

October 8, 2015

Board of County Commissioner  
 Clackamas County

Members of the Board:

Approval of a Revenue Intergovernmental Agreement with  
 Oregon Department of Human Services, Office of Vocational and Rehabilitation Services  
for Job Placement and Job Retention Services

<b>Purpose/Outcomes</b>	Provides Job Placement and Job Retention services to clients who have a severe and persistent mental illness to find and retain employment.
<b>Dollar Amount and Fiscal Impact</b>	Contract maximum value is \$300,000.
<b>Funding Source</b>	Oregon Department of Human Services funds. No County General Funds are involved.
<b>Safety Impact</b>	None
<b>Duration</b>	Effective October 01, 2015 and terminates on September 30, 2017
<b>Previous Board Action</b>	The Board last reviewed and approved this agreement on April 28, 2011, Agenda item 042811-A1
<b>Contact Person</b>	Deborah Cockrell, Health Centers Director – 503-722-5495
<b>Contract No.</b>	7427

**BACKGROUND:**

The Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of a revenue Intergovernmental Agreement (IGA) with Oregon Department of Human Services, Office of Vocational and Rehabilitation Services (OVRs).

This renewal IGA provides Job Placement and Job Retention services to clients who have a severe and persistent mental illness to find and retain employment. Reimbursement is on a performance based fee-for-service basis. The original agreement was contracted through Community Solutions of Clackamas County and was previously reviewed by the Board of County Commissioners April 28, 2011.

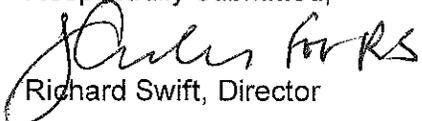
This IGA is retroactive as the Division did not receive the document from the State in time to process before the effective date.

This IGA has a maximum contract value of \$300,000. County Counsel reviewed this document on September 29, 2015. No County General Funds are involved. It is effective October 1, 2015 and terminates on September 30, 2017.

**RECOMMENDATION:**

Staff recommends the Board approval of this agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

  
 Richard Swift, Director

Contract # 7427



Agreement Number 149599

**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 Department of Human Services, hereinafter referred to as "DHS" and

**Clackamas County  
acting by and through its  
Health, Housing and Human Services Department, Health Centers Division  
2051 Kaen Rd., Suite 637  
Oregon City, OR 97045  
Telephone: 503-742-5350  
Facsimile: 503-742-5352  
E-mail address: [jweber2@co.clackamas.or.us](mailto:jweber2@co.clackamas.or.us)**

hereinafter referred to as "County."

Work to be performed under this Agreement relates principally to DHS'

**Vocational Rehabilitation  
500 Summer Street, NE  
Salem, Oregon 97301-1064  
Contract Administrator: Callie Roush or delegate  
Telephone: 503-947-2595  
Facsimile: 503-947-5025  
E-mail address: [VR.ContractInquiries@dhssoha@state.or.us](mailto:VR.ContractInquiries@dhssoha@state.or.us)**

**1. Effective Date and Duration.**

This Agreement shall become effective on the date this Agreement has been fully executed by every party and, when required, approved by Department of Justice or on October 1, 2015, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on September 30, 2017. Agreement termination or expiration shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

**2. Agreement Documents.**

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

- (1) Exhibit A, Part 1: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Terms and Conditions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Required Federal Terms and Conditions
- (7) Exhibit E: Key Persons

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

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

c. 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.

**3. Consideration.**

a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is \$300,000.00. DHS 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. DHS will pay only for completed Work under this Agreement, and may make interim payments as provided for in Exhibit A.

**4. Vendor or Sub-Recipient Determination.**

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, DHS' determination is that:

- County is a sub-recipient     County is a vendor     Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 84.126.

**5. County Data and Certification.**

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

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

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

Street address: 2051 Karen Rd.

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

Email address: Jweber2@co.clackamas.or.us

Telephone: (503) 742-5350 Facsimile: (503) 742-5352

Federal Employer Identification Number: 93-6002286

**Proof of Insurance:**

Workers' Compensation Insurance Company: Self-Insured

Policy #: N/A Expiration Date: N/A

The above information must be provided prior to Agreement approval. County shall provide proof of Insurance upon request by DHS or DHS designee.

- b. **Certification.** The 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) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The 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 the County. Without limiting the generality of the foregoing, by signature on this Agreement, the County hereby certifies that:

- (1) The information shown in this Section 5., County Data and Certification, is County's true, accurate and correct information;
- (2) 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;

- (3) County and County's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:  
<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;
  - (4) 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/portal/public/SAM/>; and
  - (5) 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.
- c. County is required to provide its Federal Employer Identification Number (FEIN). By County's signature on this Agreement, County hereby certifies that the FEIN provided to DHS is true and accurate. If this information changes, County is also required to provide DHS 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.**

**Clackamas County acting by and through its Health, Housing and Human Services Department, Health Centers Division**

**By:**

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Authorized Signature	Title	Date
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**State of Oregon, acting by and through its Department of Human Services**

**By:**

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Authorized Signature	Title	Date
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**Approved for Legal Sufficiency:**

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Assistant Attorney General	Jeff Wahl, Assistant Attorney General	9.23.15
		Date

**Office of Contracts and Procurement:**

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Contract Specialist	Date
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**EXHIBIT A**  
**Performance Work Statement**

DHS requires that the County meets the highest standards prevalent in the industry or business most closely involved in providing the appropriate services.

**1. Purpose**

DHS is entering into this outcome based Job Placement Services Agreement in order to provide high quality Job Placement Services to DHS Vocational Rehabilitation (VR) Participants referred to the County by DHS.

**2. Definitions**

- a. Individualized Plan for Employment (IPE) means a VR plan for employment developed by an eligible Participant in collaboration with a VRC, which addresses the disability-related needs of that Participant regarding the achievement of an employment outcome. The full meaning is set forth in the Code of Federal Regulations (34 CFR 361.45)
- b. Informed Choice means that the Participant is provided information and support services to assist them in decision making throughout the rehabilitation process.
- c. Job Development: means activities completed by the vendor after the acceptance of the Job Placement Strategy Report by the VRC and participant that are needed to obtain placement. Job Development includes all work outlined and accepted in the Referral form, all strategies and methods outlined in the Job Placement Strategies Report, as well as any additional meetings necessary to accomplish the work.
- d. Job Placement: means the placement of a Participant into competitive integrated employment that aligns with the Participants agreed upon vocational goal and hour's participant requests to work as documented in the accepted Referral form and Job Placement Strategies Report.
- e. Job Placement Strategy Report: means the written document that will define the participant's individual conditions for success on the job including number of hours and job type, address the information in the referral form, and outline the unique set of steps the County will take for placement and retention.

- f. **Job Retention:** means an array of individualized services provided by the County while working with the Participant and employer to discern issues, problems and solutions on the job to ensure Participants employment success. Retention has been successfully achieved when the participant has reached 90 days of successful employment and job stability, as defined by VR, has been achieved, whichever comes later. Job retention is not job coaching. See definition for job coaching.
- g. **Job Stability:** means the Participant and employer agree that job is satisfactory, Participant is adequately performing the duties of the job to the participant and employer satisfaction, job continues to match the vocational goal and number of hours as listed on referral, and long term supports, if needed, have been defined and are in place.
- h. **Participant:** means a DHS client or consumer, that is eligible for VR services, and who is in need of, and can benefit from, rehabilitation services to assist in achieving an employment outcome.
- i. **Self-Placement:** means a Participant discovers a job lead, interviews and obtains employment on their own without assistance from a Job Placement specialist. Self-Placement may occur simultaneously as job development.
- j. **Vocational Rehabilitation (VR):** means the office within the Oregon Department of Human Services, responsible for carrying out the responsibilities specified in Oregon Revised Statutes (ORS) 344.510 – 344.690.

### **3. Standardized Forms**

Standardized forms have been created for County by DHS and are required to be used as necessary under this Agreement. Standardized forms can be found on the DHS VR website stated below. Forms may be updated as needed according to programmatic requirements of VR.

The following is the list of Job Placement standardized forms:

- a. Job Placement Referral Form
- b. Job Placement Strategy Report Form
- c. Monthly Job Placement Report Form
- d. Job Placement and Retention Verification Form
- e. Direct Placement Referral Form

- f. Direct Placement Strategy Report Form
- g. Direct Placement Retention Form
- h. Job Coaching Plan & Monthly Report
- i. CBWA or TVA Referral Form
- j. VR On The Job Training Agreement
- k. Community Based Work Assessment Report Form
- l. Targeted Vocational Assessment Report Form

**VR Website:** <http://www.oregon.gov/dhs/employment/VR/Pages/Index.aspx>

#### **4. Performance Work Statement**

The Vocational Rehabilitation Counselor (VRC) will have conducted a comprehensive vocational assessment and utilized other available tools to determine if a Participant will be referred to the County for Job Placement Services or other additional services available under this Agreement.

##### **a. Job Placement Tracks**

- 1) Job Placement Track 1- Standard: Participants in this track have the ability and motivation necessary to do the job, but may experience employment barriers that impact their access to available jobs in the market or their ability to maintain credibility with employers or both, which may prevent the employer from recognizing them as viable candidates. Due to these barriers, participants in track 1 will require third party placement assistance, but will not require long term supports.
- 2) Job Placement Track 2 - Supported/Customized: This track is designed for Participants with significant disabilities who demonstrate motivation, but lack the ability to be competitive in the job market, such as difficulty multi-tasking or who demonstrate lower productivity levels than others who perform similar work tasks in a competitive environment. Participants in track 2 will require more flexible strategies, such as, working with employers to facilitate placement, customizing a job description based on existing or unidentified employer needs, developing a set of job duties, modifying work schedule and arranging for provision of job supports.

- 3) Job Placement Track 3 – Intensive Support/Customized: This track is intended for the small number of supported employment consumers who exhibit the most significantly challenging functional limitations. Functional limitations equivalent to Support Intensity Scale (SIS) tier 6 or 7 or 2:1 personal support needs in the community, as documented by Adult Needs Assessment (ANA), Support Needs Assessment Profile (SNAP), similar assessments, Addictions Mental Health (AMH) or other medical sources shall be required. Placements for Track 3 will have the following three levels to approval:
  - a) VRC approval; A copy of the SIS memo issued by Oregon Developmental Disabilities Services (ODDS) in the VR file will serve as documentation necessary to authorize this track of Job Placement Services.
  - b) VR Branch Manager Approval; For Participant's who do not have a copy of the SIS memo in file, but meet other defined criteria above; the VR Branch Manager signature is required on the Referral form prior to delivery to the County.
  - c) VR Administration Approval; Participants that do not meet the defined criteria described above will require approval from VR Administration prior to referral to track 3 Job Placement services. VR Administration signature is required on the Referral form prior to delivery to the County.

**b. Job Placement Referrals**

- 1) The VRC will utilize the standardized Job Placement Referral form and send the completed referral form via email, fax or USPS to the County. The referral will include the Participant's vocational goal, amount of work hours per week desired by the Participant, disability barriers; predetermined Job Placement track, all other required Services available under this Agreement and additional elements necessary for County to make an informed decision whether to accept or deny the Referral.
- 2) Acceptance or Rejection of the Referral:
  - a) Acceptance:

For referrals accepted by the County, County shall sign the referral form and return the signed form to the referring VRC, along with an invoice requesting payment within 10 business days of receipt of the referral form, or within 10 days of a referral meeting described in subsection 3).

b) Rejection:

If County rejects a referral County shall provide the reason(s) for rejection in writing along with an invoice requesting payment and submit it to the referring VRC within 10 business days of receipt of the referral, or within 10 business days after the completion of the referral meeting.

- 3) VRC, Participant and the County shall meet to discuss the referral with the objective of sharing information such as, assessment results, disability information, vocational goals and interests, family support availability, transportation concerns and any other pertinent information that will assist the County in providing effective services to the Participant, unless the VRC, Participant and the County agree that this meeting is not necessary. The VRC will make the final determination in cases where this is disagreement. No additional payment will be made by DHS for this meeting.
- 4) If a Self-Placement for the Participant occurs within the first 45 days after Referral acceptance, then the Job Placement Strategy Report shall be completed and Job Placement services will end. No further payments will be made after the Job Placement Strategy report payment.
- 5) Participant Portfolio (Portfolio)

The Portfolio will only be utilized at the request of the VRC through the Job Placement referral form at the time of referral for Job Placement services, or through an Authorization for Purchase (AFP) if requested for participants that do not need Job Placement services, but require assistance with resume building, interview skills and application completion. The Portfolio may not be necessary for all Participants or Job Placement Tracks. Completed Portfolio's must be submitted prior to or along with the first monthly Job Placement review report, or within 30 days of AFP acceptance for Participants not referred to Job Placement Services. The

Portfolio will be individualized for each Participant and will include elements as requested by VRC in the referral form and during the Job Placement Strategy Meeting, or as listed in the AFP for participants not referred to Job Placement Services.

Examples of elements that may be requested include a resume, master on-line application in print, video profile, profile page, mock interview skill building and other job preparation activities deemed necessary by the VRC to reach a successful outcome.

#### Portfolio Acceptance or Rejection

- a) Accepted: VRC determines that Portfolio includes all required elements and is of acceptable quality. County may submit invoice requesting payment upon acceptance.
- b) Rejected: The VRC will reject the Portfolio if it does not include all required elements and is not acceptable quality. VRC will give County an additional 15 days to revise the Portfolio to include all required elements and resubmit for VRC approval.

#### c. Job Placement Strategies Services

##### 1) Services:

The County shall conduct activities to complete a comprehensive and individualized Job Placement Strategies Report outlining strategies and methods used to achieve successful Job Placement for a Participant. The County shall utilize all information included on the referral form, information provided by the VRC and, conduct meetings with the Participant to discuss in further detail strengths, resources, priorities, concerns, abilities, legal issues, transportation needs, and interests as related to the IPE goal listed on the referral form, as well as, functional limitations and how these impact return to work. Additional activities necessary to complete the Job Placement Strategies Report may include activities such as, field trips and job shadows with the participant in the community to understand and observe behaviors and motivations, and job seeking abilities.

2) Deliverables:

- a) Job Placement Strategy Report (JP Strategy Report): This report is due within 45 days of County's acceptance of the referral. The JP Strategy Report will be completed on a standardized form supplied by VR (see section 3 of this Exhibit A), be individualized, comprehensive and include information such as, method that will be used for employer contact and engagement, how disabilities on the job will be addressed, how Participant will be presented to employers, transportation plan, and details of conditions necessary for success on the job. This report will be submitted to the VRC prior to Job Placement Strategy meeting (see below).

If Participant's vocational goal changes during the course of Job Development activities and the VRC and Participant agree that a new vocational goal is acceptable, the County is responsible for updating the JP Strategy Report to reflect the goal change and new or additional strategies that will be used to obtain and retain a successful placement.

If Self-Placement for the Participant occurs after the first 45 days of referral acceptance, then Job Placement services will continue with a focus on Retention.

- b) Job Placement Strategy Meeting: VRC, County and Participant will meet to review the JP Strategy Report and discuss the specific strategies outlined, determine if the report information matches what was requested in the referral form and the required outcomes of the service.
- c) Job Placement Strategy Report Acceptance or Rejection
- i. Acceptance: The Job Placement Strategy Report is accepted when the VRC, the County and the Participant agree on outlined strategies and services and the report has been signed by the VRC, County and the Participant. County may submit an invoice for payment for this report upon acceptance.

- ii. Rejection: The VRC will reject the Job Placement Strategy Report when outlined strategies do not match referral criteria and are deemed insufficient to meet the unique needs of the Participant.

If the Job Placement Strategy Report is rejected then VRC will give the County an additional 15 days to revise the report to meet the unique needs of the Participant. County may not invoice until report has been accepted.

**d. Job Placement Strategy Review & Reports**

County shall submit monthly reports after the first full month of Job Development and strategies due no later than the 15<sup>th</sup> day of the following month.

Expectations are as follows:

- 1) County shall use standardized form(s) provided by VR.
- 2) Only the first monthly report will generate a payment. County must submit invoice along with first monthly report.
- 3) If placement is achieved within the first full month of Job Development, County shall submit the monthly report along with the Job Placement Verification Form to receive the report payment for this step.
- 4) If Job Development lasts 120 days then VRC, County and Participant will meet to discuss and determine if services should continue or what changes need to be made to reach a successful employment outcome. An updated JP Strategy Report will be required if services continue. There will be no additional payment for JP Strategy Report updates. Ongoing monthly reports must be submitted up to Job Retention.

**e. Job Placement**

- 1) County places Participant into an employment situation that meets the following expectations:

- a) Employment is in a competitive, integrated employment setting as defined by VR.
- b) Employment meets Participant's vocational goal as outlined in the referral form and JP Strategy Report and is approved by VRC and Participant.

If employment does not meet the stated vocational goal, but is acceptable and deemed a good fit by VRC and Participant, then County may update the JP Strategy Report to reflect the new vocational goal.

- c) County submits a Job Placement Verification Form and invoice to the VRC. Participant must be on the job for three work days prior to submitting the verification form and requesting payment for initial placement. If a second placement occurs then the Participant must be on the job for 30 working days prior to submitting verification form and requesting payment. There will be no placement payment beyond the second placement. Updated Job Placement Strategy Reports will be required for each subsequent placement.

2) Acceptance or Rejection

- a) Acceptance

VRC accepts placement when Participant, VRC and County agree the placement meets the vocational goal or revised vocational goal, is appropriate and signs the Placement Verification Form. County submits invoice for payment.

- b) Rejection

If Placement does not meet the above criteria, or placement fails for any other reason, the VRC will evaluate reasons for failed placement and may allow County to attempt an additional placement or choose to end Job Placement Services.

**f. Job Retention**

County shall submit a Retention Verification Form and invoice to the VRC if the following expectations have been met:

- 1) VRC, Participant, County and employer agree that 90 days of successful employment and Job Stability has been achieved.
- 2) Necessary long term supports have been established for track 2 & 3.
- 3) Job matches vocational plan goal and work hours requested on the Referral Form.

**Retention Acceptance or Rejection**

- 1) **Acceptance**  
VRC accepts retention and signs Retention Verification Form. VRC pays invoice.
- 2) **Rejection**

All elements of successful retention have not been met and invoice is not paid.

**g. Additional Services**

The following additional Services are optional and up to the DHS VRC to determine if any of them are necessary. These available Services will be requested utilizing specific referral forms as listed in Section 3 above and for those Additional Services that do not have a standardized referral form as specifically described below, the VR Authorization For Purchase (AFP) will be utilized as the referral, and paid at rates identified in Exhibit A, Part 2 Payment and Financial Requirements subsection 1 b or as described specifically described below.

- 1) **Career Exploration:** encompasses a wide variety of activities to help Participants identify areas of vocational interest along with associated strengths and concerns and includes job shadows, informational interviews, labor market surveys, vocational testing and other job related experiences.

- a) Career Exploration services may be utilized, at the request of the VRC, at any time after the Participant has been found eligible for VR services.
- b) On the job Career Exploration services will occur only at integrated employment sites and be developed to match the Participants vocational interests.
- c) RESERVED
- d) County will be required to submit a comprehensive report of its own design to the VRC after completion of each Career Exploration activity.
- e) Career Exploration services provided during Job Placement Services will be considered a strategy of Job Placement services and no additional fee will be paid and no additional report will be required.

If Career Exploration services are provided at the request of the VRC, prior to Referral to Job Placement then a fee will be negotiated between the County and VRC and will be based on fair market value of the service(s).

- 2) Community Based Work Assessment (CBWA) are not expected to be tied to a specific vocational goal and are utilized to address employment related questions that cannot be answered through the VRC's comprehensive vocational assessment, eligibility documentation or any other means.
  - a) CBWA will only be provided by County at the request of the VRC upon receipt of a CBWA Referral form. CBWA will not be provided to Participants that have completed Discovery through the ODDS program. Exceptions may be made for extraordinary circumstances based on VRC recommendation and Branch Manager approval.
  - b) County will meet with the VRC and Participant to discuss the required outcome of the CBWA, determine what information will be obtained through the CBWA and identify the Participants interests and vocational needs to ensure an appropriate CBWA site is chosen by the County.

- c) Utilizing information obtained at the meeting, County shall develop a written plan describing how the CBWA will be performed and monitored utilizing the VR CBWA report form. The plan will clearly describe the desired outcome and how that outcome will be achieved. County will deliver the plan to the VRC within 10 business days after the meeting.
    - i. If VRC accepts the plan then County will proceed with the CBWA.
    - ii. If plan does not adequately describe how outcomes will be achieved then VRC will give County the opportunity to revise the plan and resubmit for approval.
  - d) CBWA's will occur only at integrated employment sites individually developed to match the participants interests and needs as outlined in the agreed upon monitoring plan.
  - e) CBWA's are expected to last no more than four weeks and be a minimum of 16 hours in most cases. No CBWA will exceed 90 hours.
  - f) A maximum of one CBWA will be approved by the VRC per Participant case. Exceptions may be made in extraordinary circumstances based on VRC recommendation and Branch Manager approval.
  - g) Upon completion of the CBWA County will submit a comprehensive report completing the standard VR CBWA report form.
  - h) VRC, Participant and County will conduct a post meeting to review the CBWA results.
- 3) Direct Job Placement: Is the immediate placement of the Participant into competitive, integrated employment that aligns with the Participant's job goal and number of work hours requested, at any point prior to referral for Job Placement services.

- a) If VRC is initiating the Service with the County then the VRC will submit a Direct Placement Referral Form to the County. This form is not required if County is initiating the Service with the VRC.
- b) VRC, Participant and County must agree that the job is a match for the Participant's needs, job choice and number of work hours requested.
- c) County must submit a Direct Job Placement Strategy report that specifies strategies used to successfully retain employment and a Direct Placement Retention Form when retention has been achieved.
- d) Placement fee will be paid upon delivery of invoice by the County. Retention fee will be paid upon delivery of the Direct Placement Retention form and invoice by the County. Payment expectations are as follows:
  - i. Direct Placement fee will be paid after 30 days of successful employment.
  - ii. Retention fee will be paid after 90 days of successful employment.

If employment ends prior to 30 days then no Direct Placement or retention fee is paid.

VRC will decide next steps in the VR process, such as, further assessments, training or referral to Job Placement.

If employment ends between 30 and 90 days, then County may invoice for placement fee, however no retention payment will be made. VRC will decide next steps in the VR process, such as, further assessments, training or referral to Job Placement Services.

If County receives a referral for Job Placement services to continue working with a Participant, then only a second placement fee is allowed. There will be no further placement fees beyond the second placement

If Participant is already employed at the time of referral for services, then County will complete the Direct Placement Strategy Report and Direct Placement Retention Form and only the retention payment will be made.

4) Job Coaching: Direct services authorized by the VRC and provided on the job to teach the participant the essential skills necessary to complete required job tasks beyond what is normally provided by the employer.

a) A job coach will do such things as provide necessary prompts, behavior supports, develop natural supports for long term success and work with employer toward working more effectively with the participant.

Job Coaching services may include on-boarding activities, defined as necessary extensive assistance with activities such as attending new hire trainings, developing strategies to ensure comprehension of new hire expectations, one on one review and study of employee manuals and job related materials. Job Coaching may also include job related tasks such as basic work etiquette, job related time management, hygiene, organization, task analysis, self-advocacy and disclosure. Job Coaching will not include activities of daily living.

b) County shall develop and deliver to the VRC a written plan utilizing the standard Job Coaching Plan and Monthly Report form within the first two weeks of employment. The plan will be individualized for the Participants particular employment situation and will include an analysis and breakdown of tasks necessary to do on the job, how the job coaching will be provided to match the Participants individual learning style, tools and accommodations needed for Participants efficiency on the job, a natural support plan and a fading and transition plan.

c) County will provide an in-depth monthly report utilizing the standard Job Coaching plan and Monthly Report form that demonstrates successes and challenges with all strategies identified in the Job Coaching Plan.

- 5) On The Job Training (OJT) Set Up: OJT is a time specific training in specific job skills by a hiring employer, which is completed as a wage reimbursement to the employer to compensate for additional training required for the participant to meet all skills requirements of the job.
  - a) Set up of an OJT site by the County will be completed at the request of the VRC.
  - b) OJT will be initiated upon employers' agreement to hire a Participant.
  - c) OJT is expected to last no longer than three (3) months.
  - d) VRC and County will utilize the standard OJT agreement form.
  
- 6) Targeted Vocational Assessment (TVA) is completed in relation to a specific vocational goal and looks at skills and tasks necessary for success in the desired employment fields.
  - a) TVA will only be provided by County at the request of the VRC upon receipt of a TVA Referral form. TVAs may be provided to Participants that have completed Discovery through the ODDS program.
  - b) County shall meet with the VRC and Participant to discuss the required outcome of the TVA, determine what information will be obtained through the TVA and identify the Participants specific vocational goal to ensure an appropriate TVA site is chosen by the County.
  - c) Utilizing information obtained at the meeting, County shall develop a written plan describing how the TVA will be performed and monitored utilizing the standard TVA report form. The plan will clearly describe the desired outcome and how that outcome will be achieved. County will deliver the plan to the VRC within 10 business days after the meeting.
    - i. If VRC accepts the plan then County will proceed with the TVA.

- ii. If plan does not adequately describe how outcomes will be achieved then VRC will give County the opportunity to revise the plan and resubmit to the VRC for approval.
  
  - d) TVA's will occur only at integrated employment sites individually developed to match the Participants' specific vocational goal as outlined in the agreed upon monitoring plan. TVA's will not be completed at a business owned or operated by the County.
  
  - e) TVA's are expected to last a maximum of 8 hours.
  
  - f) A maximum of three TVA's will be approved by the VRC per Participant case and each must assess a different question or vocational goal. Exceptions may be made in extraordinary circumstances based on VRC recommendation and Branch Manager approval.
  
  - g) Upon completion of the TVA County shall submit a comprehensive report completing the standard TVA report form.
  
  - h) VRC, Participant and County will conduct a post meeting to review the TVA results.
- 7) Trial Work Experience (TWE): services are utilized only for participants with significant disabilities to conduct exploration of participant's abilities, capabilities and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support that the severity of the disability will prevent participants from benefiting from VR services in terms of an employment outcome. TWEs are expected to last no more than four weeks and be a minimum of 16 hours in most cases. No TWE will exceed 90 hours.

## **5. Qualifications**

- a. County shall, for all staff that provide direct Employment Services under this Agreement to a referred Participant, obtain as necessary and maintain the following qualifications:

For Job Placement, Career Exploration, Community Based Work Assessment, Direct Job Placement, Job Coaching, On The Job Training, Targeted Vocational Assessment, & Trial Work Experience:

One (1) year documented experience working with individuals with disabilities or one year of human service related experience such as economical disadvantages, employment, abuse and neglect, substance abuse, aging, disabilities, prevention, health, cultural competencies, or housing.

- b. County shall, for all staff that provide direct Job Placement Services (Job Development) under this Agreement to a referred Participant, obtain as necessary and maintain the following qualifications:
  - 1) Complete DHS VR EOPII training within 12 months of Agreement award.
  - 2) Track 1
    - a) Completion of one of the following: DHS Vocational Rehabilitation (VR) Employment Outcomes Professionals II Training (EOPII); IPS approval; Association of People Supporting Employment first (APSE) training, Association of Community Rehabilitation Educators (ACRE) training, or Certified Employment Support Professional (CESP) certification; or a Department approved competency-based employment training; or
    - b) Background/education in sales, marketing or job development; or
    - c) Six months prior experience working as a job developer.
  - 3) For Tracks 2 & 3:
    - a) Be qualified under the Individual Placement and Support (IPS) model; which means a Qualified Mental Health Associate (QMHA) or delivering services under the direct supervision of a QMHP and meeting the following minimum qualifications as authorized by the Local Mental Health Authority (LMHA) or designee: bachelor's degree in a behavioral sciences field; or a combination of at least three years relevant work, education, training or experience; or

- b) As outlined in Executive Order 15-01, demonstrate Job Developer core competencies via completion of a DHS approved, competency based training within one year of agreement execution, including those competencies pertaining to:

Skills assessment	Job matching
Job customization	Job carving
Community building	Mapping and networking
Analyzing labor trends	Identifying patterns in job markets
Identifying incentives for business	Mentoring job seekers

- 4) Complete at least one Department of Human Services (DHS) approved training course per year to maintain competencies.

- c. County shall, for all staff that provide direct Services under this Agreement to a referred Participant, obtain as necessary and maintain the following qualifications:

Job Coaching

- 1) Completion of one of the following: DHS VR EOPII; IPS approval; APSE, ACRE, or CESP certification; or a DHS approved competency-based employment training; or
- 2) Bachelors level degree in Rehabilitation Counseling or Special Education; or
- 3) Six months prior experience as a job coach; or
- 4) Minimum one year experience working in a specific employment field that includes supervisory and/or training duties; or
- 5) Instructional assistant qualified by public school or an ESD.

As outlined in Executive Order 15-01, all job coaches must demonstrate the core competencies of a job coach via completion of a DHS approved core competency based training within 12 months, including skills to:

- Recognize and adapt supports to individual learning styles and needs;
- Conduct task design and accommodations;

- Train instructional and schedule procedures;
- Collaborate with employee, employer, co-workers and support team.

**Note:** Exceptions can be granted upon request and after reviewed by DHS VR administration.

## 6. Additional Requirements

- a. County employees who are directly providing Job Placement Services are required to take VR approved Job Placement training within one year from Agreement execution. If County hires new employees who will be providing direct Job Placement Services they must have completed training at the earliest opportunity as the VR training schedule allows. If and when modifications to the mandatory DHS training are made, County may be required to attend the updated training. Training information can be found on the DHS VR website at: <http://www.oregon.gov/dhs/employment/VR/Pages/Index.aspx>
- b. If County hires new employees who are to provide direct Job Placement Services under this Agreement, County shall ensure all employees meet the minimum qualifications for the services they will be providing as stated in subsection “d” of Section 3 of this Exhibit; and have completed a criminal history background check to be maintained in an employee file that demonstrates all minimum qualifications have been met.
- c. The County shall not negotiate with VR Branch Managers, VRCs or VR Support Staff to provide services that are outside of this Agreement.
- d. County shall maintain a current Criminal History background check on each employee that has direct access to Participants or Participant information. County will be responsible for completing background checks on employees every two (2) years and will maintain a copy of the Background Check results in the employee file. Background checks must be completed through the Oregon State Police background checks unit or DHS’ Background Check Department using the appropriate form 301. County will send a copy to the Contract Administrator of any Background Check that comes back listing an offense. DHS will review the background check materials and if it is determined that an offense was committed that prohibits employment in conjunction with ORS 407 disqualification rules, DHS will not approve a County employee to work under this Job Placement Contract.

County employees that have had previous Oregon State service shall also be referred to the DHS Human Services Department for consideration of employment status and approval to provide Agreement Services prior to performing under this Agreement.

e. Services Coordination and DHS/County Roles:

Each Participant will require a different employment outcome strategy to address the barriers related to their specific Employment Profile and the VRC and Participant will guide the County in its development, implementation and monitoring.

f. If County is currently an Employment Network (EN) with the Social Security Administration, Ticket to Work (TTW) program, and County has not signed the TTW General EN Agreement, as stated in CRF 411.400, with VR, County must have this Agreement signed and in place before County can provide Job Placement services with VR under this Agreement. Please note an Employment Network cannot operate as a vendor with VR and an EN simultaneously under the TTW referral Agreement.

**EXHIBIT A**

**Part 2  
Payment and Financial Reporting**

**1. Payment Provisions.**

- a. Payments will only be generated through the use of an Authorization For Purchase (AFP). AFPs will be generated by the VRC at the beginning of each step in the Job Placement process that includes a payment and at the initiation of each additional service. The County shall submit a copy of the AFP along with the invoice when requesting payment.
- b. County shall send all invoices to DHS' VRC at the address listed on the AFP, or to any other address as DHS may indicate in writing to County. County's claims to DHS for overdue payments on invoices are subject to ORS 293.462.
- c. DHS will make payment to the County from accepted and approved invoices according to the following schedules for achieved milestones and other services.

1) Achieved milestone Payments:

<b>Job Placement Services</b>	<b>Milestone Payment Amount</b>
Job Placement – (Referral)	\$100.00
Participant Portfolio as requested by the VRC	\$200.00
Job Placement Services – Strategy Report & Meeting	Track 1 = \$250.00 Track 2 = \$500.00 Track 3 = \$500.00
Job Placement Services – Strategy Review & Monthly Reports	Track 1 = \$500.00 Track 2 = \$500.00 Track 3 = \$500.00
Job Placement Services – Job Placement	Track 1 = \$1,000.00 Track 2 = \$1,500.00 Track 3 = \$2,000.00
Job Placement Services – Retention	Track 1 = \$1,250.00 Track 2 = \$1,500.00 Track 3 = \$2,000.00

2) Additional Service Payments:

<b>Job Placement Services – Additional Services</b>	<b>Payment Amount</b>
Direct Placement	Placement Fee = \$2,000.00 Retention Fee \$1,500.00
Job Coaching	\$40.00 per hour
Community Based Work Assessment	Flat Fee = \$1,100.00
Targeted Vocational Assessment	Flat Fee = \$300.00
Trial Work Experience	Flat Fee = \$1,100.00
Career Exploration	To Be Negotiated

d. Costs associated with providing Services (doing business) under this Agreement are the responsibility of the County. Achieved Milestones and payments made for additional services by DHS are the only payments that will be made for Job Placement Services.

**2. Travel and Other Expenses.**

DHS will not reimburse County for any travel or additional expenses under this Agreement.

**EXHIBIT A**  
**Part 3**  
**Special Provisions**

**1. Confidentiality of Information.**

**a. Client Information:**

- (1) All information as to personal facts and circumstances obtained by the County on the client (“Client Information”) 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.
- (2) The use or disclosure of Client Information shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- (3) DHS, County and any subContractor will share information as necessary to effectively serve DHS clients.

**b. Non-Client Information:**

- (1) Each Party acknowledges that it and any of its officers, directors, employees and agents may, in the course of performing its responsibilities under the Agreement, be exposed to or acquire information that is confidential to the other Party. To the extent permitted by law, any and all information of any form provided to a Party or its officers, directors, employees and agents in the performance of the Agreement that reasonably could at the time of its disclosure be understood to be confidential shall be deemed to be confidential information of the originating Party (“Confidential Non-Client Information”).
- (2) Confidential Non-Client Information shall be deemed not to include information that:
  - (a) Is or becomes (other than by disclosure by the Party acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure;
  - (b) Is furnished by the originating Party to others without restrictions similar to those imposed on the receiving Party under the Agreement;

- (c) Is rightfully in the receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure by the originating Party under the Agreement;
  - (d) Is obtained from a source other than the originating Party without the obligation of confidentiality;
  - (e) Is disclosed with the written consent of the originating Party; or
  - (f) Is independently developed by the receiving Party's officers, directors, employees and agents who can be shown to have had no access to the Confidential Non-Client Information.
- (3) Nondisclosure. The receiving Party shall hold all Confidential Non-Client Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; shall not sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Non-Client Information to third parties; shall not use Confidential Non-Client Information for any purposes whatsoever other than as contemplated by this Agreement or reasonably related thereto; and shall advise any of its officers, directors, employees and agents that receive or have access to the Confidential Non-Client Information of their obligations to keep Confidential Non-Client Information confidential. These confidentiality obligations do not restrict disclosure of information otherwise qualifying as Confidential Non-Client Information if the receiving Party can show that either of the following conditions exists: (i) the information was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, in which case the receiving Party shall notify the originating Party of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given; or (ii) the disclosure was required to respond to a request for the information made under the Oregon Public Records Law, ORS 192.410 to 192.505. The receiving Party shall notify the originating Party of a public records request five days prior to the disclosure.
- c. Upon request and pursuant to the instructions of DHS, County shall return or destroy all copies of Confidential Information, and County shall certify in writing the return or destruction of all Confidential Information.
  - d. For purposes of this section, "Client" means a recipient of services under this Agreement.

**2. Amendments.**

- a. DHS reserves the right to amend or extend the Agreement under the following general circumstances:
  - (1) DHS may extend the Agreement for additional periods of time up to a total Agreement period of five (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 DHS' satisfaction with performance of the work or services provided by the County under this Agreement.

- (2) DHS 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 DHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b.** DHS further reserves the right to amend the Statement of Work based on the original scope of work of the Agreement 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 24. "Amendments; Waiver; Consent." of this Agreement.

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

- a.** County shall comply with, and cause its employees, agents and subContractors to comply with, the applicable laws for mandatory reporting of abuse including but not limited to abuse of the following classes of persons in Oregon:
- Adults with Mental Illness or Developmental Disabilities (ORS 430.735 through 430.743).
- b.** In addition to the requirements of Section 3.a., if law enforcement is notified regarding a report of child abuse, County shall also notify the local Child Protective Services Office of DHS within 24 hours. If law enforcement is notified regarding a report of abuse of elderly, long term care facility residents, adults with mental illness or developmental disabilities, the County shall also notify the local Aging and People with Disabilities Office of DHS within 24 hours.
- c.** If known, the abuse report should contain the following:
- (1) The name and address of the abused person and any people responsible for that person's care;

- (2) The abused person's age;
- (3) The nature and the extent of the abuse, including any evidence of previous abuse;
- (4) The explanation given for the abuse;
- (5) The date of the incident; and
- (6) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

#### **4. Background Checks.**

County shall verify that any employee working with Participants referred by DHS has not been convicted of any of the following crimes: child or elderly abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of an employee scheduled to Work with DHS' Participant. County shall establish verification by:

- (1) Having the applicant as a condition of employment, apply for and receive a criminal history check, OR
- (2) County as an employer will contact the local OSP for an "Oregon only" criminal history check on the applicant/employee. County will need to give to OSP the applicant's name, birth date and social security number.

County shall determine after receiving the criminal history check, whether the employee has listed convictions, and whether these convictions pose a risk to working safely with DHS Participants. If criminal history check notes a conviction from any of the above listed crimes on the applicant/employee's record, and County chooses to hire the employee/applicant, County shall confirm in writing, the reasons for hiring the individual.

These reasons shall address how the applicant/employee is presently suitable or able to Work with referred DHS Participants in a safe and trustworthy manner. County will place this information, along with the applicant/employee's criminal history check, in the employee's personnel file. The criminal history check procedures listed above also apply to County. County shall establish a personal personnel file and place County's criminal history check in named file for possibility of future DHS review.

Background Checks must be completed on all staff providing direct services to Participants every two years.

- 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.** The County will not provide information to the media regarding a recipient of services purchased under this Agreement without first consulting the DHS office that referred the child or family. The County will make immediate contact with the DHS office when media contact occurs. The DHS office will assist the County with an appropriate follow-up response for the media.
7. **Nondiscrimination.** The County must provide services to DHS 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 DHS, 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 DHS 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. DHS represents and warrants as follows:
- (1) Organization and Authority. DHS 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 DHS of this Agreement (a) have been duly authorized by all necessary action by DHS 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 DHS is a party or by which DHS 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 DHS 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 DHS and constitutes a legal, valid and binding obligation of DHS, 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 DHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow DHS, 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 DHS. 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. DHS 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 DHS. In the event that EFT information changes or the County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the County shall provide the changed information or designation to DHS on a DHS-approved form. DHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from the County.

6. **Recovery of Overpayments.** If billings under this Agreement, or under any other Agreement between County and DHS, result in payments to County to which County is not entitled, DHS, 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, subject to Section 7

below. Prior to withholding, if County objects to the withholding or the amount proposed to be withheld, County shall notify DHS that it wishes to engage in dispute resolution in accordance with Section 19 of this Agreement.

7. **Reserved.**

8. **Ownership of Intellectual Property.**

a. **Definitions.** As used in this Section 8 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 DHS or County.

b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, DHS 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 the County owns, County grants to DHS 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 8.b.(1) on DHS' behalf, and (3) sublicense to third parties the rights set forth in Section 8.b.(1).

c. If state or federal law requires that DHS or County grant to the United States a license to any intellectual property, or if state or federal law requires that DHS or the United States own the intellectual property, then County shall execute such further documents and instruments as DHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or DHS. To the extent that DHS becomes the owner of any intellectual property created or delivered by County in connection with the Work, DHS 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 DHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

9. **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 DHS 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).

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

- a. DHS 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 DHS herein or in any documents or reports relied upon by County to measure performance by DHS is untrue in any material respect when made.

**11. Termination.**

- a. **County Termination.** County may terminate this Agreement:
  - (1) For its convenience, upon at least 30 days advance written notice to DHS;
  - (2) Upon 45 days advance written notice to DHS, 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 DHS, if DHS 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 DHS, 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. DHS Termination.** DHS 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 DHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of DHS under this Agreement, as determined by DHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, DHS 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 DHS' legislative authorization for expenditure of funds to such a degree that DHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by DHS 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 DHS 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 DHS 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 DHS 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.

**12. Effect of Termination.**

a. **Entire Agreement.**

- (1) Upon termination of this Agreement, DHS 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 12.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

**13. 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.

**14. Insurance.** County shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

**15. 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 DHS 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.

16. **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 DHS computer system or other DHS Information Asset for which DHS imposes security requirements, and DHS grants County or its subcontractor(s) access to such DHS 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.
17. **Force Majeure.** Neither DHS 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 DHS 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. DHS 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.
18. **Assignment of Agreement, Successors in Interest.**
  - a. County shall not assign or transfer its interest in this Agreement without prior written approval of DHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions as DHS may deem necessary. No approval by DHS of any assignment or transfer of interest shall be deemed to create any obligation of DHS 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.
19. **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.
20. **Subcontracts.** County shall not enter into any subcontracts for any of the Work required by this Agreement without DHS' prior written consent. In addition to any other provisions DHS may require, County shall include in any permitted subcontract under this Agreement provisions to require that DHS will receive the benefit of subcontractor performance as if the subcontractor were the County with respect to Sections 1, 2, 3, 4, 8, 15, 16, 18, 21, and 23 of this Exhibit B. DHS' consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.
21. **No Third Party Beneficiaries.** DHS 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 DHS to assist and enable DHS 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.

22. **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, 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.
23. **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.
24. **Survival.** Sections 1, 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24, 25, 26, 28, 29, 30 and 31 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.
25. **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 DHS 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.

**DHS:** Office of Contracts & Procurement  
250 Winter St NE, Room 306  
Salem, OR 97301  
Telephone: 503-945-5818  
Facsimile: 503-378-4324

**COUNTY:** Clackamas County acting by and through its Health,  
Housing and Human Services Department, Health Centers  
Division

Jeanne Weber  
2051 Kaen Rd, Suite 637  
Oregon City, OR 97045  
Telephone: 503-742-5350  
Facsimile Number: 503-742-5352

26. **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.
27. **Counterparts.** 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 this Agreement and any amendments so executed shall constitute an original.
28. **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.
29. **Reserved.**
30. **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 the 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 the County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the 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 the County is jointly liable with the State (or would be if joined in the Third Party Claim), the 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 the 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 the 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. The 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.

31. **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.
32. **Stop-Work Order.** DHS may, at any time, by written notice to the County, require the 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, DHS 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 11. Termination.

If the Stop Work Order is canceled, DHS may, after receiving and evaluating a request by the 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**

**General Requirements.** County shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance as specified in this Exhibit C and meeting all the requirements under this Exhibit C before the contractors perform under contracts between County and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to DHS. County shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a contractor to work under a Subcontract when the County is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with whom the county directly enters into a contract. It does not include a subcontractor with whom the contractor enters into a contract.

1. **Workers' Compensation.** Insurance must be in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance.

2. **Professional Liability:**

Required by DHS  Not required by DHS.

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Subcontract, with limits not less than the following, as determined by DHS:

- \$1,000,000.00 per occurrence limit for any single claimant; and  
 \$1,000,000.00 per occurrence limit for multiple claimants.

3. **Commercial General Liability:**

Required by DHS  Not required by DHS.

4. **Automobile Liability:**

Required by DHS  Not required by DHS.

Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability").

Automobile Liability Insurance must be in not less than the following amounts as determined by DHS:

**Bodily Injury/Death:**

- \$1,000,000.00 per occurrence limit for any single claimant; and
- \$1,000,000.00 per occurrence limit for multiple claimants.

**AND**

**Property Damage:**

- \$1,000,000.00 per occurrence limit for any single claimant; and
- \$1,000,000.00 per occurrence limit for multiple claimants

5. **Additional Insured.** The Commercial General Liability insurance and Automobile Liability insurance must include the State of Oregon, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.
6. **"Tail" Coverage.** If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the 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 the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and County's acceptance of all services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and DHS may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If DHS approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
7. **Notice of Cancellation or Change.** The contractor or its insurer must provide 30 days' written notice to County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).
8. **Certificate(s) of Insurance.** County shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: (i) all entities and individuals who are endorsed on the policy as Additional Insured and (ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

## EXHIBIT D

### Required 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 DHS, 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, the 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, the County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
  - c. The 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



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. **Drug-Free Workplace.** County shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) County certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in County's workplace or while providing services to DHS clients. County's notice shall specify the actions that will be taken by County against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, County's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify DHS within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither County, or any of County's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the County or County's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the County or County's employee, officer, agent or subcontractor's performance of essential job function or creates a direct threat to DHS clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Agreement.

10. **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.).
11. **Medicaid Services.** County shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
  - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR Part 431.107(b)(1) & (2).
  - b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
  - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 subpart I.
  - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. County shall acknowledge County's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
  - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a)(68).
12. **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.
13. **Disclosure.**
  - a. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in

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

- b. 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- d. County shall make the disclosures required by this Section 13. to DHS. DHS reserves the right to take such action required by law, or where DHS has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

**14. 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. The 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.

**EXHIBIT E**  
**Key Persons**

1. County acknowledges and agrees that DHS selected the County as a result of contracts awarded through Request For Applications (RFA) #4059 process, and is entering into this Agreement, in part, because of the qualifications of County referred to as Applicant and County staff referred to as Applicant staff in the RFA.
2. As referred to in RFA #4059, Applicant and Applicant staff are now considered Key Persons for the sake of this Agreement.
3. County shall not replace Key Persons identified in the County's Application to RFA #4059 without DHS' prior consent in the event any Key Persons are no longer available due to death, illness or termination of employment with County. In the event County requests that the DHS approve a replacement Key Person due to death, illness or termination of employment with the County, DHS shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement for such Key Persons. Any such replacement shall have substantially equivalent or better qualifications than the Key Person being replaced.
4. DHS will provide approval in writing either hand delivered or in electronic form. At the time of receipt of the approval, which can be postmarks, evidence of electronic date stamping such as facsimile or email, or delivered in person, any replacement personnel approved by Agency shall thereafter be deemed a Key Person and Exhibit E shall be deemed amended to include such replacement personnel.
5. Administrative Action: Although changes to Key Persons would be considered changes that would require a written amendment to this Agreement, for this Exhibit E only, changes made to Key Persons in the manner described above will be considered an administrative action and the parties agree once DHS approval is provided by the Contract Administrator for this Agreement, the Agreement is deemed amended.