

March 24, 2016

Board of Commissioners
Clackamas County

Approval of an Intergovernmental Agreement with Oregon Department of Education,
Early Learning Division for Healthy Families Program

Purpose/Outcomes	Healthy Families programming includes screening and home visiting services to high risk families initiated prenatally and at the time of birth through the child's third birthday to promote healthy child development and reduce the risk of child abuse/neglect.
Dollar Amount and Fiscal Impact	\$1,521,282 There is a 25% local match requirement as part of this agreement generated through partnership with the non-profit subcontractor of Healthy Families Home Visiting services.
Funding Source	Oregon Department of Education Early Learning Division
Duration	Effective January 1, 2016 through September 30, 2017
Previous Board Action	N/A
Strategic Plan Alignment	1. Individuals and families in need are healthy and safe 2. Ensure safe, healthy and secure communities
Contact Person	Rodney A. Cook 503-650-5677
Contract No.	CYF 7602

BACKGROUND:

The Children, Youth and Families Division of the Health, Housing & Human Services Department requests the approval of an Intergovernmental Agreement with the Oregon Department of Education (ODE), Early Learning Division for Healthy Families Program. Services to be provided under this contract include educating parents on how to recognize and respond to their baby's cues and needs at every developmental stage; modeling positive parent-child interaction that promotes healthy brain development; educating parents on the importance of immunizations and well-baby checks; connecting parents and children to medical providers; screening for maternal depression and child developmental delays; teaching parents positive discipline techniques; and connecting parents to community resources.

This agreement has a maximum value of \$1,521,282 and was reviewed by County Counsel on March 3, 2016. No County general funds are involved. It is retroactive to January 1, 2016 because it was received from ODE in February and required review by County Counsel and Risk Management before processing.

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
Health, Housing & Human Services

Healthy Families. Strong Communities.

Agreement Number 6175

**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.

This Agreement is between the State of Oregon, acting by and through its Department of Education (ODE) on behalf of its Early Learning Division(ELD) and the Early Learning Council (ELC),and,

**Clackamas County
2051 Kaen Road
Oregon City, Oregon 97045
Telephone: (503) 650-5678
Facsimile: (503) 650-5674
E-mail address: rodcoo@co.clackamas.or.us**

hereinafter referred to as “County.”

Work to be performed under this Agreement relates principally to the ODE

**Early Learning Division
775 Summer Street
Salem, Oregon 97301
Agreement Administrator: Erin Deahn or delegate
Telephone: 503-378-6768
E-mail address: Erin.Deahn@state.or.us**

1. Effective Date and Duration.

Upon signature by all applicable parties, this Agreement shall become effective on the later of: (i) January 1, 2016 or, (ii) when required, the date this Agreement is approved by the Department of Justice. . Unless extended or terminated earlier in accordance with its terms, this Agreement shall terminate 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: Family Support Services Funding Requirements
- (8) Attachment 1: Activity Codes

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, E and all Attachments.

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 **\$1,521,282.00**. ODE 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. ODE 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, ODE’s determination is that:

County is a sub-recipient; **OR** County is a vendor.

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 93.556 (Family Support Services – Title IV-B2)

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): _____

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: () _____ Facsimile: () _____

Federal Employer Identification Number: _____

Proof of Insurance:

Workers' Compensation Insurance Company: _____

Policy #: _____ Expiration Date: _____

The above information must be provided prior to Agreement approval. County shall provide proof of Insurance upon request by ODE or ODE 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) Under penalty of perjury the undersigned is authorized to act on behalf of County and that County is, to the best of the undersigned’s knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, “Oregon Tax Laws” means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS

310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620;

- (2) The information shown in this Section 5., County Data and Certification , is County's true, accurate and correct information;
 - (3) To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
 - (4) County and County's employees and agents are not included on the list titled "Specially Designated Nationals 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>;
 - (5) County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at <https://www.sam.gov/portal/public/SAM/>; and
 - (6) County is not subject to backup withholding because:
 - (a) County is exempt from backup withholding;
 - (b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified County that County is no longer subject to backup withholding.
- 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 ODE is true and accurate. If this information changes, County is also required to provide ODE 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:

By:

Authorized Signature	Title	Date
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State of Oregon acting by and through its Department of Education

By:

Authorized Signature	Title	Date
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Approved for Legal Sufficiency: Approved by Mark Williams via email dated 2/22/2016

Other review Signatures:

Authorized Signature	Title	Date
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EXHIBIT A

Part 1 Statement of Work

1. Preamble

ELD supports Oregon's young children and families to learn and thrive. All of our work is in service to children, families and communities. ELD knows that historically underserved communities represent Oregon's best opportunity to improve educational outcomes. Strength-based approaches and asset-based mindsets will support our efforts to institutionalize equity. ELD recognizes in order for each and every child and family to learn and thrive, ELD has to provide differentiated, person-centered resources and support.

ELD supports culturally responsive services that are respectful of, and relevant to, the beliefs, practices, culture and linguistic needs of diverse consumer/client populations and communities. Cultural responsiveness describes the capacity to respond to the issues of diverse communities and requires knowledge and capacity at different levels of intervention and service delivery: systemic, organizational, professional and individual.

ELD Contractors and Service Providers shall:

- a. Work to build a service delivery climate that promotes acceptance, inclusion and respect for cultural and linguistic diversity;
- b. Develop and understanding of the communities they serve, in a non-static manner, including their culture, values, norms, history, customs, and particularly types of discrimination, marginalization and exclusion they face in this country. This knowledge needs to be applied in a responsive, non-limiting and non-stereotyping manner;
- c. Interact with service users in a way that demonstrates understanding of cultural norms, values, everyday practices and routines, including food, greetings and family conventions;
- d. Engage in continuous learning about their own biases, assumptions and stereotypes that limit their ability to be culturally responsive, and to understand how these biases affect their work with service users and use this knowledge to engage service users at a higher level of inclusion and respect; and
- e. Utilize data to understand the service population and to determine service needs. Data must be used in the determination of target populations and the prioritization of services.

2. Definitions:

- a. **Eligible Families:** Families prenatally through the child's third birthday and may include a transition period following the child's birthday.

- b. Family Service Units (FSU):** Family Services Units are the number of families a home visitor has on their case load per day based on a point structure outlined by Healthy Families America. For the purpose of calculating the daily number of expected FSU's for this Agreement, the number of home visitors employed by the County on any given day is multiplied by 16.
- c. Health Families Services:** Healthy Families Services are voluntary and non-stigmatizing services that promote the development of healthy, thriving children and strong, nurturing families. Services range from universal basic short-term services to long-term intensive home visiting for high risk families. Healthy Families Services are typically initiated prenatally and at the time of birth, and target high risk families. Healthy Families Services are offered until the child's third birthday and as needed during a transition period following the birthday to assure connection to other school readiness services for the family. Services follow evidence-based practices designed to achieve appropriate early childhood benchmarks, following the Healthy Families America model.
- d. Provider or Service Provider:** Any entity or individual working in early learning and development programs including but not limited to center-based and family child care providers, infant and toddler specialists, early intervention specialists and early childhood special educators, home visitors, Respite Care providers, related service providers, administrators, Head Start teachers, Early Head Start teachers, preschool and other teachers, teacher assistants, family service staff, and health coordinators.
- e. Service Delivery Area: Clackamas County,** the geographic area in which County will be coordinating or providing Healthy Family Services required by this Agreement.

3. Service Requirements:

During the term of this Agreement and as further described below, County shall maintain a minimum of 85% of the daily number of expected Family Service Units (FSU) (as described in the definition of Family Service Units above). If County falls below 85% of the expected FSUs in any quarter, ODE shall meet with the County to determine the reasons for the failure to maintain at least 85% of the expected number of FSUs. The failure to maintain at least 85% of the expected number of FSUs during a single quarter shall not constitute a default under this Agreement if County is able to explain the failure to ODE's reasonable satisfaction and County takes action to remedy the failure in the following quarter. If the County fails to maintain at least 85% of the expected number of FSUs for two consecutive quarters, County shall be in default under this Agreement and ODE may exercise any of its remedies under this Agreement, including but not limited to assisting County in curing the default through technical assistance, putting the County on a work plan, or proposing an amendment to this Agreement to decrease the FSUs and associated funding.

Subject to the forgoing FSU requirement, County shall deliver Healthy Families Services either directly or through subcontracted Providers to all Eligible Families in the Service Delivery Area seeking such services.

- a. County shall design and deliver Healthy Families Services directly or through sub-contracted Providers. Healthy Families Services must be provided in accordance with the Healthy Families America model and minimum standards set forth in ORS 417.795 and OAR 414-525-0005 through 414-525-0015.
- b. County, to the extent it is providing Healthy Families Services under this Agreement directly, and subcontracted Providers of Healthy Families Services under this Agreement must:
 - (1) Collaborate with other home visiting Providers in the Service Delivery Area to identify and build upon existing services for families and to prioritize additional services if needed (i.e.: mental health, drug and alcohol, and early intervention). As necessary, and to the extent resources are available, ODE will provide technical assistance to promote improved collaboration;
 - (2) Participate in local HUB and other community efforts to implement supports and services towards the achievement of desired outcomes, working to maximize the effective use of available resources and to avoid duplication of services;
 - (3) Participate in the independent statewide program evaluation;
 - (4) Participate in statewide training for Healthy Families Services program managers, supervisors, home visitors and screening staff;
 - (5) Participate in annual meetings and trainings for Healthy Families Services program managers;
 - (6) Meet statewide performance and outcome indicators outlined in the Healthy Families Program Policy and Procedure Manual;
 - (7) Participate in the Healthy Families America (“HFA”) site self-assessment, as part of ongoing quality assurance and HFA accreditation as required at a minimum of every 5 years;
 - (8) Develop site specific procedure manuals to further specify local service delivery procedures. A subcontracted Provider’s local procedure manuals must be submitted to ODE at intervals specified by ODE;
 - (9) Obtain prior written consent from the family utilizing the Consent to Participate form before any Healthy Families Services are offered to an Eligible Family;

- (10) Obtain the parent’s prior written consent for release of information about the parent’s child or parent;
- c. Healthy Families Services are voluntary and may not be included in a mandated plan for families from any Governmental Entity or Program. Mandated plans include plans developed by the Department of Human Services (DHS) Self Sufficiency and Child Welfare services.
- d. New subcontracted Providers of Healthy Families Services (Providers that have not previously provided such services) must make progress toward full compliance with ORS 417.795 as operationalized by the Healthy Families: Statewide Program Policy and Procedure Manual. All subcontracted Providers of Healthy Families services must be in full compliance within one year of initial services delivery.

NOTE: Copies of the Healthy Families America Best Practice Standards Manual and Healthy Families Program Policy and Procedure Manual are available at: <http://oregonearlylearning.com/healthy-family-providers-page/>

- e. County and each subcontracted Provider shall complete an equity self-assessment by June 30, 2016 in the tool developed ELD.
- f. County and each subcontracted Provider shall complete a demographic analysis by June 30, 2017 in the tool developed ELD, that compares the population demographics of the Coverage Area with the actual population served.
- g. County and each subcontracted Provider shall require all staff providing direct services to complete an open source training by June 30, 2016 on structural racism. ELD will provide specific training documents.

4. Medicaid Administrative Claiming Requirements:

Under Title XIX of the Social Security Act (“the Act”), the federal government and states share the cost of funding the Medicaid program, which provides medical assistance to certain low-income individuals. Federal Financial Participation (“FFP”) is the federal government’s share for states’ Medicaid program expenditures. The State is required to share in the cost of medical assistance expenditures, and the Act permits both state and local governments to participate in the financing of the non-Federal portion of medical assistance expenditures (“State Share”). States may claim FFP for providing administrative activities that are found to be necessary by the Secretary of the U.S. Department of Health and Human Services (“DHHS”), Centers for Medicare and Medicaid Services (“CMS”) for proper and efficient administration of the Title XIX Medicaid Oregon State Plan (the “State Medicaid Plan”).

The Oregon Medicaid program is administered by the Oregon Health Authority (“OHA”), pursuant to ORS 409.010(3). OHA has an interagency agreement with ODE

that authorizes ODE to provide for the delivery of Medicaid administrative activities in connection with the delivery of Healthy Families Services under ORS 417.795 and to claim FFP for such activities. ODE provides for the delivery of those Medicaid administrative activities in the Service Delivery Area through this Agreement.

ODE and County desire to improve health services access and availability for children and families eligible for medical assistance under Medicaid who reside in the Service Delivery Area and, accordingly, in connection with the delivery of Healthy Families Services, County shall during the term of this Agreement, either directly or through subcontracted Providers, perform Medicaid administrative activities in the Service Delivery Area as follows:

- a. **Training Requirements:** All County and subcontracted Provider staff that will perform Medicaid administrative activities under this Agreement must attend training provided by or coordinated through ODE prior to performing such activities and annually thereafter.
- b. **Service Requirements:**
 - (1) County, to the extent it is providing Healthy Families Services under this Agreement directly, and subcontracted Providers of Healthy Families Services under this Agreement must:
 - A. Enroll with the OHA, Division of Medical Assistance Programs (“DMAP”), to provide Medicaid services;
 - B. In connection with its delivery of Healthy Families Services under this Agreement, perform Medicaid administrative activities that support administration of the State Medicaid Plan including:
 - i. Outreach activities to inform families about health services and benefits;
 - ii. Case Planning/Referral/Interagency Coordination; and
 - iii. Wellness activities and preventative health care services.
 - C. Participate in required time studies during the four days each quarter designated by ODE, using the form (paper and electronic) provide by ODE and including all employees performing Medicaid administrative activities during the quarter in connection with the delivery of Healthy Families Services under this Agreement.
 - D. Utilize the Activity Codes in Attachment 1 and time study methodology designated by ODE to document the time spent on all activities performed during the designated four-day period.
 - E. Comply with all requirements of 42 CFR 434.6 as applicable.
 - F. Counsel Medicaid eligible families that they are free to accept or

reject Medicaid services and to receive such service from an enrolled provider of their choice unless otherwise restricted to a provider of the Oregon Health Plan by OHA.

- (2) County shall notify subcontracted Providers of the time study dates for each quarter. Time study dates are randomly determined by ODE.

5. Agreement Administration:

- a. If a subcontracted Provider fails to maintain at least 85% of its expected FSUs (based on the number of home visitors the Provider employees), County shall address the performance deficiencies with the subcontracted Provider including implementation of corrective action plans to improve performance and take corrective action as needed. If ODE provides technical assistance to a subcontracted Provider to address performance deficiencies, County shall be present at all subcontracted Provider site visits and corrective action plans will be issued directly to the County.
- b. County shall monitor subcontracted Providers to ensure fiscal and programmatic integrity.
- c. County shall require subcontracted Providers to provide a 60 day advance notice if for any reason the Provider of Healthy Families Services intends to stop providing the subcontracted services prior to the end of the contract. County shall then immediately notify ODE so that it can provide program specific training and technical assistance. County and ODE may mutually agree to a notice period of less than 60 days if necessitated by specific local circumstances.

6. Reporting:

- a. County shall submit reports to ODE in accordance with the QA Calendar. QA Calendar can be found at <http://oregonearlylearning.com/healthy-family-providers-page/>. All required reports due in any given quarter must be received by the Agreement Administrator prior to any payments being released for that quarter.
- b. County shall ensure all home visit completion data is entered into the HFO statewide data system each quarter prior to any payments being released for that quarter.
- c. County must report to ODE yearly on the use of Medicaid Administrative Claiming (Title XIX) funds disbursed to County.
- d. Equity Report: Utilizing the information provided by the equity self-assessment tool and demographic analysis, identify gaps in services by June 30, 2017 and provide a written report to ODE.

7. Data Requirements:

- a. County must maintain and provide to ODE upon request, the following information:
 - (1) The following information on County employees who perform Medicaid administrative activities under this Agreement and subcontracted Provider employees who perform Medicaid administrative activities under County's contract with Provider: the name, title, job description, education level, salary, and other personnel expenses for each employee;
 - (2) Cost information: records to indicate the nature and extent of cost of Medicaid administrative activities performed, and other resources that have been applied to offset costs;
 - (3) Time study records; and
 - (4) Any other information applicable to the Medicaid administrative activities performed under County's contract with a subcontracted Provider.
 - (5) Provide, upon request, to ODE, OHA, the Oregon Department of Justice, the Oregon Secretary of State, or federal officials, all records that support Medicaid claims for Medicaid administrative activities.

8. Fiscal Requirements:

- a. **Medicaid Administrative Claiming:** As set forth below, and otherwise in accordance with procedures designed by ODE, County, to the extent it is providing Healthy Families Services under this Agreement directly, and subcontracted Providers of Healthy Families Services under this Agreement must participate in federal Medicaid (Title XIX) Administrative Claiming for Medicaid administrative activities performed in connection with the delivery of Healthy Families Services, as follows:
 - (1) County must submit to ODE within the designated time period after the close of each calendar quarter during the term of this Agreement, information necessary for developing a Medicaid claim for Medicaid administrative activities performed during the prior quarter, including:
 - A. A list of the County and subcontracted Provider employees identified as performing Medicaid administrative activities during the quarter in connection with the delivery of Healthy Families Services under this Agreement;
 - B. Salary and other personnel expenses for each identified employee;
 - C. The actual four-day time study record, of all activities performed by each employee identified as performing Medicaid administrative activities during the quarter in connection with the

- delivery of Healthy Families Services under this Agreement.
- D. The costs of Medicaid administrative activities performed by County and subcontracted Providers during the quarter, as determined by County's time study and related information and by the time study and related information submitted by Providers to County.
- (2) Subject to the limitations and exclusions set forth elsewhere in this Agreement, County may include in the information it submits to ODE for developing the quarterly Medicaid claim for Medicaid administrative activities, Medicaid indirect costs incurred during the quarter. Medicaid indirect costs include costs associated with administering the delivery of Medicaid administrative activities authorized under this Agreement with subcontracted Providers, such as implementation of the time study requirements. County's actual Medicaid indirect costs must be documented and justifiable.
- (3) Allowable costs of Medicaid administrative activities are separate from any other direct Medicaid or other services that may be provided pursuant to separate Medicaid funding agreements or authorizations.
- (4) Based on the information submitted by County, ODE will calculate after the end of each quarter the allowable costs of Medicaid administrative activities performed during preceding quarter ("Allowable Administrative Costs") and send the County a copy of the Allowable Administrative Claim.

b. Medicaid Administrative Claiming Payments:

- (1) Subject to the conditions set forth below, ODE shall disburse to County within 30 days after the end of the quarter, the amount of the Allowable Administrative Claim (the "Medicaid Earnings"). The Medicaid Earnings, except as described in 423-010-0023(3), must be used to maintain or expand Healthy Families program core services, as defined in the Healthy Families Program Policy and Procedure Manual.

ODE's quarterly payment obligation is conditioned on ODE receiving payment from OHA of the FFP for the Allowable Administrative Claim (ODE will provide the State Share).

- c. Local Match:** County must demonstrate a 25% percent local match of the funds paid to County under this Agreement (other than Medicaid Earnings). At least 5% of the 25% percent must be cash or cash equivalent and expended on the delivery of Healthy Families Services in the Service Delivery Area, with the remaining percent in any combination of cash, cash equivalent, in-kind or volunteer hours expended on or utilized in the delivery of Healthy Families

Services in the Service Delivery Area. Local match must be included as part of County's base operating budget.

d. Budget:

- (1) County shall submit a final initial budget for the period beginning January 1, 2016 through June 30, 2017 and a final initial budget for the period beginning July 1, 2017 through September 30, 2017 (the budgets must include all funds anticipated to be received under this Agreement including the local match) (Medicaid Earnings should be reflected in a separate line item), by January 28, 2016, to ODE for review and final approval. The budgets must include the expenses of all subcontracted Providers.
- (2) No later than August 31, 2017, County shall submit budgets for the period beginning October 1, 2017 through June 30, 2019 and for the period beginning July 1, 2019 through September 30, 2019 (the budgets must include all funds anticipated to be received under this Agreement, including the local match) (Medicaid Earnings should be reflected in a separate line item) for the delivery of Healthy Families Services in the Service Delivery Area to ODE utilizing the approved budget template provide by ODE. The budget must include the expenses of all subcontracted Providers. County shall submit budgets to ODE for the corresponding periods no later than August 31, 2019, and no later than August 31 of every other year thereafter.
- (3) The designated program manager must be included in the development and monitoring of County's Healthy Families Services budget.
- (4) The annual budget must limit all administrative overhead cost (including administrative overhead of subcontracted Providers) to 10% of personnel costs.

- e. Oregon Cooperative Purchasing Program (ORCPP):** County is encouraged to participate in the ORCPP program, which enables County to utilize available Price Agreements for purchase of good or services to support HFO.

9. Fiscal Restrictions:

As described in greater detail in Attachment 1, the allowable costs of Medicaid administrative activities are limited as follows:

- a. Medicaid does not pay for administrative expenditures related to, or in support of, services that are not included in the State Medicaid Plan, the Oregon Health Plan, or services which are not reimbursed under Medicaid.
- b. Medicaid does not pay for health care services that are rendered free of charge to the general population. Thus, any administrative activity which supports the

referral, coordination, planning of screening or services that are provided free to the general population would not be considered as Medicaid administration.

- c. Duplicate payments are not allowable when determining administrative costs under Medicaid. Payments for allowable activities must not duplicate payments that have been or should have been included and paid as part of a rate for services, part of a capitation rate, or through some other local, State or federal program. Medicaid administrative costs may not be claimed for activities that are integral parts or extensions of medical services. Furthermore, in no case shall County be reimbursed more than the actual cost of the activities claimed by County under this Agreement.

EXHIBIT A

Part 2 Payment and Financial Reporting

1. Payment Provisions

- a. As consideration of services provided by County during the period specified in Section 1. Effective Date and Duration, ODE will pay, in accordance with the payment provisions of this Agreement, an amount not to exceed the amount specified in Section 3.a Consideration of this Agreement, to be paid as follows:

January 1, 2016 through June 30, 2017:

HFO Services:	Up to \$1,011,759.00
Family Support (Title IV-B2):	Up to \$106,197.00
Medicaid Earnings:	Up to \$186,000.00

July 1, 2017 through September 30, 2017:

HFO Services:	Up to \$168,627.00
Family Support (Title IV-B2):	Up to \$17,699.00
Medicaid Earnings:	Up to \$31,000.00

Other than Medicaid Earnings (which will be paid as described in Exhibit A, Part 1), interim payments will be made after the end of each calendar quarter on an expense reimbursement basis for expenses actually incurred during the prior quarter, within the Budget line items, for the delivery of Healthy Families Oregon services under this Agreement; provided, however, that interim payments of Family Support (Title IV-B2) funds will only be made to reimburse expenses actually incurred during that quarter that, in addition to the foregoing requirements, also satisfy the Family Support Services Funding Requirements set forth in Exhibit E.

County may, upon written notice to ODE, move up to 10% of the funds in any one Budget line item (other than the Medicaid Earnings line item) to any other Budget line item (other than the Medicaid Earnings line item). Any other Budget modifications are subject to and conditioned on ODE's written approval

- b. All payments under this Agreement (other than payment of Medicaid Earnings) are subject to ODE's receipt and approval of an invoice. County shall send all invoices to ODE at the address specified on page 1, or to any other address as ODE may indicate in writing to County. The invoice shall describe the work performed and expenses incurred during the period covered by the invoice.

County's claims to ODE for overdue payments on invoices are subject to ORS 293.462.

- c. Payments under this Agreement are further conditioned on (1) no default by County under this Agreement, (2) entry of all home visit data for the prior quarter, and (3) ODE's receipt and approval of County's report as specified in **EXHIBIT A, Part 1, Statement of Work, Section 6. Reporting.**

2. Travel Expenses.

ODE shall not reimburse County for any travel expenses under this Agreement.

EXHIBIT A

Part 3 Special Terms and Conditions

1. Confidentiality of Client Information.

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

2. Amendments.

- a.** ODE reserves the right to amend or extend the Agreement under the following general circumstances:
 - (1) ODE may extend the Agreement for additional periods, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on ODE's satisfaction with performance of the work or services provided by the County under this Agreement.
 - (2) ODE 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 ODE so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b.** ODE further reserves the right to amend the Statement of Work based on the original scope of work of RFP # DASPS-2365-15 or the following:
 - (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Agreement or previous amendments to the Agreement;
 - (2) Implement additional phases of the Work; or
 - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Agreement.

- c. Upon identification, by any party to this Agreement, of any circumstance which may require an amendment to this Agreement, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Agreement before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 22 “Amendments” of this Agreement.

3. Background Checks. Reserved.

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

5. Mandatory Reporting. Reserved

- 6. Nondiscrimination.** The County must provide services to ODE 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 ODE, 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.
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. ODE represents and warrants as follows:

- (1) Organization and Authority. ODE 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 ODE of this Agreement (a) have been duly authorized by all necessary action by ODE 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 ODE is a party or by which ODE 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 ODE 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 ODE and constitutes a legal, valid and binding obligation of ODE, 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; Payments.

- a. The State of Oregon's payment obligations under this Agreement are conditioned upon ODE receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow ODE, 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 ODE. 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. ODE 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), unless otherwise mutually agreed, and shall be processed in accordance with all 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 ODE. 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 ODE on a ODE-approved form. ODE 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 ODE, result in payments to County to which County is not entitled, ODE, 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 ODE that it wishes to engage in dispute resolution in accordance with Section 19 of this Agreement.

- 7. Compliance with Law.** Nothing in this Agreement shall require County or ODE to act in violation of state or federal law or the Constitution of the State of Oregon.

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 ODE or County.
 - (3) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that County is required to deliver to ODE pursuant to the Work.
- b. Original Works. All Work Product created by County pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of ODE. ODE and County agree that all Work Product is "work made for hire" of which ODE is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not "work made for hire," County hereby irrevocably assigns to ODE any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon ODE's reasonable request, County shall execute such further documents and instruments necessary to fully vest such rights in ODE. County forever waives any and all rights relating to original Work Product created pursuant to the Work, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- c. In the event that Work Product is County Intellectual Property, a derivative work based on County Intellectual Property or a compilation that includes County Intellectual Property, County hereby grants to ODE an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display County Intellectual Property and the pre-existing elements of the County Intellectual Property employed in the Work Product, and to authorize others to do the same on ODE's behalf.
- d. In the event that Work Product is Third Party Intellectual Property, a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, County shall secure on ODE's behalf and in the name of ODE an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on ODE's behalf.

- e. If state or federal law requires that ODE or County grant to the United States a license to any intellectual property, or if state or federal law requires that the ODE or the United States own the intellectual property, then County shall execute such further documents and instruments as ODE may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or ODE
 - f. County shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as ODE 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 ODE 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. ODE Default. ODE shall be in default under this Agreement upon the occurrence of any of the following events:

- a. ODE 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 ODE herein or in any documents or reports relied upon by County to measure performance by ODE 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 ODE;
- (2) Upon 45 days advance written notice to ODE, 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 ODE, if ODE 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 ODE, 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. ODE Termination. ODE 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 ODE does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of ODE under this Agreement, as determined by ODE in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, ODE 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 ODE's legislative authorization for expenditure of funds to such a degree that ODE will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by ODE 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 ODE 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 ODE 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. ;
 - (6) Immediately upon written notice to County, if ODE 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, ODE 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 ODE 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. Reserved**
- 17. Force Majeure.** Neither ODE 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 ODE 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. ODE may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or default 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 ODE. Any such assignment or transfer, if approved, is subject to such conditions and provisions as ODE may deem necessary. No approval by ODE of any assignment or transfer of interest shall be deemed to create any obligation of ODE 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 ODE'S prior written consent. In addition to any other provisions ODE may require, County shall include in any permitted subcontract under this Agreement provisions to require that ODE 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. ODE'S consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.

21. **No Third Party Beneficiaries.** ODE 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 ODE to assist and enable ODE 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, 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 ODE at the address or number set forth below, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed shall be effective five days after mailing. Any communication or notice delivered by facsimile shall be 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. To be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party at number listed below. Any communication or notice given by personal delivery shall be effective when actually delivered to the addressee.

ODE: **Karen Hull**
255 Capital Street NE
Salem, OR 97301
Telephone: 503-947-5647
Facsimile: 503-378-5156

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. **Construction. 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 contribution obligation under this Section 30, 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.** ODE 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, ODE shall either:
- a.** Cancel or modify the stop work order by a supplementary written notice; or
 - b.** Terminate the Agreement as permitted by either the Default or the Convenience provisions of Section 11. Termination.

If the Stop Work Order is canceled, ODE 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.

- 33. Time is of the Essence.** County agrees that time is of the essence under this Agreement.

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 specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between 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 ODE. 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 coverage limits of not less than \$1,000,000.

- 2. Professional Liability.**

Required by ODE Not required by ODE.

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 ODE:

\$3,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

Commercial General Liability.

Required by ODE Not required by ODE.

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to ODE. This insurance shall include personal injury liability, products and completed operations. Coverage shall be

written on an occurrence form basis, with not less than the following amounts as determined by ODE:

Bodily Injury, Death and Property Damage:

\$3,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

Automobile Liability.

Required by ODE Not required by ODE.

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 the ODE:

Bodily Injury, Death and Property Damage:

\$3,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

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.

3. **"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 ODE may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If ODE approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.
4. **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).
5. **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 45CFR 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 ODE, 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 action, or order issued by the executive branch of any State or local government itself.

- f. No part of any federal funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h. No part of any federal funds paid to County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

6. **HIPAA Compliance.** If the Activities and or Services provided under this Agreement are covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA) and County has declare itself a “covered entity” under HIPAA, County agrees to conduct the Activities and or Services in compliance with HIPAA. Without limiting the generality of the foregoing, if the Services are covered by HIPAA, County shall comply and require all Providers to comply with the following:

- a. **Privacy and Security of Individually Identifiable Health Information.** On or after April 14, 2003, County, its agents, employees and Providers shall protect individually identifiable health information obtained or maintained about Agency’s clients from unauthorized use or disclosure, consistent with the requirements of HIPAA. The County shall ensure that any electronic communication from the County to an employee of the Agency which contains individually identifiable health information shall meet HIPAA security requirements. This Agreement may be amended to include additional terms and conditions related to the privacy and security of individually identifiable health information.
- b. **Data Transactions Systems.** Any electronic exchange of information on or after October 16, 2002, or on or after October 16, 2003, if County has received an extension from the United States Department of Health and Human Services, between County and Agency to carry out financial or administrative activities related to individually identifiable health care services will be in compliance with HIPAA standards for electronic transactions published in 65 Fed. Reg. 50312 (August 17, 2000). This Agreement may be amended to include additional terms and conditions related to data transactions.

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 ODE 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 ODE 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; (x) Violation of any provision of this subsection may result in termination of this Agreement.

11. **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.).
12. **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 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR 1002.3(a) and 42 CFR 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 431.107(b)(4), and 42 CFR 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 Agreement) 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).

13. Agency-based Voter Registration. 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.

14. Disclosure.

- a. 42 CFR 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 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 14. To ODE. ODE reserves the right to take such action required by law, or where ODE 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.

15. 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 county 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

Family Support Services Funding Requirements

1. **Family Support Services Purpose:** County shall utilize Family Support Funds to provide Healthy Families Oregon Services, as described in this Agreement, to eligible families in the Coverage Area in accordance with and subject to the requirements of this Exhibit E.

2. **Services:** Family Support Funds must be used to provide community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a safe, stable and supportive family environment, to strengthen parental relationships and promote healthy marriages, and otherwise to enhance child development. *US Department of Health and Human Services, Administration for Children and Families.*
 - a. Family Support Funded Services must (1) be family-focused and targeted to the family and not only the child or other individual family member(s); (2) be focused on at-risk families so that the services will have an impact on the population that would otherwise require services from DHS; and (3) focus on child welfare (not educational needs or other services which are the responsibility of other agencies). Family Support Services (Title IV-(B)(2)) funds allocated may not be used for family preservation or family reunification services as these are services provided by DHS.
 - b. Family Support Services funds are federal Title IV-B(2). Use and expenditure of these funds must meet all federal requirements.

3. **Title IV-B2 Family Support Services Funds:** When utilizing federal Title IV-B2 Family Support Services funds, County shall comply and require all Providers to comply with the additional federal requirements applicable to Title IV-B2 Family Support Services funds in 42 USC 629 et seq., including but not limited to: maintaining and providing to ELD such documentation as ELD shall require to comply with federal reporting requirements, 45 CFR Part 92, and the limitations on the use of Title IV-B2 funds in 42 USC 629d.

4. **Title IV-B2 Family Support Services Match Requirement:** Federal Title IV-B2 Family Support Services Funds require 25% match as described in Exhibit A, Part 1, Section 8(c). Other Federal Funds can't be utilized as match funds.

5. **Title IV-B2 Family Support Services Administrative Overhead:** No more than 10% of the Federal Title IV-B2 Family Support Services Funds provided to County under this Agreement may be expended on administrative overhead.

Attachment 1

ACTIVITY CODES

A1. Medicaid/OHP Outreach Activities and Facilitating Medicaid /OHP Eligibility

This code should be used when performing activities that inform eligible or potentially eligible individuals about Medicaid/OHP/Oregon Healthy Kids. This code should also be used when describing the range of services covered under Medicaid/OHP/Oregon Healthy Kids, how to access and obtain them, and the benefits of Medicaid/OHP preventative services. Use this code when assisting children and their families in applying for and becoming eligible for Medicaid/OHP. Activities for obtaining and sharing information for Medicaid/OHP outreach and facilitating Medicaid/OHP eligibility can be written or verbal and may occur during meetings, home visits or over the phone. This includes related paperwork, clerical activities, and staff travel required to perform these activities. Please note it is not necessary that the child/family actually receive Medicaid/OHP in order for this code to be used.

Examples:

- Informing Medicaid eligible and potential Medicaid eligible children and families about the benefits and availability of services provided by Medicaid (including preventative treatment and screening) including services provided through Enter Periodic Screening Diagnosis and Treatment (EPSDT) program.
- Developing and/or compiling materials to inform individuals about the Medicaid program (including EPSDT) and how and where to obtain those benefits. Note: this activity should not be used when Medicaid-related materials are already available to the children and families served in your target population (such as through the Medicaid agency). As appropriate, obtain prior approval from Medicaid when creating/developing outreach materials.
- Distributing literature about the benefits, eligibility requirements, and availability of the Medicaid program, including EPSDT.
- Assisting the Medicaid agency to fulfill the outreach objectives of the Medicaid program by informing individuals, children and their families about health resources available through the Medicaid program.
- Providing information about Medicaid EPSDT screening (e.g., dental, vision) available that will help identify medical conditions that can be corrected or improved by services offered through the Medicaid program.
- Contacting pregnant and parenting women and teens about the availability of Medicaid-covered prenatal and well-baby care programs, immunizations, birth control options and services.

- Providing information regarding Medicaid managed care programs and health plans such as Oregon Healthy Kids to individuals and families, including how to access the system.
- Encouraging families to access medical/dental/mental health services provided by the Medicaid program.
- Verifying an individual's current Medicaid eligibility status for purposes of the Medicaid eligibility process. (This may be accomplished by performing an eligibility check on-line, by reviewing the medical card, or contacting a local DHS/OHA facility to verify status of eligibility.)
- Reminding or assisting families to reapply for OHP to keep it current.
- Explaining Medicaid eligibility rules and the Medicaid eligibility process to prospective applicants.
- Assisting individuals or families complete a Medicaid eligibility application.
- Gathering information related to the application and eligibility determination process for an individual, including resource information and third party liability (TPL) information, as a prelude to submitting a formal Medicaid application.
- Providing necessary forms and/or packaging forms in preparation for Medicaid eligibility determination.
- Referring an individual or family to a local assistance office to make application for Medicaid benefits.
- Assisting an individual or family in collecting/gathering required information and documents for the Medicaid application.
- Identifying enrolled providers to provide Medicaid covered services, such as: immunizations, well child exams, dental services, mental health services.
- Participating as a Medicaid eligibility outreach outpost. NOTE: excludes determining eligibility.
- Preparing, presenting and disseminating child health related materials identifying Medicaid-covered services and how to access such services including preventative health care and substance abuse prevention programs, related staff travel and paperwork.
- Informing parents/families on how to appropriately access/use Medicaid-covered medical care/services.

A2. Outreach and Application Assistance for Non-Medicaid/OHP Programs:

Activities that assist the child/family in gaining access to non-Medicaid/OHP services and effectively utilize social services and community wellness programs. (Included are housing, commodities, food banks, Women's Infant and Children Program ("WIC"), foster care, financial assistance, exercise and weight loss programs, energy assistance, child care, after school programs, friendly visitor and vocational services). Providers that are not enrolled with Medicaid or part of Medicaid Managed care of network providers and activities that assist the child/family in applying for these services, including form preparation, related staff travel, clerical, and paperwork.

Examples:

- Informing families about general health education programs or campaigns and how to access them, conducting, scheduling or promoting these programs.
- Scheduling and promoting activities which educate individuals about the benefits of healthy lifestyles, home safety and accident prevention.
- Non-Medicaid/OHP outreach directed toward encouraging persons to access social, educational, legal, or other services not covered by Medicaid/OHP.
- Explaining eligibility rules and the eligibility process to prospective applicants for NON-OHP programs, providing the necessary forms and packaging all forms in preparation for such NON-OHP services.
- Informing individuals and families about NON-OHP programs, such as housing, food banks, foster care, financial assistance for needy families, TANF, food stamps, Women's Infant and Children (WIC) program, childcare, legal aid and other NON-OHP social or educational programs, and referring them to the appropriate agency to make application for such services.
- Providing outreach, developing and verifying initial and continuing eligibility for the Free and Reduced Lunch Program.

B1. Referral, Coordination, Monitoring and Training of Medicaid/OHP Covered Services

Staff should use this code when making referrals for coordinating, and/or monitoring the delivery of Medicaid-covered services. This code may also be used when coordinating or participating in training events and seminars for outreach staff regarding the benefits of the Medicaid/OHP program, how to assist families to access Medicaid-covered services and how to more effectively refer participants for services. Activities that are an integral part of or an extension of a direct medical service are not claimable as an administrative activity and must be reported as E. NOTE: Targeted case management is also not claimable as an administrative activity and must be reported as E. Claimable activities reported include related staff travel, clerical, and paperwork.

***If medically licensed staff provide these activities they are considered integral to Medical services they provide whether they are actively billing Medicaid for direct medical services or not, must report under E for Direct Healthcare Services.

Examples:

- Monitoring, coordination, and training of Medicaid/OHP services: for vulnerable children and families, including agency staffing to coordinate Medicaid/OHP services for child health and development (does not include Individualized Family Services Goal Plan meetings), arranging for Medicaid-covered services, coordinating child specific Medicaid-covered services in coordination with services identified (i.e. psychological counseling, health, substance abuse counseling and consultation), related staff travel and paperwork.
- Referral and Coordination: Gathering information in advance of a referral for a Medicaid-covered service utilizing questionnaires (i.e. New Baby Questionnaire or Family Update). Making referrals for and coordinating Medicaid covered screenings, examinations, assessments and evaluations for health, vision, dental, developmental, mental health, substance abuse, and other Medicaid-covered medical services. Contacts with parents regarding their child's Medicaid covered healthcare needs. Gathering background information and supportive data such as social history and medical history. Helping families meet goals related to Medicaid covered services and coordinating medical care with partnering agencies also serving the family such as Early Intervention and/or Community Healthy Nurses, and related staff travel and paperwork.
- Immunization: Scheduling immunizations, coordination of immunizations for children, related staff travel and paperwork.
- Maternal Care Services: Referring for Medicaid-covered prenatal, postpartum and newborn care, pre-pregnancy risk prevention, family planning and related staff travel and paperwork.
- Developmental Delay: Gathering information in advance of a referral for a Medicaid-covered service utilizing Ages and Stages Questionnaire (ASQ) and ASQ Social Emotional Questionnaire for early identification of age appropriate child development and/or delays to assure health and developmental problems are found, diagnosed and treated. Coordinating or referring for early Medicaid-covered medical consultation and evaluations, related staff travel and paperwork. Participating in or coordinating training which improves the delivery of Medicaid/OHP services, enhances early identification, intervention, screening and referral of children with special health needs.

B2. Case Planning, Monitoring, Coordination, Referral and Training of Non-Medicaid/OHP Covered Services

- Assessing and monitoring of the home learning environment using standardized forms, creating and disseminating information on positive and interactive learning environments, providing or arranging for reading material for the child, providing or arranging for age appropriate toys.
- Classroom instruction or presentations, preparation, related paperwork and travel, attendance at conferences, providing educational or career guidance or consultation. Includes related staff travel, clerical, and paperwork.
- Case management of social services and community wellness programs (including housing, commodities, food banks, WIC, foster care, financial assistance, exercise and weight loss programs, energy assistance, child care, after school programs, friendly visitor and vocational services). Arranging transportation for these services coordinating or participating in training events and seminars for these services. Includes related staff travel, clerical, and paperwork.
- Making direct referrals to social services such as housing, energy assistance, educational and/or special education, childcare, education and Early Intervention, vocational and transportation to these services, etc., monitoring and follow-up. Includes related staff travel, clerical and paperwork.
- Participating in or coordinating training which improves the delivery of non-Medicaid/OHP services.

Examples:

- Helping families meet non-Medicaid covered related goals.
- General education and referrals about topics like nutrition, normal breastfeeding, exercise, wellness, attachment, infant development.
- Sharing toys, making toys.
- Literacy.
- Parent child interactions.

C1. Medicaid/OHP Transportation and Translation:

Assisting an individual to obtain transportation to services covered by OHP, arranging for or providing translation services to facilitate access to OHP services. This does not include the provision of the actual transportation services, but rather the administrative activities involved in arranging or scheduling transportation to a Medicaid covered service. Translation services must be provided by an employee whose role is performing translation functions to facilitate access to Medicaid-covered services. Include related paperwork, clerical activities or staff travel required to perform these activities.

Examples:

- Arranging for or providing translation services (oral and signing) that assist the individual to access and understand necessary care or treatment covered by Medicaid.

- Developing translation materials that assist individuals to access and understand necessary care or treatment covered by Medicaid.
- Scheduling or arranging transportation to Medicaid/OHP covered services.
- Related staff travel and paperwork.

C2. Non-Medicaid/OHP Transportation and Translation means:

Assisting an individual to obtain transportation to services not covered by Medicaid/OHP, or arranging for or providing translation services related to social, vocational, or educational programs. Include related paperwork, clerical activities or staff travel time required to perform these activities.

Special Note: Use this code when accompanying an individual to non-Medicaid/OHP services.

D1. Program Planning, Policy Development, and Interagency Coordination Related to Medicaid/OHP Services

Performing activities associated with the development of strategies to improve the coordination and delivery of medical/dental/mental health services, and when performing collaborative activities with other agencies and/or providers. Planning and developing procedures to track requests for services; the actual tracking of requests for Medicaid services would be coded under B1 Referral, Coordination and Monitoring of Medical Services. Working internally and with other agencies to improve services, expand health and medical services and their utilization to specific target populations, gathering information about their functions, to improve early identification of health and developmental problems, related staff travel, clerical and paperwork.

Examples:

- Identifying gaps or duplication of medical/dental/mental services and developing strategies to improve the delivery and coordination of these services.
- Developing strategies to assess or increase the capacity of medical/dental/mental health programs.
- Monitoring medical/dental/mental health delivery systems.
- Developing procedures for tracking families; requests for assistance with medical/dental/mental services and providers, including Medicaid (this does not include the actual tracking of request for Medicaid services).
- Evaluating the need for medical/dental/mental services in relation to specific populations or geographic areas.
- Analyzing Medicaid data related to a specific program, population, or geographic area.
- Working with other agencies and/or providers that provide medical/dental/mental services to improve the coordination and delivery of services, to expand access to specific populations of Medicaid eligibles and to increase provider participation and improve provider relations.
- Working with other agencies and/or providers to improve collaboration around the early identification of medical/dental/mental problems.

- Developing strategies to assess or increase the cost effectiveness of medical/dental/mental health programs.
- Defining the relationship of each agency's Medicaid services to one another.
- Working with Medicaid resources, such as the Medicaid agency and Medicaid managed care plans, to make good faith efforts to locate and develop EPSDT health services referral relationships.
- Developing advisory or work groups of health professionals to provide consultation and advice regarding the delivery of health care services.
- Working with the Medicaid agency to identify, recruit and promote the enrollment of potential Medicaid providers.
- Developing medical referral sources such as directories of Medicaid providers and managed care plans who will provide services to targeted population groups, e.g., EPSDT children.
- Coordinating with interagency committees to identify, promote and develop EPSDT services.
- System coordination, community meetings to improve services, expand access to OHP, improve system of care.
- Developing a family planning, education, counseling and service program compatible with community norms, locating or developing family planning information and materials and methods of distribution, developing a family planning service referral network.
- Notifying medical providers of Healthy Start/Healthy Families Oregon services and coordination opportunities.
- Recruitment of enrolled providers to provide Medicaid covered services, such as: immunizations, well child exams, dental services, and mental health services.
- System coordination to improve delivery of immunizations.
- Related supervision, travel, case conferences, team meetings and paperwork.

D2. Coordination Related to Non-Medicaid/OHP Services

Working internally and with other agencies to improve social services, identify gaps in services, expand and improve capacity to engage in non-Medicaid/OHP activities, expand access and linkage to non-Medicaid/OHP services, their utilization by specific target populations; related staff travel, clerical, and paperwork.

E. Direct Health Care Services

Providing medical care, treatment, and/or counseling to an individual. This code also includes administrative activities that are an integral part of or extension of a medical service (e.g., patient follow-up, patient assessment, patient counseling, patient education, parent consultations, billing activities). This code also includes related paperwork, clerical activities, or staff travel required to perform these activities.

Examples:

- Providing health/mental health services.
- Medical/health assessment and evaluation.

- Conducting medical/health assessments/evaluations and diagnostic testing and preparing related reports.
- Providing personal aide services.
- Providing speech, occupational, physical and other therapies.
- Administering first aid or prescribed injection or medication.
- Providing direct clinical/treatment services.
- Performing developmental assessments.
- Providing counseling services to treat health, mental health, or substance abuse conditions.
- Developing a treatment plan (medical plan of care) for a student if provided as a medical service.
- Performing routine or mandated child health screens including but not limited to vision, hearing, dental, scoliosis, and EPSDT screens.
- Providing immunizations.

F. Other Services

General administrative functions such as: payroll, maintaining inventories, developing budgets, executive direction, lunches, paid leave, educational or professional development conferences, staff meetings, and personnel issues.

Examples:

- Paid lunches, breaks, or other time not at work.
- Paid time off (vacation, sick).
- Most trainings, conferences and meetings (not related to Medicaid covered services).
- Personnel issues.
- Emails and phone messages, general office work, filing.
- Establishing goals and objectives of health-related programs as part of an annual or multi-year plan.
- Reviewing agency procedures and rules.
- Attending or facilitating staff or board meetings.
- Performing administrative or clerical activities related to general building or agency functions or operations.
- Providing general supervision of staff, including assistants or volunteers, and evaluation of employee performance.