



RESOLUTION SERVICES
Public Services Building

2051 Kaen Road, PSB #210 / Oregon City, OR 97045

September 23, 2021

Board of County Commissioners
Clackamas County

Consent Agenda item to approve IGA between Clackamas County Resolution Services and the Oregon Dept. of Human Services for Adoption and Guardianship mediation services

Purpose/Outcome	Intergovernmental Agreement (IGA) to provide mediation services in cases referred to Resolution Services by the Oregon Department of Human Services/Child Welfare/Child Permanency Program for Adoption and Guardianship issues.
Dollar Amount and Fiscal Impact	Not to exceed \$300,000.00 during the term of the contract.
Funding Source	Oregon Dept. of Human Services
Duration	August 1, 2021 or upon date of final signatures to July 31, 2024
Previous Board Action/Review	BCC Study Session Sept. 14, 2021
Strategic Plan Alignment	<p>This item aligns with our department plan by helping to address the issue of Family Structure, and offers families an opportunity to experience accessible, understandable, compassionate and successful conflict resolution services for adoption and guardianship cases. Parties to adoption cases in Clackamas County will have access to mediation services that allow open dialogue and the opportunity to reach mutual agreement and permanent placement of children.</p> <p>This item aligns with the BCC goal to provide safe, healthy, and secure communities by focusing on the well-being of all our families and will help ensure the safety, health, and security of children.</p>
Counsel Review	<ol style="list-style-type: none">1. Date of Counsel review: 8/16/20212. Initials of County Counsel performing review: AN
Procurement Review	No Item is an IGA
Contact Person	Lauren Mac Neill or Amy Herman
Contract No.	NA

BACKGROUND: Resolution Services has been providing mediation services in adoption and guardianship cases referred by Oregon Dept. of Human Services since 2016. This IGA is a renewal for FY 21-24.

RECOMMENDATION: Staff recommends approval of this Intergovernmental Agreement (IGA), and to authorize the department director to sign on behalf of the County.

Respectfully submitted,

Amy Herman
Sr. Management Analyst
Resolution Services

Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

** CONCEPTION **

Note: The processes outlined in this form are not applicable to disaster recovery grants.

Section I: Funding Opportunity Information - To be completed by Requester

Lead Department & Fund: Resolution Services LOB 2801

Application for: Subrecipient Assistance Direct Assistance

Grant Renewal? Yes No

If renewal, complete sections 1, 2, & 4 only

If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC

Name of Funding Opportunity: Oregon Dept of Human Services - Intergovernmental Agreement #171005 for Adoption Mediation Services

Funding Source: Federal State Local

Requestor Information (Name of staff person initiating form): Amy Herman

Requestor Contact Information: aherman@clackamas.us 971-291-4758 cell

Department Fiscal Representative: Amy Herman

Program Name or Number (please specify): Resolution Services LOB 2801

Brief Description of Project:

Oregon Dept. of Human Services contracts with Clackamas County Resolution Services to provide mediation services to clients involved in DHS Adoption and Guardianship cases. DHS cases are referred to mediation where clients may benefit from participating in a collaborative process. The term of this contract is from 8/1/2021 to 7/31/2024, not to exceed \$300,000.00.

Name of Funding Agency: Oregon Department of Human Services

Agency's Web Address for funding agency Guidelines and Contact Information:

<https://www.oregon.gov/dhs/CHILDREN/Pages/index.aspx>

OR

Application Packet Attached: Yes No

Completed By: Amy Herman

8/10/2021

Date

** NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE **

Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Application

Non-Competing Application

Other

CFDA(s), if applicable: n/a State Contract

Funding Agency Award Notification Date:

Announcement Date:

Announcement/Opportunity #:

Contract #171005

Grant Category/Title: DHS Intergovernmental Agreements

Max Award Value:

\$300,000.00

Allows Indirect/Rate: n/a

Match Requirement:

none

Application Deadline:

Other Deadlines:

Award Start Date: 8/1/2021

Other Deadline Description:

Award End Date: 7/31/2024

Completed By:

Program Income Requirement:

n/a

Pre-Application Meeting Schedule:

Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff

Mission/Purpose:

1. How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?

2. What, if any, are the community partners who might be better suited to perform this work?

3. What are the objectives of this funding opportunity? How will we meet these objectives?

4. Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?

Organizational Capacity:

1. Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?

2. Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?

3. If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

4. If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?

Collaboration

1. List County departments that will collaborate on this award, if any.

Reporting Requirements

1. What are the program reporting requirements for this grant/funding opportunity?

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

3. What are the fiscal reporting requirements for this funding?

Fiscal

1. Will we realize more benefit than this financial assistance will cost to administer?

2. Are other revenue sources required? Have they already been secured?

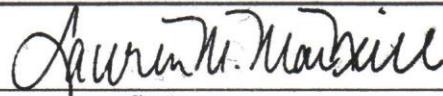
3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?

4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

Program Approval:

Lauren Mac Neill

8-11-2021



Name (Typed/Printed)

Date

Signature

**** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR ****

****ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN.****

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
Lauren Mac Neill	8-11-2021	<i>Lauren M. MacNeill</i>
Name (Typed/Printed)	Date	Signature

FINANCE ADMINISTRATION		
Elizabeth Comfort	8.11.2021	<i>Elizabeth Comfort</i>
Name (Typed/Printed)	Date	Signature

EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)		
Name (Typed/Printed)	Date	Signature

Section V: Board of County Commissioners/County Administration

(Required for all grant applications. If your grant is awarded, all grant awards must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)

For applications less than \$150,000:

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

For applications greater than \$150,000 or which otherwise require BCC approval:

BCC Agenda Item #: Date:

OR

Policy Session Date:

County Administration Attestation

County Administration: re-route to department contact when fully approved.
Department: keep original with your grant file.

Agreement Number 171005**STATE OF OREGON INTERGOVERNMENTAL AGREEMENT**

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

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

Clackamas County
Acting by and through its Resolution Services Program
2051 Kaen Road Oregon City, OR 97045 Contact: Emily K. Shannon
Telephone: 503-650-5652 Fax: 503-650-5656
E-mail address: EShannon@clackamas.us

hereinafter referred to as “County.”

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

Child Welfare Child Permanency Program 500 Summer St. NE, E-71
Salem, OR 97301 Contract Administrator: Gail Schelle or delegate
Telephone: 503-449-4186 E-mail address:
Gail.A.Schelle@dhs.oha.state.or.us

- 1. Effective Date and Duration.** Upon signature by all applicable parties, this Contract shall be effective on the later of: (i) August 1, 2021 or, (ii) when required, the date this Contract is approved by Department of Justice, regardless of the date it is actually signed by all other parties per the authority under OAR 125-247-0288. Unless extended or terminated earlier in accordance with its terms, this Contract shall expire on **July 31, 2024**. Contract termination shall not extinguish or prejudice DHS' right to enforce this Contract with respect to any default by Contractor 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) Attachment 1: Mediation Authorization Form
 - (8) Attachment 2: ODHS Mediation Referral
 - (9) Attachment 3: Agreement to Mediate

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 and Attachments, Exhibits D, B, A, C, and Attachments.

3. Consideration.

- a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is **\$300,000.00**. ODHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.
- 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: 93.603, 93.659, & 93.658

5. County Data and Certification.

- a. **County Information.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1). **PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:**

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

Street address: 2051 Kaen Rd

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

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.

If County is self-insured for any of the Insurance Requirements specified in Exhibit C of this Agreement, County may so indicate by writing "Self-Insured" on the appropriate line.

Workers' Compensation Insurance Company: Self-Insured

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.

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

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

**Clackamas County
Acting by and through its Resolution Services
Program By:**

Authorized Signature

Printed Name

Title

Date

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

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Approved via e-mail by Jeffrey J. Wahl
Assistant Attorney General
Department of Justice

July 30, 2021
Date

EXHIBIT A

Part 1 Statement of Work

County shall provide mediation services to ODHS referred Participants. Services shall be provided in accordance with this Contract.

1. **Definitions.** For the purpose of the Contract, the terms below shall have the following meanings:
 - a. **Communication Agreement** means a written agreement for post-adoption or post-guardianship communication, signed by all Participants to the mediation, which is based on an informed decision making process by the mediation Participants and in the best interest of the child.
 - b. **Participants** mean those persons listed on the Mediation Participants sections of the CF 0437 Mediation Referral form. The term “Participants” is used here to avoid confusion with the term “Party” which in this Contract refers to the parties to this Contract. For the purposes of mediation confidentiality, “Participants” and ODHS shall be considered “parties” to the mediation as defined in ORS 36.234.
 - c. **Primary Service Area** is defined as an area within a 50-mile driving distance, using the most direct driving route, beginning from the County’s official work site. For the purpose of this Contract, “using the most direct driving route” shall be determined by using an internet-based mileage and direction service, such as MapQuest. Only one “official work site” is allowed.
2. **Work to Be Performed.** Work to be performed under this Contract includes, but is not limited to, County responsibilities described in sections 3 through 7 when providing mediation services for adoption and guardianship cases.
3. **Authorization for Mediation.**
 - a. County shall be available to ODHS prior to receipt of the Mediation Authorization form at no cost to ODHS for a brief consultation to determine the appropriateness of the authorization request and schedule availability.
 - b. Services must be authorized by receipt of an email from ODHS containing a Mediation Authorization (Attachment 1) and a ODHS Mediation Referral (Attachment 2). Attachment 1 and Attachment 2 are considered to be confidential documents by ODHS and must not be disclosed by County with the exception of the safety concerns in Attachment 2, Section 3, which shall be shared with mediation Participants. Receipt of these two forms by County, approved by ODHS, constitutes ODHS’ authorization to begin providing mediation services to the Participants listed.
 - c. The completed Mediation Authorization form and the ODHS Mediation Referral form must be signed and approved by an

authorized ODHS Central Office Child Permanency Program employee.

- d. County's authorized mediation services must be completed within 120 calendar days of receipt of the Mediation Authorization Form (Attachment 1) and the ODHS Mediation Referral (Attachment 2). County's mediation services are limited to no more than 24 service hours per Mediation Authorization (Attachment 1) unless extended per Sections 3.d.(4) and 3.d.(5) below. County shall consult with the ODHS caseworker if County expects to exceed 120 calendar days for completion of mediation services or require more than 24 service hours for completion of the mediation. County's consultation with ODHS must assess whether or not the mediation should continue based on criteria that includes the following:
- (1) Whether a mediated agreement remains possible;
 - (2) The level of participation by the birth and adoptive or guardian parent(s) in working towards resolution; and
 - (3) If continuing mediation remains in the best interest of the child.
 - (4) If County requires more than the 120 calendar days or the 24 service hours to complete the mediation, County shall submit the following in email to Adoptions.Mediation@state.or.us:
 - (a) An accurate and current list of services provided on the case to date, including dates and duration of contact, with whom, and for what purpose;
 - (b) A brief statement on the reasons for the extension and an estimated completion date and/or number of additional service hours needed.
 - (c) If approved by ODHS, the increase in the number of days and/or service hours shall be documented by receipt by the County of an amended Mediation Authorization form (Attachment 1). An additional ODHS Mediation Referral (Attachment 2) will not be required.
 - (d) ODHS may deny payment for any mediation services that exceed either the 120 days or 24 service hour limits if not preauthorized.
 - (5) ODHS retains the right to deny any extension request, and at its sole discretion and on a non-precedent basis, to terminate or reassign the mediation to another contractor. Factors considered by ODHS for extension of time include the unique nature, if any, of the mediation case; the complexity of issues surrounding the specific mediation; or other mitigating factors ODHS determines to be relevant.

- e. County may be requested by ODHS, and may accept to provide services, on a case-by-case basis at locations outside County's Primary Service Area. County shall only accept assignments or perform services outside the Primary Service Area with specific pre-authorization from ODHS documented on the Mediation Authorization Form (Attachment 1).
- f. County shall immediately notify the ODHS caseworker if interpreter or translation services are required. ODHS will coordinate the assignment of an interpreter or translator, and ODHS will pay for all costs of the interpreter and translation services under separate agreement with the provider of the interpreter and translation service. Exceptions to this provision may be granted in writing by the ODHS Contract Administrator at ODHS' sole discretion on a non-precedent basis. ODHS retains the right to reject any provider of interpreter or translation services that are not under direct agreement with ODHS Child Welfare.
- g. ODHS retains the right, at its sole discretion and on a non-precedent basis, to terminate or reassign to another contractor, at any time, the mediation service if
ODHS determines that it is in the child's best interest or in the best interest of
ODHS.

4. Mediation Services.

- a. County shall obtain from ODHS a copy of the signed MSC 2099 "Authorization for Use and Disclosure of Information" form which has been signed by all Participants. A tribal representative is not required to sign an MSC 2099 if the mediation is with a Tribe.
- b. County shall, as the initial step in the mediation process, within 14-calendar days of receiving the Mediation Authorization Form (Attachment 1) and the ODHS Mediation Referral (Attachment 2) authorizing the beginning of services, contact the child's ODHS caseworker (and ODHS adoption worker, if the mediation is regarding adoption and a ODHS adoption worker is assigned) to consult and review the case, including all safety parameters. County shall seek direction on communication with the Participants and must explain the confidentiality of the mediation. County shall, after contacting ODHS, but within that same 14- calendar day period contact the Participants to the mediation.
- c. County shall meet with each of the Participants to discuss the child's and family's needs; to assure that each Participant is aware of the mediation process; to explain their rights and responsibilities during the process; to inform the Participants regarding the extent to which the discussions must be kept confidential; and to determine whether each Participant wishes to continue with mediation services. Each Participant wishing to continue mediation services must sign the document entitled "Agreement to Mediate" (Attachment 3).

- d.** County shall meet with the child, as appropriate or applicable, to discuss the child’s desires and concerns.
- e.** County shall, based on the information received from all Participants, make a decision whether, in the professional opinion of County, mediation is viable. If mediation is determined to be viable, County may continue mediation services. If County determines that mediation is not viable, County shall submit a statement to that effect, along with the invoice for payment for services provided to date, to the ODHS Central Office Child Permanency Program at the email or USPS address provided in Exhibit A, Part 2, “Payment and Financial Reporting, Section 2.f. No further services are required from County on a case that is not viable.
- f.** County shall, after receipt of signed MSC 2099 “Authorization for Use and Disclosure of Information” form, make collateral contact with professionals involved in the case as permitted by the Contact Information for Mediator section of the Mediation Referral Form (Attachment 2). This contact may be a significant factor in establishing a safe and appropriate Communication Agreement. Professionals who may be contacted include, but are not limited to, the child’s Court Appointed Special Advocate (CASA), the child’s attorney, and any attorneys for the birth parent(s), guardian(s) or adoptive parent(s).
- g.** County shall make appropriate appointments for mediation sessions with the Participants. Mediation must not include other persons who are not listed on the Mediation Participants section of the Mediation Referral (Attachment 2) or those who are not approved in writing by ODHS.
- h.** County shall provide services at locations and times mutually agreed upon by County and Participants. Allowances must be made for the scheduling needs and location of the mediation Participants. County shall consider Participants’ accessibility issues, including access to public transportation systems and compliance with the Americans with Disabilities Act when scheduling locations and times for mediation.
- i.** County shall, if the Participants reach agreement on the terms for communication, create a written Communication Agreement that reflects those terms. County shall provide the Communication Agreement to the Participants for signature. County shall submit the signed Communication Agreement to the child’s ODHS caseworker. County shall provide a signature line on the Communication Agreement for ODHS’ review and concurrence that the Communication Agreement meets the best interest of the child. The fully executed Communication Agreement must accompany the final invoice to ODHS to be eligible for payment. County shall, if mediation service is

no longer a viable course, provide ODHS with a written statement, in a format acceptable to ODHS, documenting that a Communication Agreement could not be agreed upon. The statement must accompany the final invoice for mediation services.

- j.** Any Communication Agreement executed as a result of the mediation should resolve only issues pertaining to the Participants. No attempt shall be made to bind or obligate non-Participants.
 - k.** County shall encourage the Participants to seek legal representation to review the Communication Agreement prior to signing and must clarify with all Participants that County cannot give legal advice.
- 5.** County shall attend training or mentoring sessions and other meetings as required by ODHS.
 - 6.** County shall, if requested by ODHS, develop and/or provide training and mentoring sessions for selected ODHS mediation contractors (e.g. contractors experienced with providing adoption and guardianship mediation services providing training and mentoring for contractors less experienced with providing adoption and guardianship mediation services). County shall, if requested by ODHS, develop and/or provide training

for other individuals including but not limited to ODHS staff, community partners, mediation participants, or potential ODHS mediation contractors.

7. All adoption mediation services provided under this Contract must adhere to Child Welfare Oregon Administrative Rule “Openness and Post Adoption Communication” through Adoption Mediation Services (OAR 413-120-0600 through 413-120-0635), mediation confidentiality OAR 407-014-0200, and other rules and statutes as they are revised or implemented.

EXHIBIT A

Part 2 Payment and Financial Reporting

1. Payment Provisions:

- a. **Mediation Services.** ODHS will pay County at the rate of \$140.00 per hour for direct client services performed. County shall invoice for services in 10-minute increments. The direct mediation service rate is inclusive of all costs associated with performing mediation services under the terms and conditions of this Contract, including, but not limited to, rent, clerical support, document scanning, faxing, copying, local telephone charges and fees, and other routine and normal costs of doing business. Reasonable expenses above and beyond what would be considered routine and normal may be reimbursed by ODHS at cost upon presentation of receipt if the charge was pre-authorized by the ODHS Contract Administrator.
- b. **Mentoring and Training Services.** ODHS will pay County at the rate of \$140.00 per hour for providing mentoring services and developing and/or providing training services as provided for in Exhibit A, Part 1 “Statement of Work”, section 6. These services require prior authorization by the ODHS Contract Administrator. ODHS will pay County at the rate of \$140.00 per hour for participating in training prior authorized by ODHS Contract Administrator as provided for in Exhibit A, Part 1 “Statement of Work”, section 5.
- c. **Mileage.** ODHS will reimburse County for actual travel mileage using the most direct driving route as determined by using an internet-based mileage and direction service, such as MapQuest. The terms and mileage rates are subject to the provisions of the Oregon Accounting Manual (OAM), State-wide Policy 40.10.00, issued by the Department of Administrative Services (DAS) that sets such terms and rates for agencies of Oregon State government. County’s claims for mileage reimbursement must adhere to Section .118 and the mileage rate as established in Appendix A of the OAM. The current policy and rates are posted at the following website:
<https://www.oregon.gov/das/Financial/Acctng/Pages/OAM.aspx#chapter40>.
- d. **Travel Time.**
 - (1) ODHS will pay County for travel time within the Primary Service Area at the rate of \$70.00 per hour billed in 10-minute increments.

County may request to bill \$140.00 per hour in special circumstances (e.g. high traffic areas requiring extended time) and with prior authorization from ODHS Contract Administrators.

(2) ODHS' Contract Administrator may, in writing and on a non-precedent basis, at its discretion pre-approve travel outside the Primary Service Area to be paid at the rate of \$140.00 per hour billed in 10-minute increments. Extenuating circumstances warranting additional travel time include situations when specific expertise is needed in a Primary Service Area and is unavailable, a mediator is unavailable in a Primary Service Area or in other unusual, extraordinary, or exceptional circumstances.

e. Service Outside the Primary Service Area. ODHS Contract Administrator must pre-authorize, in writing and prior to County providing services, all assignments for services to be provided outside the Primary Service Area and any overnight stay regardless of location. ODHS will, for such pre-authorized assignments, reimburse County for mileage and travel time at the rates and terms defined in the mileage rate and travel time sections listed above. ODHS will pay County a meal per diem and lodging costs, if assignment travel qualifies, subject to the provisions of the Oregon Accounting Manual (OAM) and State-wide Policy 40.10.00.PO issued by the Department of Administrative Services (DAS), that sets such terms and rates for agencies of Oregon State government. Meal per diem shall adhere to Sections .112 and .114 of the OAM; lodging terms and conditions shall adhere to Sections .115 and .116 of the OAM; and, if appropriate, Section .123 of the OAM shall apply if the County is combining personal time with service provision under the terms and conditions of this Contract. Other conditions and rates are established in Appendix A of the OAM. For all appropriate travel under this Section, County shall adhere to Section .123. 129. 130 of the OAM establishing Receipt Requirements. The current policy and rates are posted at the following website:

<http://egov.oregon.gov/DAS/SCD/SARS/policies/oam/40.10.00.PO.pdf>.

f. Terms and Conditions for Travel. Terms and conditions for transportation listed above in paragraphs (c) through (e) are for automobile transportation only. The terms and conditions for all other forms of transportation must be negotiated separately between County and the ODHS Contract Administrator, including, but not limited to: the type and manner of transportation; the rate of reimbursement for travel time; transportation reimbursement; meal and per diem costs; lodging costs; and other costs associated with the alternative transportation.

g. Under no circumstances will ODHS pay County any amount in excess of the total amount listed on the Mediation Authorization Form, as amended.

2. Records and Invoice Requirements.

- a.** County shall maintain records of all mediation services as outlined here and make the records available to ODHS upon request. County shall submit a Mediation Invoice form, provided by Central Office ODHS Child Permanency Program to County, for reimbursement for services provided and shall include no more than one case on each Mediation Invoice form submitted. County shall complete all sections of the Mediation Invoice form.
- b.** County shall attach to the Mediation Invoice form a separate itemized statement which provides a description of services performed which are itemized by date and duration of service in 10-minute increments; the type of Participants involved in each service performed (e.g. birth mother, birth father); costs per activity listed; detailed mileage and travel time, invoiced in 10-minute increments; and per diem claimed, when allowed as applicable, with receipts attached. Reasonable expenses above and beyond what would be considered routine and normal may be reimbursed by ODHS at cost upon presentation of receipt if the charge was pre-authorized by the ODHS Contract Administrator or designee. The Mediation Invoice form and separate itemized statement shall both include the mediation referral number indicated in the Mediation Authorization form. The Mediation Invoice form and separate itemized statement shall both include the sub-total of each service category: direct service hours and costs; travel time and mileage costs, pre-authorized lodging and per diem costs; and other costs in which County is requesting reimbursement as well as the total dollar amount of reimbursement being requested by County.
- c.** County must provide a minimum of eight hours of direct service hours, unless billing for final payment, in order to submit the Mediation Invoice form and separate itemized statement for payment. County may, if direct service hours for ongoing mediation are less than eight hours, make a “request for an interim payment” based on unusual, extraordinary or exceptional circumstances or conditions by submitting the Mediation Invoice form and separate itemized statement to the ODHS Contract Administrator with a brief explanation. ODHS reserves the right, on a case by case, non-precedent basis, to approve or deny the request for interim payment.
- d.** County shall clearly mark all invoices submitted by County for ongoing mediation services “Ongoing,” on the Mediation Invoice form and the separate itemized statement.
- e.** County shall clearly mark the final invoice submitted on each case “Final Invoice,” both on the separate itemized statement and on the Mediation Invoice form. In all cases, in addition to other requirements, one of the following documents must also accompany each “Final Invoice”:
 - (1) The fully executed Communication Agreement; or

- (2) A written statement, consistent with the rules of confidentiality and other provisions in this Contract, indicating that a Communication Agreement could not be reached. The written statement shall include the name(s) of the child(ren) addressed in the mediation.
- f. ODHS will pay County subject to receipt and approval by ODHS of the ODHS Mediation Invoice form and separate itemized statement, requested reports and documentation, and submitted to the ODHS Central Office Child Permanency Program at:

Adoptions.Mediation@state.or.us or
Oregon Department of Human Services
Child Welfare Programs – Child Permanency Program
Attention: Adoption Support
500 Summer Street NE E-71
Salem, Oregon 97301-1068

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; 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 class of persons in Oregon, including:

Children (ORS 419B.005 through 419B.045)

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

4. Background Checks.

- a. The County shall ensure that all employees, volunteers and subcontractors who perform services under this Contract, or who have access to any information about clients served under this Contract, are approved by the Agency’s Background Check Unit in accordance with Oregon Administrative Rules (OAR) 407-007-0200 through 407-007-0370.

- b. In addition to potentially disqualifying conditions under OAR 407-007-0290, all employees, volunteers, and subcontractors who perform services under this Contract are subject to OAR 407-007-0290(11)(b).
 - c. An employee, volunteer, or subcontractor may be hired on a preliminary basis, in accordance with the requirements and limits described in OAR 407-007-0315, prior to final approval by the Agency's Background Check Unit. An employee, volunteer, or subcontractor hired on a preliminary basis may not have unsupervised contact with individuals receiving services under this Contract and may only participate in the limited activities described in OAR 407-007-0315. An employee, volunteer, or subcontractor hired on a preliminary basis must be actively supervised at all times as described in OAR 407-007-0315.
 - d. Any current employee hired for a new position with the County to perform services under this Contract, or any current employee, volunteer, or subcontractor who will have access to any information about clients served under this Contract must be approved by the Agency's Background Check Unit at the time the employee, volunteer, or subcontractor accepts the new position or Work. Notwithstanding the requirements of paragraph c. of this Section, a current employee or volunteer who accepts a new position with the County to perform services under this Contract, may be hired for the new position on a preliminary basis without active supervision in accordance with the limits and requirements described in OAR 407-007-0315.
 - e. There are only two possible fitness determination outcomes of a background check: approval or denial. If the employee, volunteer, or subcontractor is denied, she or he may not have contact with Agency clients under this Contract and may not have access to information about Agency clients. Employees, volunteers, or subcontractors who are denied do have the right to contest the denial. The process for contesting a denial is described in OAR 407-007-0330.
 - f. For purposes of compliance with OAR 407-007-0200 through 407-007-0370, the County is a "Qualified Entity", as that term is defined in OAR 407-007-0210, and must comply with all the provisions pertaining to Qualified Entities contained in OAR 407-007-0200 through 407-007-0370.
 - g. The criminal records check procedures listed above also apply to County, its owners, managers, and board members regardless if any individual has access to Agency clients, client information or client funds. County shall establish a personal personnel file and place each criminal records check in named file for possibility of future Agency 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 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.

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.

EXHIBIT C Subcontractor Insurance Requirements

Local Government 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 county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

1. WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out- of-state subcontractors complies with these requirements.

2. COMMERCIAL GENERAL LIABILITY:

Required

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. 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 \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

3. 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 \$500,000 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.

4. PROFESSIONAL LIABILITY: **Required** **Not required**

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$500,000 per claim. Annual aggregate limit shall not be less than \$500,000. 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.

5. NETWORK SECURITY AND PRIVACY LIABILITY:
 Required **Not required**

6. POLLUTION LIABILITY:
 Required **Not required**

7. EXCESS/UMBRELLA INSURANCE:

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

8. ADDITIONAL COVERAGE REQUIREMENTS:

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

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 selfinsurance. 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.

WAIVER OF SUBROGATION:

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the Agency 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 Agency has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

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.

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

NOTICE OF CHANGE OR CANCELLATION:

The Contractor 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).

INSURANCE REQUIREMENT REVIEW:

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

STATE ACCEPTANCE:

All insurance providers are subject to Agency acceptance. If requested by Agency, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency'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. RESERVED.**
11. **Agency-based Voter Registration.** If applicable, County shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
12. **Disclosures. RESERVED.**
13. **Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms “grant” and “award” refer to funding issued by the federal funding agency to the State of Oregon. County agrees that it has been provided the following notice:
 - a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and
 - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
 - b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
 - c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or agreement under a grant or subgrant.
14. **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.

ATTACHMENT 1



State of Oregon-Department of Human Services
 Child Welfare Central Office Mediation
 Authorization Form Mediation Referral
 Number: Mediator: Mediator Contract
 Number:

To:		From:	
		Phone:	
		E-Mail:	Adoptions.Mediation@dhsosha.state.or.us
Number of Pages:	, including cover	Address:	500 Summer St NE, E-71 Salem, OR 97301-1067

Case #:	
Child(ren)'s Names:	Case # (If different)

Mediation Referral	<input type="checkbox"/>	Adoption Referral	<input type="checkbox"/>	Guardianship Referral
Effective Date:				
Expiration Date:				
<input type="checkbox"/>	Amend Referral	New Expiration Date:		
<input type="checkbox"/>	Add Child(ren) or Participants			
<input type="checkbox"/>	Additional Hours	From to		
<input type="checkbox"/>	Travel Approved	Translation Needed (Caseworker to arrange)		

Approved by:

Oregon Department of Human Services

Date

171005-0/KRS
ODHS IGA County

Page 37 of 42
Updated: 3/1/2021

Attachment 2

ODHS

Mediation

Referral



Mediation Referral

For adoption or For guardianship (check one)

Section 1: Participant(s) information

Date: ___ / ___ / ___

Case number: _____

Case name: _____

Participant(s) have signed MSC 2099, "Authorization for Use and Disclosure of Information":

Yes No

Name(s) of child(ren) referred:	DOB:
	/ /
	/ /
	/ /
	/ /
	/ /
	/ /
	/ /
	/ /
If any child(ren) referred should participate in the mediation, note name(s): _____	

Mediation participants (check all that apply):	
<input type="checkbox"/>	Birth mother
<input type="checkbox"/>	Birth father
<input type="checkbox"/>	Adoptive mother
<input type="checkbox"/>	Adoptive father
<input type="checkbox"/>	Guardian mother
<input type="checkbox"/>	Guardian father
<input type="checkbox"/>	Other (specify relationship): _____

Who requested the mediation referral? _____

Section 2: Child(ren) placement plan

<input type="checkbox"/>	Adoption general applicant	Adoption selection date:	/ /
<input type="checkbox"/>	Current caretaker	Permanency committee date:	/ /
<input type="checkbox"/>	Relative caregiver	Permanency committee date:	/ /
<input type="checkbox"/>	Non-caregiver relative	Date adoption home study initiated:	/ /
<input type="checkbox"/>	Guardianship	Permanency committee date:	/ /

Are other placement resources being considered?* Yes No

*A mediation referral should be submitted if only one resource is being considered.

Section 3: Documented safety concerns

The child(ren)'s safety is paramount. Please note any documented safety concerns that must be addressed in a written, mediated agreement. You may check more than one and add details, if needed.

This list will be shared with mediation participants

Safety concerns:

Current or past substance abuse

- Violence against a child or adult
- Sexual contact with a child
- Threats or intimidation toward a child's caretaker, or threats of removal of the child from his or her caretaker(s)
- Other concern(s): _____
- Additional details: _____

Section 4: Referral information

Name of mediator selected:* _____

***Worker must contact mediator before referral.**

Worker's name: _____ Date: / /

DHS local office: _____ Phone: - - ext.

Supervisor's signature: _____ Date: / /

CENTRAL OFFICE USE ONLY

LAS signature: _____ Date: / /

Date received in CO: / /

Assigned to: _____ Assigned date: / /

Section 5: Contact information for mediator

1. **Child(ren)'s caseworker:** _____
 Phone: - - ext. _____ Email: _____
 DHS office/address: _____
 City, State, ZIP: _____
2. **Certifier/adoption worker:** _____
 Phone: - - ext. _____ Email: _____
3. **Band or tribe:** _____
 Tribal contact person: _____
 Phone: - - ext. _____ Email: _____
4. **Biological mother's attorney:** _____
 Phone: - - ext. _____ Email: _____
5. **Biological father's attorney:** _____
 Phone: - - ext. _____ Email: _____
6. **Child(ren)'s attorney:** _____
 Phone: - - ext. _____ Email: _____
7. **Adoptive parent(s) or guardian(s) attorney:** _____
 Phone: - - ext. _____ Email: _____
8. **CASA:** _____
 Phone: - - ext. _____ Email: _____

AGREEMENT TO MEDIATE

This is an Agreement among the persons who sign the Agreement. Each person who signs this agrees that the following terms and conditions apply to the mediation:

The process of mediation has been explained to me. The purpose of mediation is to reach a cooperative final mediation Agreement that is in the best interest of my child(ren)

I understand that the role of the Mediator is to be impartial. The Mediator is not a decision-maker and does not represent any of the persons who sign this Agreement. The Mediator cannot force any person who signs this Agreement to agree to any plan. The Mediator has told me of any conflicts of interest that he or she may have in this matter. I understand that the Mediator follows the Code of Ethics established by the _____

I am participating voluntarily in the mediation and understand that I may choose to end the mediation at any time.

I understand that the Mediator is not an employee of ODHS. The Mediator has a professional contract with ODHS and will be paid for his/her services through that contract.

I understand that the Mediator cannot put into effect a final mediation Agreement unless all the persons who sign this Agreement say that he or she can. I understand that the Mediator will provide to all persons who sign this Agreement and their attorneys a copy of the final mediation Agreement that the participants sign. The final mediation Agreement will not be kept confidential.

The Mediator will not reveal anything that is said in mediation without the permission of all participants *except for* any information about an injury or possible injury to a child, any crime that likely will cause death or bodily injury to any person, or information that makes the Mediator concerned about the health or safety of any child.

I understand that mediation is confidential and private because it is protected by Oregon law and ODHS rules. I may request a copy of the ODHS rules from the Mediator, attorney or caseworker. "Confidential and private" means that what the participants say to the Mediator and to each other is secret unless the rules let the participants share the information with other people. The participants cannot tell people who are not a part of the mediation about what is said during the mediation. The laws that make ODHS records secret are not changed by ODHS rules. The rules will explain more about what information can and cannot be shared with other people. If I have questions or comments about the rules, I will not sign any Agreement and will talk with my attorney.

Oregon laws and rules control this Agreement, the mediation, and the final written Agreement.

I understand that the Mediator will help us reach a final mediation Agreement, but cannot give legal help or advice. I understand that I must arrange to speak with an attorney if I have legal questions about the Agreement or the mediation. I understand that if I do not qualify for a court appointed attorney, I will have to be responsible to pay for my attorney costs.

I agree to come to all scheduled appointments, to call ahead if late or rescheduling, and to notify the Mediator if I decide to end mediation.

By signing below, I am showing that I have read this Agreement and understand it and agree to its terms and conditions.

Participant

Date

Participant

Date

Participant

Date

Participant

Date

Participant

Date

Mediator

Date



RESOLUTION SERVICES

Public Services Building

2051 Kaen Road, PSB #210 / Oregon City, OR 97045

September 23, 2021

Board of County Commissioners
Clackamas County

Consent Agenda item to approve receipt of 2021 fund distribution from the Oregon Judicial Department for Family Law Mediation and Conciliation funds

Purpose/Outcome	Funds to support family law mediation and conciliation services in Clackamas County.
Dollar Amount and Fiscal Impact	\$506,395 in FY 2021-22.
Funding Source	Oregon Judicial Department
Duration	July 1, 2021 through June 30, 2022
Previous Board Action/Review	BCC Study Session Sept. 14, 2021
Strategic Plan Alignment	<p>This item aligns with our department plan by helping to address the issue of Family Structure, and offers families an opportunity to experience accessible, understandable, compassionate and successful conflict resolution services for domestic relations cases. Parties to domestic relation cases in Clackamas County will have access to mediation services that allow open dialogue and the opportunity to reach mutual agreement collaboratively and in the best interest of any involved children.</p> <p>This item aligns with the BCC goal to provide safe, healthy, and secure communities by focusing on the well-being of all our families and will help ensure the safety, health, and security of any involved children.</p>
Counsel Review	NA – there is no contract or grant. Funds are distributed directly to Clackamas County annually.
Procurement Review	No Item is distributed annually from the State of Oregon Judicial Department.
Contact Person	Lauren Mac Neill or Amy Herman
Contract No.	NA

BACKGROUND: The State of Oregon budget provides funds annually to the Oregon Judicial Department which help fund family court services in counties around the state. Resolution Services has received Family Law Conciliation fund revenue for many years and was one of the first counties to begin receiving this funding.

RECOMMENDATION: Staff recommends acceptance of these funds by the Clackamas County Treasurer on behalf of Clackamas County Resolution Services.

Respectfully submitted,

Amy Herman
Sr. Management Analyst
Resolution Services

Financial Assistance Application Lifecycle Form

Use this form to track your potential grant from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

** CONCEPTION **

Note: The processes outlined in this form are not applicable to disaster recovery grants.

Section I: Funding Opportunity Information - To be completed by Requester

Application for: Subrecipient Assistance Direct Assistance
Grant Renewal? Yes No
If renewal, complete sections 1, 2, & 4 only
If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC

Lead Department & Fund: Resolution Services LOB 2801

Name of Funding Opportunity: Oregon Judicial Dept. Family Law Conciliation Funds

Funding Source: Federal State Local

Requestor Information (Name of staff person initiating form): Amy Herman

Requestor Contact Information: aherman@clackamas.us 971-291-4758 cell

Department Fiscal Representative: Amy Herman

Program Name or Number (please specify): Resolution Services LOB 2801

Brief Description of Project:

State of Oregon Judicial Department (OJD) annual allocation of conciliation funds to support Family Court and family law mediation services to Clackamas County residents for domestic relations mediation and conciliation services.

Name of Funding Agency: State of Oregon Judicial Department

Agency's Web Address for funding agency Guidelines and Contact Information:
https://www.courts.oregon.gov/programs/family/Pages/default.aspx

OR

Application Packet Attached: Yes No

Completed By: _____ Date _____

** NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE **

Section II: Funding Opportunity Information - To be completed by Department Fiscal Rep

Competitive Application Non-Competing Application Other

CFDA(s), if applicable: n/a - State funds Funding Agency Award Notification Date: _____

Announcement Date: _____ Announcement/Opportunity #: _____

Grant Category/Title: OJD Family Court Conciliation Funds Max Award Value: approximately \$506,000 annually

Allows Indirect/Rate: n/a Match Requirement: no

Application Deadline: _____ Other Deadlines: _____

Award Start Date: 7/1/2021 Other Deadline Description: _____

Award End Date: 6/30/2022

Completed By: _____ Program Income Requirement: n/a

Pre-Application Meeting Schedule: _____

Section III: Funding Opportunity Information - To be completed at Pre-Application Meeting by Dept Program and Fiscal Staff

Mission/Purpose:

1. How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?

2. What, if any, are the community partners who might be better suited to perform this work?

3. What are the objectives of this funding opportunity? How will we meet these objectives?

4. Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?

Organizational Capacity:

1. Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?

2. Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?

3. If this is a pilot project, what is the plan for sunseting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?

4. If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?

Collaboration

1. List County departments that will collaborate on this award, if any.

Reporting Requirements

1. What are the program reporting requirements for this grant/funding opportunity?

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

3. What are the fiscal reporting requirements for this funding?

Fiscal

1. Will we realize more benefit than this financial assistance will cost to administer?

2. Are other revenue sources required? Have they already been secured?

3. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, Local Grant, etc.)?


4. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are they?

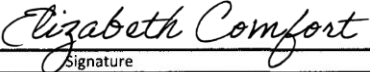
Program Approval:

Name (Typed/Printed)	Date	Signature
** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR **		

Section IV: Approvals

DIVISION DIRECTOR (or designee, if applicable)		
Name (Typed/Printed)	Date	Signature

DEPARTMENT DIRECTOR (or designee, if applicable)		
Lauren Mac Neill	7/27/2021	
Name (Typed/Printed)	Date	Signature

FINANCE ADMINISTRATION		
Elizabeth Comfort	7.29.2021	
Name (Typed/Printed)	Date	Signature

EOC COMMAND APPROVAL (DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY)		
Name (Typed/Printed)	Date	Signature

Section V: Board of County Commissioners/County Administration

(Required for all grant applications. If your grant is awarded, all grant awards must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)

For applications less than \$150,000:

COUNTY ADMINISTRATOR	Approved: <input type="checkbox"/>	Denied: <input type="checkbox"/>
Name (Typed/Printed)	Date	Signature

For applications greater than \$150,000 or which otherwise require BCC approval:

BCC Agenda item #:

Date:

OR

Policy Session Date:

County Administration Attestation

County Administration: re-route to department contact when fully approved.
Department: keep original with your grant file.