and Consumers who receive services and provide information to ODHS upon their request.
- 6) Terminate services to a Consumer, as required or as requested by ODHS.
- 7) Terminate services provided by a Volunteer as required or as requested by ODHS.

- 8) Communicate with Consumers and Volunteers regardless of communication method or language.
- 9) Support Satellite Offices within their Region if a Satellite Office exists.
- 10) Designate a program coordinator responsible for program operations.
- 11) Designate a staff member to represent Provider on the Statewide Advisory Council.
- 12) Actively participate in required Statewide Advisory Council meetings.
- 13) Case Management services shall be conflict free in accordance with federal rules provided in ODHS' "Firewall Policy for Conflict Free Case Management", hereby incorporated by reference into this Agreement. Provider must have a Provider Identified Actions form on file and updated when staffing changes occur.
- 14) Refer to the ODHS guidance and training documents, hereby incorporated by reference into this Agreement, as they may be updated from time to time, when performing Outreach to Culturally and Linguistically Populations.
- 15) Refer to the ODHS guidance and training documents, hereby incorporated by reference into this Agreement, as they may be updated from time to time when performing Volunteer Recruitment and Screening.
- 16) Refer to the ODHS guidance and training documents, hereby incorporated by reference into this Agreement, as they may be updated from time to time when performing Volunteer Management.
- 17) Refer to the ODHS guidance and training documents, hereby incorporated by reference into this Agreement, as they may be updated from time to time when performing Monitoring and Record Keeping functions.
- 18) Refer to the ODHS OMMP training materials, hereby incorporated by reference into this Agreement, as they may be updated from time to time when performing operational procedures throughout the term of this Agreement.
- 19) Develop and implement a plan for expansion, outreach, community engagement, and coordination with local ODHS

Aging and People with Disabilities (APD) office. The plan must be specific to the Provider's designated service area. The plan must be approved by ODHS prior to implementation.

Expansion activities include the following:

- a) Volunteer recruitment activities.
  - b) Consumer referral generation activities.
  - c) Outreach activities to Underserved Populations.
  - d) Other outreach and expansion activities.
- 20) Develop and implement statement monitoring procedures that produce evidence that Consumer funds were used by or for OMMP Consumers. The statement monitoring procedures must be approved by ODHS prior to implementation.
  - 21) Establish and publish OMMP office hours and provide timely response to phone and email inquiries.
  - 22) Maintain effective working relationship and communication with the ODHS.
  - 23) Provide a dedicated phone line with voicemail and an email address for program communication.
  - 24) Cooperate with local police and ODHS Adult Protective Services' investigations.
  - 25) Cooperate with ODHS during program reviews.
  - 26) Remain free of substantiated claims of financial abuse.
  - 27) Conduct annual Background Checks through the ODHS Background Check Unit (BCU) on all OMMP Volunteers and staff, per Exhibit A, Part 3, Section 4.
  - 28) Keep Consumer and Volunteer paper and electronic files secure.
  - 29) Meet the Media Disclosure requirements stated in this Agreement prior to use and publication of all OMMP marketing materials developed, to ensure consistent messaging and branding.

- 30) Acknowledge the role of ODHS in all publications and advertisements.
- 31) Maintain enrollment as a Medicaid Provider for OMMP services with ODHS.

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**EXHIBIT A, Part 2**  
**Payment and Financial Reporting**

1. Payment Provisions:
  - a. Provider will prepare and submit monthly invoices to ODHS' Agreement Administrator at the address specified in Section 3, or to any other address as ODHS may indicate in writing to Provider. Provider's claims to ODHS for overdue payments on invoices are subject to ORS 293.462.
  - b. Provider will prepare and submit written monthly invoices for services provided in the subject month. Invoice will reflect the total number of Consumers enrolled and receiving OMMP services. Invoice must indicate which Consumer service payments are billed against Medicaid funds and which are billed against non-Medicaid funds. Provider may use the Medicaid Management Information System (MMIS) to determine Medicaid eligibility of Consumer. If Provider is unable to determine eligibility using MMIS, they may contact the Case Manager for assistance.
  - c. Upon receipt of approved invoice, ODHS will pay Provider a monthly Consumer service payment of **\$124.00 per month, per Consumer** enrolled and receiving OMMP services.
  - d. Provider must not charge Consumer any fees for services that are provided under this Agreement.
2. Travel and Other Expenses. ODHS will not pay Provider for travel or other expenses incurred while providing services under this Agreement.
3. Financial Reporting Requirements:
  - a. Provider will submit a monthly report that includes the number of Volunteer hours that were provided each month. If no Volunteers were used, Providers will include a note in the quarterly report described in 3b. below.
  - b. Provider will submit a quarterly report that includes the following:
    - 1) number of Consumers enrolled for each month of the quarter;
    - 2) number of referrals for new Consumers received for each month of the quarter;
    - 3) number of Consumers on the waitlist for each month of the quarter;
    - 4) details of the outreach and expansion efforts to Consumers and to the Underserved Population; and
    - 5) the number of grievances received, a note whether they are Consumer or Volunteer grievances, a list of actions taken, and resolution.
  - c. Provider will submit an annual report that includes at least one Consumer story and one picture to demonstrate OMMP success.

## EXHIBIT A

### Part 3 Special Provisions

#### 1. Confidentiality of Client Information.

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

#### 2. Amendments.

- a. The Parties reserve the right to amend or extend the Agreement under the following general circumstances:
  - (1) The Parties may, by written agreement, 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 increase 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. The Parties may, by written agreement, amend the Statement of Work for the following:
  - (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Agreement or previous amendments to the Agreement;
  - (2) Implement additional phases of the Work; or
  - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in

combination, govern the provision of services provided under this Agreement.

- c. Upon identification, by any party to this Agreement, of any circumstance which may require an amendment to this Agreement, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Agreement before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 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).
- b. County shall immediately 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) or local law enforcement, as a requirement of this Agreement. The County does not need to know abuse occurred, just suspect abuse, to be required to report.
- c. In addition to the requirements of Sections 3.a. and 3.b. above, if law enforcement is notified regarding a report of child abuse, neglect, or threat of harm, County shall also notify the local Child Protective Services Office of the Oregon Department of Human Services within 24 hours. If law enforcement is notified regarding a report of abuse of elderly, long term care facility residents, adults with mental illness or developmental disabilities, County shall also notify the local Aging and People with Disabilities Office of the Oregon Department of Human Services within 24 hours.
- d. If known, the abuse report must contain the following:
  - (1) The name and address of the abused person and any people responsible for that person’s 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.**

- a.** The following individuals providing services under this Agreement are subject to a background check through the ODHS' Background Check Unit, pursuant to OAR 407-007-0200 through 407-007-0370 as such rules may be revised from time to time:

  - (1) All employees of Provider providing care or having access to ODHS clients, client information, or client funds.
  - (2) All volunteers of Provider providing care or having access to ODHS clients, client information, or client funds.
  - (3) All subcontractors of Provider providing care or having access to ODHS clients, client information, or client funds.
- b.** All employees, volunteers, and subcontractors of Provider receiving background checks from the ODHS' Background Check Unit are required to report to Provider any new arrests, convictions or investigations for child protective service or adult protective service abuse within five business days after the new arrest, conviction or investigation took place.
- c.** Within five business days of such notification, Provider is required to report to the ODHS' Background Check Unit the employee, volunteer, or subcontractor's new history. The ODHS' Background Check Unit may request a new background check to reevaluate the ongoing fitness of the Provider's employee, volunteer, or subcontractor.
- d.** The criminal records check procedures listed above also apply to Provider, its owners, managers, and board members regardless of if any individual has access to ODHS clients, client information or client funds. Provider shall establish a personal personnel file and place each criminal records check in named file for possibility of future ODHS review and shall be maintained pursuant to Exhibit B, "Standard Terms and Conditions", Section 14, "Records, Maintenance, Access."

**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, family, or individual. 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.



## 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 Oregon 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). 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 the County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the 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 the 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, 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 Oregon 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  
500 Summer Street NE, E-03  
Salem, OR 97301  
Telephone: 503-945-5818  
Fax: 503-378-4324
25. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

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

With respect to a Third Party Claim for which the State is jointly liable with County (or would be if joined in the Third Party Claim ), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which County is jointly liable with the State (or would be if joined in the Third Party Claim), County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

28. **Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions,

liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

- 29. Stop-Work Order.** ODHS may, at any time, by written notice to County, require County to stop all, or any part of the work required by this Agreement for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, ODHS shall either:
- a.** Cancel or modify the stop work order by a supplementary written notice; or
  - b.** Terminate the work as permitted by either the Default or the Convenience provisions of Section 10. Termination.

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

## **EXHIBIT C**

### **Subcontractor Insurance Requirements**

County shall require its first-tier contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to:

- i) obtain the insurance specified under TYPES AND AMOUNTS and meet the requirements under ADDITIONAL INSURED, CONTINUOUS CLAIMS MADE COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the Contractor(s) perform under contracts between County and the contractors (the "Subcontracts"), and
- ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to ODHS.

County shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts or pursuing legal action to enforce the insurance requirements. In no event shall County permit a contractor to work under a Subcontract when the County is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first-tier" contractor is a contractor with which the County directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

If Contractor maintains broader coverage and/or higher limits than the minimums shown in this insurance requirement exhibit, ODHS requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor.

### **INSURANCE TYPES AND AMOUNTS**

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

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2).

Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident.

If contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

As applicable, Contractor shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than \$5,000,000 and/or the Longshoremen's and Harbor Workers' Compensation Act.

**COMMERCIAL GENERAL LIABILITY:**

Contractor shall provide Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Agreement, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000.00 per occurrence and not less than \$2,000,00.00 annual aggregate limit.

**AUTOMOBILE LIABILITY INSURANCE:**

Required  Not required

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

**PROFESSIONAL LIABILITY:**

Required  Not required

Contractor shall provide Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Agreement by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$\_\_\_\_\_ per claim and not less than \$\_\_\_\_\_ annual aggregate limit.

If coverage is provided on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor and Subcontractors shall provide continuous claims made coverage as stated below.

**NETWORK SECURITY AND PRIVACY LIABILITY:**

Required  Not required

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

disclosures, access or use of agency or client data (which may include, but is not limited to, Personally Identifiable Information (“PII”), Payment Card Data and Protected Health Information (“PHI”)) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of agency data.

**POLLUTION LIABILITY:**

Required  Not required

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

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

**EXCESS/UMBRELLA INSURANCE:**

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance. When used, all of the primary and umbrella or excess policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The umbrella or excess policies shall be provided on a true “following form” or broader coverage basis, with coverage at least as broad as provided on the underlying insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor’s primary and excess liability policies are exhausted.

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.

**ADDITIONAL COVERAGE REQUIREMENTS:**

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

**ADDITIONAL INSURED:**

All liability insurance, except for Workers’ Compensation, Professional Liability, Pollution 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 Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Regarding Additional Insured status under the General Liability policy, we require additional insured status with respect to liability arising out of ongoing operations and completed operations. The Additional Insured Endorsement with respect to liability arising out of your ongoing operations must be on or at least as broad as ISO Form CG 20 10 and the Additional Insured endorsement with respect to completed operations must be on or at least as broad as ISO form CG 20 37.

**WAIVER OF SUBROGATION:**

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

**CONTINUOUS CLAIMS MADE COVERAGE:**

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

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

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

County shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Agreement. 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 Agreement. 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, ODHS has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Agreement.

**NOTICE OF CHANGE OR CANCELLATION:**

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

**INSURANCE REQUIREMENT REVIEW:**

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

**STATE ACCEPTANCE:**

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