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**AGENDA COVER MEMO**

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**AGENDA DATE:** August 14, 2007

**TO:** Board of County Commissioners

**DEPARTMENT:** Children and Families

**PRESENTED BY:** Alicia Hays, Director

**AGENDA TITLE:** IN THE MATTER OF DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXECUTE 1) THE OREGON COMMISSION ON CHILDREN AND FAMILIES 2007-2009 INTERGOVERNMENTAL AGREEMENT AND AMENDMENTS, NOT TO EXCEED \$4,725,000 AND 2) THE HEALTHY START – MEDICAID ADMINISTRATIVE ACTIVITIES 2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT NOT TO EXCEED \$66,000.

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**I. MOTION**

**IN THE MATTER OF DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXECUTE 1) THE OREGON COMMISSION ON CHILDREN AND FAMILIES 2007-2009 INTERGOVERNMENTAL AGREEMENT AND AMENDMENTS, NOT TO EXCEED \$4,725,000 AND 2) THE HEALTHY START – MEDICAID ADMINISTRATIVE ACTIVITIES 2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT NOT TO EXCEED \$66,000**

**II. DISCUSSION**

**A. Background**

1) The Oregon Legislature approved a budget for Oregon Commission on Children & Families for the 2007-2009 biennium. Through OCCF, the Lane County Commission on Children & Families funds researched based, best or promising practices that are outcome driven and align with the Lane County Comprehensive Plan for children and families. These programs include family resource centers, relief nurseries, CASA, resource and referral for child care, Healthy Start, and services for runaway and homeless youth. Funds are also used for staff to build and support collaborations and service integration, provide technical assistance, and to facilitate community engagement to promote the health and well being of all Lane County children and their families through community mobilization.

Funds for Healthy Start, Relief Nursery services, and Court Appointed Special Advocates (CASA). (Attachment A) have not yet been appropriated. The disbursement of these funds continues to be discussed at the state level, and it is anticipated that there will be additional amendments to the IGA when those decisions are made. From discussions currently in process, it could be as late as September or October before final allocations for these funds are disbursed to

counties. Lane County Department of Children & Families requests that the Board now approve the 2007-2009 Intergovernmental Agreement, as well as future anticipated amendments up to a revenue contract total of \$4,725,000.

2) The Oregon Legislature has directed that Medicaid reimbursements be included as a component of the Healthy Start formula grant to each county. The Oregon Commission on Children and Families (OCCF) administers Title XIX reimbursement claims for Oregon Healthy Start. At the beginning of a biennium, OCCF projects the level of Medicaid reimbursement for each county's Healthy Start program. For the 2007-2009 biennium, the OCCF projection for Lane County Healthy Start Medicaid reimbursement is not to exceed \$66,000. The Medicaid projection is discussed in the attached email dated July 18, 2007 (Attachment B) and in the Medicaid Intergovernmental Agreement (Attachment C). Every Healthy Start program is required to participate in Medicaid claiming as described in the IGA.

**B. Alternatives/Options**

1. Adopt the order, delegating authority to the County Administrator to execute the OCCF Intergovernmental Agreement and future amendments and the OCCF Healthy Start – Medicaid Administrative Activities Intergovernmental Agreement.
2. Decline to execute the agreements at this time and provide direction to the Lane County Commission on Children and Families (LCCCF) on how to proceed. This option would cause a delay in processing of contracts with agencies that provide services to children and families as no contracts can be executed until the revenue agreement is executed. Some service providers may have to halt services temporarily as payments cannot be made without an executed contract with the service provider.

**C. Recommendation**

1. **Option 1** Adopt the order and delegate authority to the County Administrator to execute the intergovernmental agreements and future amendments.

**III. IMPLEMENTATION/TIMING**

Following Board approval, the County Administrator will sign the Intergovernmental Agreements and executed copies will be returned to the Oregon Commission on Children and Families for signatures. Future amendments covered by the Board Order would be processed in a similar manner. Staff will then proceed to process contracts with community service providers based on the OCCF revenue agreement.

**IV. ATTACHMENTS**

- A. OCCF 2007-09 Intergovernmental Agreement
- B. OCCF Email discussing Medicaid projections
- C. OCCF Healthy Start Medicaid IGA

THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDER)

IN THE MATTER OF DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXECUTE 1) THE OREGON COMMISSION ON CHILDREN AND FAMILIES 2007-2009 INTERGOVERNMENTAL AGREEMENT AND AMENDMENTS NOT TO EXCEED \$4,725,000 AND 2) THE HEALTHY START – MEDICAID ADMINISTRATIVE ACTIVITIES 2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT NOT TO EXCEED \$66,000

WHEREAS, the Oregon Commission on Children and Families (OCCF) is authorized to grant funds to local Commissions on Children and Families to implement research based, best or promising practices that are outcome driven and aligned with the local comprehensive plan; and

WHEREAS, the Oregon State legislature has now approved a two year budget amount for OCCF activities, and

WHEREAS, The 2007-2009 Intergovernmental Agreement will need amended as it does not include funding for Healthy Start, Relief Nursery services, and CASA ,and

WHEREAS, the OCCF requires county Healthy Start programs to participate in Medicaid administrative activities, and to be reimbursed for these activities, and

WHEREAS, the cost of providing these activities is reimbursed through an Intergovernmental Agreement with OCCF,

NOW, IT IS HEREBY ORDERED that the Board of Commissioners approves and delegates authority to the County Administrator to execute the 2007-2009 Oregon Commission on Children and Families Intergovernmental Agreement and future amendments not to exceed \$4,725,000; and it is further

ORDERED that the Board of Commissioners approves and delegates authority to the County Administrator to execute the Healthy Start – Medicaid Administrative Activities County Intergovernmental Agreement in substantial conformity to the attached, not to exceed \$66,000.

APPROVED this \_\_\_\_ day of August, 2007.

APPROVED AS TO FORM

Date 8/17/07 Lane County

[Signature]  
OFFICE OF LEGAL COUNSEL

\_\_\_\_\_  
Faye Stewart, Chair  
BOARD OF COUNTY COMMISSIONERS

**Attachment A**  
**Oregon Commission on Children and Families 2007-  
2009 Intergovernmental Agreement**

**CONTRACT #0709LANE**

**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT**

This Oregon Commission on Children and Families 2007-2009 County Intergovernmental Agreement (this "Agreement") is entered into by and between the State of Oregon, acting by and through its State Commission on Children and Families ("Agency"), and Lane County, a political subdivision of the State of Oregon ("County").

**RECITALS**

WHEREAS, ORS 417.735 authorizes Agency to assist Oregon counties in enabling families and communities to protect, nurture, and realize the full physical, social, emotional, cognitive and cultural development potential of children in Oregon;

WHEREAS, County has requested financial assistance from Agency for the foregoing purposes; and

WHEREAS, Agency is willing, upon the terms and conditions of this Agreement, to provide financial assistance to County for the foregoing purposes;

WHEREAS, pursuant to ORS 190.110 and ORS 417.850, the parties have authority to enter into intergovernmental cooperative agreements, and therefore agree to work together, focusing on the Oregon Benchmark – Preventing and Reducing Juvenile Crime, and to improve collaborative efforts.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**AGREEMENT**

- 1. Effective Date and Duration.** Upon execution by each of the parties hereto and approval as required by applicable law, this Agreement shall become effective as of July 1, 2007. Unless terminated earlier in accordance with its terms, this Agreement shall terminate on June 30, 2009.
- 2. Agreement Documents, Order of Precedence.** This Agreement consists of the following documents, which are listed in descending order of precedence. In the event of a conflict between two or more of these documents, the language in the document with the highest precedence shall control.

This Agreement without Exhibits

Exhibit A	Definitions
Exhibit B	Funding Area Descriptions
Exhibit C	Award
Exhibit D	Special Terms and Conditions
Exhibit E	General Terms and Conditions
Exhibit F	Standard Terms and Conditions
Exhibit G	Required Federal Terms and Conditions
Exhibit H	Juvenile Crime Prevention

County, by execution of this Agreement, hereby acknowledges that County has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the dates set forth below their respective signatures.

**STATE OF OREGON ACTING BY AND THROUGH ITS  
STATE COMMISSION ON CHILDREN AND FAMILIES**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**LANE COUNTY ACTING BY AND THROUGH ITS  
LOCAL COMMISSION ON CHILDREN AND FAMILIES**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT  
EXHIBIT A  
DEFINITIONS**

As used in this Agreement, the following words and phrases shall have the indicated meanings.

1. **“Activity”** means an activity falling within a Funding Area, whose costs are covered in whole or in part with financial assistance Agency pays to County pursuant to this Agreement
2. **“Administrative Costs”** means Allowable Costs incurred by County or a Provider in administering implementation of the Plan, as determined in accordance with Office of Management and Budget Circulars A-87 and A-122, as revised from time to time.
3. **“Agency”** has the meaning set forth in the first paragraph of this Agreement.
4. **“Allowable Costs”** means those costs that are reasonable and necessary for the delivery of Services implementation of the Plan as determined in accordance with Office of Management and Budget Circulars A-87 and A-122, as revised from time to time.
5. **“Claim”** has the meaning set forth in Section 4 of Exhibit F.
6. **“Agreement”** means this 2007-2009 County Intergovernmental Agreement.
7. **“County”** has the meaning set forth in the first paragraph of this Agreement
8. **“Federal Funds”** means all funds paid to County under this Agreement that Agency receives from an agency, instrumentality or program of the federal government of the United States.
9. **“Funding Area”** means any one of the areas enumerated and further described in Exhibit B.
10. **“Funding Area Description”** means the description of a Funding Area set forth on Exhibit B.
11. **“Misexpenditure”** has the meaning set forth in Section 1 of Exhibit E.
12. **“Provider”** has the meaning set forth in section 5 of Exhibit E. As used in a Funding Area Description, Provider also includes County if County conducts an Activity within that Funding Area directly.
13. **“Underexpenditure”** has the meaning set forth in section 1 of Exhibit E.

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT  
EXHIBIT B  
FUNDING AREA DESCRIPTIONS**

1. **Great Start.** Great Start activities are described in OAR 423-010-0024(1).
2. **Children, Youth and Families.** Children, Youth and Families activities are described in OAR 423-010-0024(3).
3. **Child Care and Development Fund.** Child Care and Development Fund activities are described in OAR 423-010-0024(2).
4. **Court Appointed Special Advocates.** Court Appointed Special Advocates activities are described in OAR 423-010-0024(4).
5. **Youth Investment.** Youth Investment activities are described in OAR 423-010-0024(5). At least 25% of Youth Investment Funds must be invested in Evidence Based Practices as defined in ORS 182.525 Note: Sec.5.
6. **Family Preservation and Support.** Family Preservation and Support activities are described in OAR 423-010-0024(7).
7. **Basic Capacity.** Basic Capacity activities are described in OAR 423-010-0023(1).
8. **Relief Nurseries.** Relief Nurseries activities are described in OAR 423-010-0024(8).
9. **Healthy Start.** Healthy Start activities are described in OAR 423-010-0024(6) and OAR 423-045-0015.
10. **Juvenile Crime Prevention (JCP) Prevention.** JCP Prevention services are described in Exhibit H.

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT  
EXHIBIT C  
AWARD**

<b>FUNDING AREA</b>	<b>GEN FUND</b>	<b>FED FUNDS</b>	<b>CFDA NUMBER</b>
1. Great Start	\$ 184,727	\$	
2. Children Youth and Families	\$ 192,456	\$	
3. Child Care and Development Fund	\$	\$ 245,368	93.575
4. Court Appointed Special Advocates	\$ 11,541	\$	
5. Youth Investment	\$	\$ 440,855	93.667
a. Youth Investment – Basic Capacity	\$	\$ 56,867	93.667
6. Family Preservation and Support	\$	\$ 144,869	93.556
a. Family Preservation and Support – Basic Capacity	\$	\$ 13,117	93.556
7. Basic Capacity	\$ 573,056	\$	
8. Relief Nurseries	\$ 57,716	\$ 60,373	93.667
9. Healthy Start	\$ 161,558	\$	
10. JCP Prevention	\$ 50,981	\$	

**EXPLANATION OF AWARD**

The Award set forth above reflects the maximum amount of financial assistance that Agency will provide to County under this Agreement in support of Activities or Services in each of the specified Funding Areas. The CFDA (Catalog of Federal Domestic Assistance) Number specifies the source of federal funds as follows: CFDA Number 93.667 specifies Title XX block grant funds, CFDA Number 93.556 specifies Title IV-B2 Family Preservation and Support grant funds, CFDA Number 93.575 specifies Child Care and Development grant funds.

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT  
EXHIBIT D  
SPECIAL TERMS AND CONDITIONS**

1. **Special Restrictions on Expenditure of Award.** In addition to any other restriction or limitation on County's expenditure of financial assistance, County may expend financial assistance provided under this Agreement only in accordance with the limitations set forth in OAR 423-010-0040 and 423-010-0027(2) and, with respect to Activities within a specific Funding Area, the limitations set forth in OAR 423-010-0023 and 423-010-0024. County may not expend financial assistance provided under this Agreement in excess or contravention of the foregoing limits.
  
2. **Carryover.** Notwithstanding Section 1 of Exhibit E, if authorized by Agency in writing in accordance with OAR 423-010-0027, County may retain and expend in accordance with OAR 423-010-0027(5) financial assistance disbursed to County under this Agreement that is not expended at Agreement termination. In no event will Agency permit financial assistance disbursed to County for Basic Capacity, that is not expended by County at Agreement termination, to be retained by County. All financial assistance retained by County in accordance with this section that is not expended within 90 days after the termination of this Agreement shall be deemed an Underexpenditure subject to recovery under Section 1 of Exhibit E.
  
3. **Reporting.** County shall submit reports to Agency as required by OAR 423-010-0027(7-9).

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT  
EXHIBIT E  
GENERAL TERMS AND CONDITIONS**

**1. Disbursement and Recovery of Award.**

**a. Disbursement Generally.** Subject to the conditions precedent set forth below, Agency shall disburse the financial assistance described in the Award to County in accordance with OAR 423-010-0027(1) and on an expense reimbursement basis or, at Agency's discretion, in periodic proportional allotments. The mere disbursement of financial assistance to County does not vest in County any right to retain those funds. Disbursements not provided on an expense reimbursement basis are considered an advance of funds to County which County may retain only if properly expended, in accordance with terms and conditions of this Agreement, prior to the termination of this Agreement.

**b. Conditions Precedent to Disbursement.** Agency's obligation to disburse financial assistance to County under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- (i) Agency has received sufficient funding, appropriations and other expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement.
- (ii) No default as described in Section 8 of this Exhibit has occurred.
- (iii) County's representations and warranties set forth in Section 2 of this Exhibit are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.

**c. Recovery of Award.**

- (i) **Notice of Underexpenditure or Misexpenditure.** In the event of an Underexpenditure or a Misexpenditure (each as defined below) of any moneys disbursed to County under this Agreement, Agency and County shall engage in the process described in this Section 1.c to determine the appropriate amount that Agency may recover from County, and the appropriate method for implementing such recovery. For purposes of this Section 1.c, an "Underexpenditure" means money disbursed to County by Agency under this Agreement that has not been expended by County at Agreement termination, other than money, if any, that County is expressly permitted to retain and expend in the future under other provisions of this Agreement, and "Misexpenditure" means money disbursed to County by Agency under this Agreement and expended by County that:
  - (a) Is identified by the federal government as expended contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money, for which the federal government has requested reimbursement by the State of Oregon; or

- (b) Is identified by the State of Oregon or Agency as expended in a manner other than that permitted by this Agreement, including without limitation, any money expended by County, contrary to applicable statutes, rules, OMB Circulars or any other authority that governs the permissible expenditure of such money; or
- (c) Is identified by the State of Oregon or Agency as expended on an Activity that did not meet the standards and requirements of this Agreement with respect to that Funding Area.
- (d) The term “Misexpenditure” does not include any County payments or expenditures that are:
  - (A) Made pursuant to Oregon Administrative Rules;
  - (B) Made with Agency’s written discretion or approval; or
  - (C) Consistent with the local plans submitted by County and approved by the Agency.
- (e) If County payments or expenditures are later determined to be impermissible due to a subsequent modification or applicable statutes, federal rules, OMB Circulars or any other authority not listed in Section 1.c(i)(d) above that governs the expenditures of such monies by County, the parties agree to meet and negotiate in good faith an appropriate apportionment of responsibility for the repayment of the impermissible payments.

In the event of an Underexpenditure or a Misexpenditure, Agency shall provide to County notice thereof.

- (ii) **County’s Response.** From the date of County’s receipt of the notice of Underexpenditure or Misexpenditure, County shall have the lesser of (i) 90 calendar days, or (ii) if an Underexpenditure or Misexpenditure relates to a federal government request for reimbursement, 30 calendar days fewer than the number of days (if any) the Agency has to appeal a final written decision from the federal government, to either:
  - (a) Make a payment to the Agency in the full amount of the Underexpenditure or Misexpenditure identified by the Agency; or
  - (b) Notify the Agency that County wishes to repay the amount of the Underexpenditure or Misexpenditure from future payments pursuant to Section 1.c(iv) below; or
  - (c) Notify the Agency that it wishes to engage in the applicable appeal process set forth in Section 1.c(iii) below.

The Agency shall not require County to perform additional services to be paid from the Underexpenditure. If County fails to respond within the time required under Section 1.c(ii) above, Agency may recover the amount of the

Underexpenditure or Misexpenditure from future payments as set forth in Section 1.c(iv) below.

(iii) **Appeals Process.** If County notifies Agency that it wishes to engage in an appeal process with respect to a noticed Underexpenditure or Misexpenditure, the parties shall comply with the following procedures, as applicable:

(a) **Appeal from Agency-Identified Underexpenditure or Misexpenditure.** If the Agency's notice of Underexpenditure or Misexpenditure is based on an Underexpenditure or Misexpenditure other than a Misexpenditure of the type identified in Section 1.c(i)(a) above, County and the Agency shall engage in non-binding discussions to give the County an opportunity to present reasons why it believes that there is, in fact, no Underexpenditure or Misexpenditure or that the amount of the Underexpenditure or Misexpenditure is different than the amount identified by the Agency, and to give the Agency the opportunity to reconsider its notice based on such presentation and discussion. County and Agency may negotiate an appropriate apportionment of responsibility for the repayment of an Underexpenditure or Misexpenditure. In determining an appropriate apportionment of responsibility, County and Agency may consider any relevant factors. An example of a relevant factor is the extent to which either party contributed to an interpretation of a statute, regulation or rule prior to the expenditure that was officially reinterpreted after the expenditure. If after such discussions Agency and County disagree as to whether or not there has been an Underexpenditure or Misexpenditure or to the amount thereof, the parties may agree to consider further appropriate dispute resolution processes, including, subject to Department of Justice and County Counsel approval, arbitration. If Agency and County reach agreement on the amount owed to Agency, County shall promptly repay that amount to Agency by issuing payment to Agency or by directing Agency to withhold future payments pursuant to 1.c.(iv) below. However, the parties shall not violate federal or state statutes, administrative rules, other applicable authority, or this Agreement in selecting the method or amount of repayment. If the parties are unable to reach agreement within a reasonable period of time, Agency may employ other remedies available under this Agreement or otherwise available at law or in equity.

(b) **Appeal from Federal-Identified Misexpenditures.** In the event that the notice of Misexpenditure is based on a federal determination of an improper use of federal funds or a federal notice of disallowance and the relevant federal agency provides a process either by statute or administrative rule to appeal the determination of improper use or notice of disallowance, then County may request that Agency appeal the determination of improper use or notice of disallowance in accordance with the process established or adopted by the federal agency. If County so requests that Agency appeal the determination of improper use of federal funds, federal notice of disallowance or other federal identification of improper use of funds, the amount in controversy shall, at the option of the County, be retained by the County or returned to Agency pending the final federal decision resulting from the initial appeal. County and Agency shall cooperate with each other in pursuing the appeal. Agency shall pursue the appeal until a decision is

issued by the Departmental Grant Appeals Board of the Department of Health and Human Services (the "Grant Appeals Board") pursuant to the process for appeal set forth in 45 C.F.R. Subtitle A, Part 16, or an equivalent decision is issued under the appeal process established or adopted by the federal agency. In the event that the Grant Appeals Board or its equivalent denies the appeal Agency may, in its sole discretion, either pursue further appeals in cooperation with County, or notify County that it will recover the Misexpenditure from future payments pursuant to Section 1.c(iv) below. County may choose to pursue any further appeals that might be available to it, and Agency will participate to the extent it determines, at its sole discretion, that its further participation is reasonable and practical. Regardless of any further appeals, within 90 days of the date the federal decision resulting from the initial appeal is final, County shall repay to Agency the amount of the noticed Misexpenditure (reduced, if at all, as a result of the appeal) by issuing payment to Agency or directing Agency to withhold future payments pursuant to Section 1.c.(iv) below. To the extent that County retained any of the amount in controversy while the appeal was pending, the County shall pay to Agency the interest, if any, charged by the federal government on such amount.

- (iv) **Recovery From Future Payments.** To the extent that Agency is entitled to recover an Underexpenditure or Misexpenditure from future payments as permitted in this Section 1.c, Agency may recover the Underexpenditure or Misexpenditure by offsetting the amount thereof against future amounts owed to County by Agency. Agency shall provide County written notice of its intent to recover the amount of the Underexpenditure or Misexpenditure from amounts owed County by Agency as set forth in this Section 1.c(iv), and shall identify the amounts owed by Agency which the Agency intends to offset (including the Agreement or Agreements, if any, under which the amounts owed arose). County shall then have 14 calendar days from the date of Agency's notice in which to request the deduction be made from other amounts owed to County by Agency and identified by County. Agency shall comply with County's request for alternate offset, unless the County's proposed alternative offset would cause the Agency to violate federal or state statutes, administrative rules or other applicable authority. In the event that Agency and County are unable to agree on which specific amounts owed to County by Agency the Agency may offset in order to recover the amount of the Underexpenditure or Misexpenditure, then the Agency may select the particular amounts from which it will recover the amount of the Underexpenditure or Misexpenditure, within the following limitations: Agency shall first look to amounts owed to County (but unpaid) under this Agreement. If that amount is insufficient, then Agency may look to any other amounts currently owing or owed in the future to County by Agency. In no case, without the prior consent of County, shall the Agency deduct from any one payment due County under the Agreement or agreement from which Agency is offsetting funds an amount in excess of twenty-five percent (25%) of that payment. The Agency may look to as many future payments as necessary in order to fully recover the amount of the Underexpenditure or Misexpenditure. Consistent with Section 1.c.(v)(d), nothing in this Section 1.c.(iv) shall cause County to violate state or federal constitutions, statutes, regulations, rules or other applicable state or federal authority.

- (v) **Additional Provisions related to parties rights/obligations with respect to Underexpenditures or Misexpenditures.**
  - (a) Agency's right to recover Underexpenditures and Misexpenditures from County under this Agreement is not subject to or conditioned on County's recovery of any money from any other entity.
  - (b) If the exercise of the Agency's right to offset under this provision requires the County to complete a re-budgeting process, nothing in this provision shall be construed to prevent the County from fully complying with its budgeting procedures and obligations, or from implementing decisions resulting from those procedures and obligations.
  - (c) Nothing in this provision shall be construed as a requirement or agreement by the County to negotiate and execute any future Agreement with the Agency.
  - (d) Nothing in this Agreement shall require County or Agency to act in violation of state or federal law or the Constitution of the State of Oregon.
  - (e) Nothing in this Section 1.c shall be construed as a waiver by either party of any process or remedy that might otherwise be available.

**2. County Representations.** County represents to Agency as follows:

**a. 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.

**b. Due Authorization.** The making and performance by County of this Agreement (1) have been duly authorized by all necessary action of County and (2) 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 (3) 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 or any of its properties 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.

**c. 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.

**d. Accuracy of Information.** The statements made in and the information provided in connection with any applications, requests or submissions to Agency hereunder or in connection with the financial assistance provided to County hereunder are true and accurate in all materials respects.

**e. Activities or Services.** The performance of each Activity will comply with the terms and conditions of this Agreement and meet the standards for such Activity as set forth herein, including but

not limited to, any terms, conditions, standards and requirements set forth in the Award and applicable Funding Area Description.

**f. Cumulative Representations and Warranties.** The representations set forth in this Section are in addition to, and not in lieu of, any other representations or warranties set forth in this Agreement or implied by law.

**3. Agency Representations.** Agency represents to County as follows:

**a. Organization and Authority.** Agency has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

**b. Due Authorization.** The making and performance by Agency of this Agreement (1) have been duly authorized by all necessary action of Agency and (2) 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 (3) 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 Agency is a party or by which Agency 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 Agency of this Agreement, other than approval by the Department of Justice if required by law.

**c. Binding Obligation.** This Agreement has been duly executed and delivered by Agency and constitutes a legal, valid and binding obligation of Agency, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

**d. Cumulative Representations and Warranties.** The representations set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided.

**4. Expenditure of Award.** County may expend the financial assistance provided to County under this Agreement solely on Activities or Allowable Costs necessarily incurred in implementation of the Plan during the term of this Agreement, subject to the following limitations (in addition to any other restrictions or limitations imposed by this Agreement, whether in the applicable Funding Area Descriptions, special conditions identified in the Award, or otherwise):

**a.** County may not expend and shall require all Providers by contract to not expend on any Activity any financial assistance provided to County under this Agreement in excess of the amount reasonable and necessary for quality performance of that Activity.

**b.** County may not expend and shall require all Providers by contract to not expend financial assistance awarded to County under this Agreement for a particular Funding Area (as reflected in the Award) on any Activities or Services other than Activities or Services falling within that Funding Area.

**c.** County may not use financial assistance provided to County under this Agreement to reimburse any person or entity for expenditures made, or to pay for goods or services provided, prior to the effective date of this Agreement.

**5. Reports.** County shall prepare and deliver to Agency written reports on the expenditure of the financial assistance provided to County hereunder. The reports shall be prepared and submitted in accordance with OAR 423-010-0027(7) through (9).



**6. Provider Agreements.** Except when the Funding Area Description requires Activities falling within that Funding Area to be provided or conducted by County directly or expressly provided in the Plan, County may expend financial assistance provided under this Agreement for a particular Activity to purchase services comprising that Activity from a third person or entity (a "Provider") through a contract (a "Provider Agreement"). County may permit a Provider to purchase services comprising an Activity, from another person or entity under a subcontract and such subcontractors shall also be considered Providers for purposes of this Agreement. County shall not permit any person or entity to be a Provider unless the person or entity holds all licenses, certificates, authorizations and other approvals required by applicable law to deliver the services. The Provider Agreement must be in writing and contain each of the provisions that must be included in a Provider Agreement under the terms of this Agreement or in order to permit County to comply with its obligations under this Agreement with respect to the Activities conducted by the Provider. County shall maintain an originally executed copy of each Provider Agreement at its office and shall furnish a copy of any Provider Agreement to Agency upon request.

**7. Records Maintenance, Access and Confidentiality.**

**a. Access to Records and Facilities.** The Agency, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of the County and all Providers that are directly related to this Agreement, the financial assistance provided hereunder, or any Activity for the purpose of making audits, examinations, excerpts, copies and transcriptions. County shall include this provision in all Provider Agreements and require all Providers to include this provision in all subcontracts. In addition, County shall permit, and require all Providers by contract to permit, authorized representatives of Agency to perform site reviews of all Activities of County or of Provider.

**b. Retention of Records.** County shall retain and keep accessible and require all Providers by contract to retain and keep accessible all books, documents, papers, and records, that are directly related to this Agreement, the financial assistance provided hereunder or any Activity, for a minimum of three (3) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the termination of this Agreement. If there are unresolved audit or other questions at the end of the three-year period, County shall retain the records until the questions are resolved.

**c. Expenditure Records.** County shall document and require all Providers by contract to document the expenditure of all financial assistance paid by Agency under this Agreement. Unless applicable federal law requires County or a Provider to utilize a different accounting system, County shall create and maintain and require all Providers by contract to create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit Agency to verify how the financial assistance paid by Agency under this Agreement was expended.

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

**a.** County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein, including but not limited to, County's failure to comply with the Plan;

**b.** Any representation, warranty or statement made by County herein or in any documents or reports relied upon by Agency to measure County performance hereunder, including without limitation, the conduct of Activities and or delivery of Services, the expenditure of financial assistance or the performance by County, is untrue in any material respect when made;

c. County (i) 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, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) is adjudicated a bankrupt or insolvent, (v) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) 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 (viii) 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 (i) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (iii) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

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

a. Agency 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 Agency herein or in any documents or reports made in connection herewith reasonably relied upon by County to measure performance by Agency is untrue in any material respect when made.

**10. Termination.**

a. **County Termination.** County may terminate this Agreement in its entirety or may terminate its obligation to provide services under this Agreement as follows:

- (i) At its sole discretion upon 60 days advance written notice to Agency, or
- (ii) Upon 30 days advance written notice to Agency, if Agency 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
- (iii) Upon 45 days advance notice to Agency, 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 reasonable exercise of its administrative discretion; or
- (iv) Immediately upon written notice to Agency, 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. Agency Termination.** Agency may terminate this Agreement in its entirety or may terminate its obligation to provide financial assistance under this Agreement for a particular Funding Area described in the Award:

- (i) Upon 60 days advance written notice to County, if Agency determines, in its sole discretion, to end all or any portion of the financial assistance to County under this Agreement; or
- (ii) Upon 45 days advance notice to County, if Agency does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of Agency under this Agreement, as determined by Agency in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, the Agency may terminate immediately upon written notice to County or at such other times as it may determine if action by the federal government, the Oregon Legislative Assembly or the Emergency Board reduces funding to be provided by Agency under this Agreement or the Agency's legislative authorization and the effective date for such reduction is less than 45 days from the date the action is taken.
- (iii) Immediately upon written notice to County if state or federal laws, regulations or guidelines are modified, changed or interpreted in such a way that the Agency does not have the authority to provide financial assistance for one or more Funding Areas or no longer has the authority to provide the financial assistance from the funding source it had planned to use.
- (iv) 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 Agency may specify in the notice.
- (v) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a Provider to conduct an Activity and or deliver a Service is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a Provider no longer meets requirements to conduct that Activity and or deliver the Service. This termination right may only be exercised with respect to the Funding Area impacted by loss of necessary licensure or certification.
- (vi) Immediately upon written notice to County, if Agency determines that County or any of its Providers have endangered or are endangering the health or safety of individuals.

## **11. Effect of Termination**

**a. Generally.** If Agency disbursements of financial assistance under this Agreement for a particular Funding Area are reduced under Section 1(a) and 1(b)(i) of Exhibit E, or as a result of Agency's exercise of its rights under Section 12 of Exhibit E, or as a result of an amendment to this

Agreement reducing the amount of financial assistance awarded for that Funding Area, County is not required by this Agreement to utilize other County funds to replace the funds no longer received under this Agreement as a result of the disbursement reduction. Furthermore, County may, from and after the date of a disbursement reduction described in the preceding sentence, reduce or eliminate the quantity of Activities within that Funding Area commensurate with the size of the disbursement reduction for that Funding Area. Nothing in this Section 11(a) shall affect the County's obligations under this Agreement with respect to financial assistance actually received by County under this Agreement or with respect to Activities actually performed.

**b. Entire Agreement.** Upon termination of this Agreement in its entirety, Agency shall have no further obligation to pay or disburse financial assistance to County under this Agreement, whether or not Agency has paid or disbursed to County all financial assistance described in the Award. Notwithstanding the foregoing, Agency shall make payments to reimburse County for services provided prior to the effective date of termination where such services are authorized pursuant to this Agreement and are not disputed by Agency. County shall have no further obligation to perform activities or services under this Agreement after termination in its entirety except to provide information as required under this Agreement and to cooperate with Agency with respect to the enforcement of surviving rights and obligations under Subsection 11d.

**c. Award for Individual Funding Area.** Upon termination of Agency's obligation to provide financial assistance under this Agreement for a particular Funding Area, Agency shall have no further obligation to pay or disburse any financial assistance to County under this Agreement for that Funding Area, whether or not Agency has paid or disbursed to County all financial assistance described in the Award for that Funding Area. Notwithstanding the foregoing, Agency shall make payments to reimburse County for services provided prior to the effective date of termination where such services are authorized pursuant to this Agreement and are not disputed by Agency. County shall have no further obligation to perform services or activities under this Agreement within a particular Funding Area if Agency's obligation to provide financial assistance for that particular Funding Area has been terminated except to provide information as required under this Agreement and to cooperate with Agency with respect to the enforcement of surviving rights and obligations under Subsection 11d.

**d. Survival.** Termination of this Agreement shall not extinguish or prejudice Agency's right to enforce this Agreement in accordance with its terms with respect to financial assistance disbursed to County under this Agreement prior to the termination. Specifically, but without limiting the generality of the preceding sentence, termination of this Agreement shall not affect Agency's right to recover from County, in accordance with the terms of this Agreement, any financial assistance disbursed to County that is identified as an Underexpenditure or Misexpenditure. Termination of this Agreement, in whole or in part, shall not affect County's right to receive financial assistance to which it is entitled, as described in Subsections a. through c. If a termination right set forth in Section 10 of this Exhibit E is exercised, both parties shall make reasonable good faith efforts to minimize unnecessary disruption or other problems associated with the termination.

**12. Modification of Award.** If the Oregon Legislative Assembly, Legislative Emergency Board or Oregon Department of Administrative Services increases or decreases the amount of money appropriated, authorized or allotted to Agency, Agency shall provide written notice of such a change to County. The parties shall negotiate an agreement to adjust County's levels of service in a commensurate amount and in proportion to the increase or decrease in the appropriation, authorization or allotment to the Agency. As appropriate, the parties shall execute an amendment to this Agreement reflecting the increase or decrease in the Award and adjustment in levels of service. Nothing in this section shall limit or restrict Agency's rights under this Agreement to suspend disbursement of financial assistance or to terminate this

Agreement (or portion thereof as provided in Section 10 of this Exhibit E) as a result of a reduction in appropriations or allotments. This Section 12 is not applicable to any funding change that requires a different or new service to be provided. Further, all parties agree that County may reduce, adjust or terminate levels of service commensurate with the amount of any reduction of money appropriated for implementation of the Plan, in accordance with Exhibit E, Section 1(b)(v) of this Agreement.

**13. Resolution of Disputes over Additional Financial Assistance Claimed by County.** If after termination of this Agreement, County believes that Agency disbursements of financial assistance under this Agreement for a particular Funding Area are less than the amount of financial assistance that Agency is obligated to provide to County under this Agreement for that Funding Area, as determined in accordance with applicable financial assistance calculation methodology, County shall provide Agency with written notice thereof. Agency shall have 90 calendar days from the effective date of County's notice to pay County in full or notify County that it wishes to engage in a dispute resolution process. If Agency notifies County that it wishes to engage in a dispute resolution process, County and Agency's Assistant Administrator shall engage in non-binding discussion to give Agency an opportunity to present reasons why it believes that it does not owe County any additional financial assistance or that the amount owed is different than the amount identified by County in its notices, and to give County the opportunity to reconsider its notice. If Agency and County reach agreement on the additional amount owed to County, Agency shall promptly pay that amount to County. If Agency and County continue to disagree as to the amount owed, the parties may agree to consider further appropriate dispute resolution processes, including, subject to Department of Justice and County Counsel approval, binding arbitration. Nothing in this Section shall preclude the County from raising underpayment concerns at any time prior to termination of this Agreement under Section 14 below.

**14. Resolution of Disputes, Generally.** In addition to other processes to resolve disputes provided in this Exhibit, either party may notify the other party that it wishes to engage in a dispute resolution process. Upon such notification, the parties shall engage in non-binding discussion to resolve the dispute. If the parties do not reach agreement as a result of non-binding discussion, the parties may agree to consider further appropriate dispute resolution processes, including, subject to Department of Justice and County Counsel approval, binding arbitration. The rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies available under this Agreement or otherwise available at law or in equity.

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT  
EXHIBIT F  
STANDARD TERMS AND CONDITIONS**

**1. 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 Agency 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 (5) 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 Agency, any notice transmitted by facsimile must be confirmed by telephone notice to Agency's Business Services Office at (503) 373-1283. To be effective against County, any notice transmitted by facsimile must be confirmed by telephone notice to County's Local Commission on Children and Families Office. Any communication or notice given by personal delivery shall be effective when actually delivered.

Notices to Agency:      State Commission on Children and Families  
                                 Business Services Office  
                                 530 Center Street NE, #405  
                                 Salem, OR 97301-3754  
                                 Voice: 503-373-1283  
                                 Facsimile: 503-378-8395

Notices to County:      Lane County Commission on Children and Families  
                                 125 E Eighth Avenue  
                                 Eugene, OR 97401

**2. 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.

**3. Counterparts.** This Agreement 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 so executed shall constitute an original.

**4. 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 in the State of Oregon of proper jurisdiction. **THE PARTIES BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURT.** 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 other 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.

**5. Compliance with Law.** Both parties shall comply and County shall require all Providers by contract to comply with all state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the conduct of Activities and or delivery of Services. Without limiting the generality of the foregoing, both parties expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (d) ORS 30.670 to 30.685, ORS 659.430 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 conduct of Activities. 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 Agency, that employ subject workers who conduct Activities 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. County shall require by contract that all Providers comply with these requirements and obtain any insurance required elsewhere in this Agreement.

**6. Assignment of Agreement, Successors in Interest.**

**a.** County shall not assign, delegate, or transfer its interest in this Agreement without prior written approval of Agency. Any such assignment or transfer, if approved, is subject to such conditions and provisions as the Agency may deem necessary. No approval by the Agency of any assignment or transfer of interest shall be deemed to create any obligation of the Agency 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.

**7. No Third Party Beneficiaries.** Agency 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 Agency to assist and enable Agency 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.

**8. Integration and Waiver.** This Agreement, including all of its Exhibits, constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. 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. The remedies provided herein are cumulative and not exclusive of any remedies provided by law. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.

**9. Amendment.** No waiver, consent, 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 Administrative Services and Department of Justice. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The parties, by

signature of their authorized representatives, hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

**10. 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.

**11. Construction.** This Agreement is the product of negotiations between representatives of Agency and representatives of County. The provisions of this Agreement are to be interpreted and their legal effects determined as a whole. An arbitrator or court interpreting this Agreement shall give a reasonable, lawful and effective meaning to the Agreement to the extent possible, consistent with the public interest.

**12. Indemnity.**

a. To the extent permitted by Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, to the extent the Act is applicable, County shall defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from or arising out of, or relating to the activities of County or its officers, employees, contractors, or agents under this Agreement, except for liability arising solely out of the wrongful acts of employees or agents of the State of Oregon or Agency

b. To the extent permitted by Article XI, Section 7, of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, to the extent the Act is applicable, Agency shall indemnify within the limits and subject to the restrictions in the Oregon Tort Claims Act, the County against liability for personal injury or damage to life or property arising from Agency's activity under the Agreement, provided, however, that the Agency shall not be required to indemnify the County for any such liability arising out of the wrongful acts of the County, its officers, employees or agents.

c. 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.

**13. Limitation of Liabilities.** EXCEPT FOR LIABILITY OR DAMAGES ARISING OUT OF OR RELATED TO SECTION 12 OF THIS EXHIBIT, 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. Ownership of Intellectual Property.**

a. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, Agency will not own the right, title and interest in any intellectual property created or delivered by County or a Provider in connection with the activities or services under this Agreement. With respect to that portion of the intellectual property that the county owns, County grants the Agency a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of, perform and display the intellectual property, (ii) authorize third parties to exercise the rights set forth in Section 14.a.(i) on the Agency's behalf, and (iii) sublicense to third parties the rights set forth in Section 14.a.(i).



**b.** If state or federal law requires that the Agency or County grant to the United States a license to any intellectual property, or if state or federal law requires that the Agency or the United States own the intellectual property, then County shall execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or the Agency. To the extent that the Agency becomes the owner of any intellectual property created or delivered by County in connection with the services or activities under this Agreement, the Agency will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information to County to use, copy, distribute, display, build upon and improve the intellectual property.

**c.** County shall include in its Provider Agreements terms and conditions necessary to require that Providers execute such further documents and instruments as Agency may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

**15. Force Majeure.** Neither Agency nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes and war which is beyond respectively, the Agency's or County's reasonable control. 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.

**16. Time is of the Essence.** The parties agree that time is of the essence under this Agreement.

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT  
EXHIBIT G  
REQUIRED FEDERAL TERMS AND CONDITIONS**

In addition to the requirements of Section 5 of Exhibit F, County shall comply and, as indicated, require all Providers by contract to comply with the following federal requirements. 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 Providers by contract to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the conduct of Activities. Without limiting the generality of the foregoing, County expressly agrees to comply and require all Providers by contract to comply with the following laws, regulations and executive orders to the extent they are applicable to this Agreement: (a) Titles 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) Executive Order 11246, as amended, (d) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (e) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (f) all regulations and administrative rules established pursuant to the foregoing laws, (g) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, (h) 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 this Agreement and required by law to be so incorporated. No federal funds may be used to conduct Activities in violation of 42 USC 14402.

**2. Title XX Block Grant Funds.** When utilizing Title XX block grant funds, County shall comply and require all Providers by contract to comply with the additional federal requirements applicable to Title XX block grant funds in 42 USC 1397 et seq., including but not limited to: maintaining and providing to Agency such documentation as Agency shall require to comply with federal reporting requirements, 45 CFR Part 96, and the limitations on the uses of Title XX grants in 42 USC 1397d.

**3. Title IV-B2 Family Preservation and Support Services Funds.** When utilizing federal Title IV-B2 Family Preservation and Support Services funds, County shall comply and require all Providers by contract to comply with the additional federal requirements applicable to Title IV-B2 Family Preservation and Support Services funds in 42 USC 629 et seq., including but not limited to: maintaining and providing to Agency such documentation as Agency 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. Child Care and Development Block Grant Funds.** When utilizing federal Child Care and Development block grant funds, County shall comply and require all Providers by contract to comply with the federal and state requirements applicable to Child Care and Development block grant funds in 42 USC 9858 et seq., and 45 CFR Part 98, including but not limited to: maintaining and providing to Agency such documentation as Agency shall require to comply with federal reporting requirements, and the limitations on the use of such funds in 42 USC 9858d and 45 CFR 98.54 and OAR 423-010-0024(2).

**5. Cost Principles.** With respect to federal funds received by County under this Agreement from the sources identified in sections 2 through 4 above, County shall comply and require all Providers by contract to comply with the cost principles determined in accordance with the provisions of OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments." Federal funds received by County under this Agreement from the sources identified in sections 2 through 4 above are subject to the audit requirements under the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." County shall comply and, if applicable, require all Providers by contract to comply, with the applicable audit requirements and responsibilities set forth in OMB Circular A-133.

**6. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then County shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Agency of Labor regulations (41 CFR Part 60). OMB Circular A - 102, ¶ 14.c.

**7. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then County shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), 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 the Agency and to the U.S.E.P.A. Assistant Administrator for Enforcement (EN-329). County shall include and cause all Providers to include in all contracts with Providers receiving more than \$100,000 in Federal Funds, language requiring the Provider to comply with the federal laws identified in this section. OMB Circular A-102, ¶14.i.

**8. Energy Efficiency.** County shall 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 (Pub. L. 94-165). OMB Circular A-102, ¶ 14.j.

**9. Truth in Lobbying.** 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 any agency, a Member of Congress, an officer or employee of Congress, or any 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 any such officer, employee or member in connection with this federal contract, grant, loan or cooperative agreement, the undersigned 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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

d. The County is solely responsible for all liability arising from a failure by the County to comply with the terms of this certification. Additionally, the undersigned promises to indemnify the Agency for any damages suffered by the Agency as a result of the County's failure to comply with the terms of this certification to the extent permitted by law.

This certification is a material representation of facts 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, 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.

**10. HIPAA Compliance.** If the Activities and or Services funded in whole or in part with financial assistance 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), County agrees to conduct the Activities and or Services in compliance with HIPAA.

**11. Resource Conservation and Recovery.** County shall comply and require all Providers by contract to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Parts 247-253.

**12. Debarment and Suspension.** County shall not permit any person or entity to be a Provider if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 45 CFR part 76). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Providers with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

**13. ADA.** County shall comply and require all Providers by contract to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) 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 conduct of Activities.

**14. Pro-Children Act.** County shall comply and require all Providers by contract to comply with the Pro-Children Act of 1995 (codified at 20 USC section 6081 et. seq.).

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT  
EXHIBIT H  
JUVENILE CRIME PREVENTION**

**I. Definitions.** In addition to the Definitions of Exhibit A of this Agreement, the following words and phrases shall have the indicated meanings:

1. “**Client**” means any individual who receives a Service.
2. “**Diversion Services**” means services outlined in the Plan and provided under a separate contract with OYA for Diversion Services.
3. “**Evaluation Costs**” means Allowable Costs incurred by a County or a Provider and associated with completion of administration of risk screen, interim review, and JJIS data fields.
4. “**JCP Basic Services Funds**” means funds provided for under a separate contract with OYA for JCP Basic Services.
5. “**JCP Basic Services**” or “**Basic Services**” means services outlined in the Plan and provided under a separate contract with OYA for detention and other juvenile department services including shelter care, treatment services, graduated sanctions and aftercare for youth offenders.
6. “**JCP Prevention Funds**” means funds provided for under this Agreement for JCP Prevention Services.
7. “**JCPAC**” means the Juvenile Crime Prevention Advisory Committee.
8. “**JJIS**” is the Juvenile Justice Information Systems operated by OYA and the Oregon counties.
9. “**Juvenile Crime Prevention Services**” or “**JCP Prevention Services**” means services outlined in the Plan and approved under this Agreement to youth who are at high risk for commission of juvenile crime and (a) who have more than one of the following risk factors: anti-social behavior, poor family functioning; failure in school, substance abuse problems, or negative peer association and (b) who are demonstrating at-risk behaviors that have come to the attention of government or community agencies, schools or law enforcement and that will lead to the youth’s imminent or increased involvement in the juvenile justice system.
10. “**OYA**” means the Oregon Youth Authority.
11. “**Plan**” means the County’s Local Coordinated Comprehensive Plan approved by JCPAC, the provisions of which are incorporated herein by this reference.
12. “**Service**” for purposes of Juvenile Crime Prevention Program Requirements, means any JCP service or group of related services delivered as part of Plan implementation.

13. **“Target Population for Juvenile Crime Prevention Services”** means youth ages 10 to 17 targeted for Juvenile Crime Prevention in the Plan who have more than one of the following risk factors:

- a. Anti-social behavior;
- b. Poor family functioning or poor family support;
- c. Failure in school;
- d. Substance abuse problems; or
- e. Negative peer association; and

who are clearly demonstrating at-risk behaviors that have come to the attention of government or community agencies, schools, or law enforcement and that will lead to imminent or increased involvement in the juvenile justice system.

**II. GENERAL TERMS AND CONDITIONS.** In addition to the Terms and Conditions of Exhibit E, County shall comply and, as indicated, require all Providers by contract to comply with the following:

**1. Conditions Precedent to Disbursement.** Agency’s obligation to disburse JCP funds to County under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- a. County is in compliance with ORS 279B.200, 279B.230 and 279B.235.
- b. OCCF has received a written quarterly JCP disbursement request from County on a form designated by the State.
- c. With respect to each disbursement, OCCF has received from County all reports required of JCP programs by Section 4 of this Exhibit E to be submitted to OCCF on or prior to the date of disbursement request.
- d. The JCP disbursement request is received no later than 60 days after the termination of this Agreement.

**2. Expenditure of Award.** County may expend the JCP funds provided to County under this Agreement solely on Activities or Allowable Costs necessarily incurred in implementation of JCP programs and activities identified in the Plan during the term of this Agreement, subject to the following limitations (in addition to any other restrictions or limitations imposed by this Agreement, whether in the applicable Funding Area Descriptions, special conditions identified in the Award, or otherwise):

- a. No more than 10% of the JCP funds paid under this Agreement to County shall be expended on Administrative Costs and Evaluation Costs. These limits apply in total to all County government organizational units, Providers, and

subcontractors. This applies to all JCP disbursements pursuant to this Agreement. County shall record Administrative Costs on forms provided by the State.

- b. County may expend JCP Prevention funds solely on JCP Prevention Services, unless a waiver has been approved by the JCPAC and OCCF.
- c. County shall maintain previous levels of JCP funding for the Target Population or shall not reduce such levels of JCP funding by an amount greater than the Target Populations proportional share of reductions of County revenue.

**3. Reports.** County shall submit to OCCF, on forms designated by the State, the following written reports:

- a. Youth risk need and interim review information will be required on the services delivered to youth for JCP Prevention Funds at such frequency as may be requested by the State Agency.
- b. During the term of this Agreement, a quarterly written detail expenditure report on the County's expenditures during the prior calendar quarter.
- c. No later than 60 days after the termination of this Agreement, a written detail expenditure report on the County's expenditures during the 2007-2009 biennium.

**[The balance of this page is intentionally left blank.]**

**III. REQUIRED FEDERAL TERMS AND CONDITIONS.** In addition to the Required Federal Terms and Conditions of Exhibit G, County shall comply and, as indicated, require all Providers by contract to comply with the following federal requirements:

**1. HIPAA Compliance.** If the Activities and or Services funded in whole or in part with financial assistance 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.

**c. Consultation.** If County reasonably believes that the County's or the Agency's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, County shall promptly consult Agency's HIPAA Privacy Officer.

**IV. JUVENILE CRIME PREVENTION PROGRAM REQUIREMENTS.**

**1. Plan.**

**a. Plan Implementation.**

County shall implement, or through Providers, shall require to be implemented, the JCP Prevention and JCP Basic Services portions of the Plan. The County has developed or agrees to develop the JCP Prevention, JCP Basic and Diversion Services portions of the Plan according to guidelines provided by the State.

**b. Amendment to Plan.**

County may request amendment of the Plan by notifying OCCF in writing thirty (30) days prior to the submission of such proposed amendment. All amendments to the Plan shall be in a format prescribed by OCCF. County must obtain approvals for an



amendment that makes any significant change in the Plan. A significant change in the Plan includes but is not limited to any funding change in the categories of services outlined in the Plan. For the purposes of this Section 1.b, Juvenile Crime Prevention Services, Basic Services, and Diversion Services are deemed separate funding sources. County shall follow the following requirements if it desires to change the Plan:

- (i) The Plan cannot be amended to change allocations between Juvenile Crime Prevention Services and Basic Services/Diversion Services.
- (ii) Changes to the Plan budget aggregating 10% or greater of the total budget for any of the funding sources must be reviewed and approved by the JCPAC prior to the changes taking effect.
- (iii) County shall submit written notification to OCCF for any changes to the Plan budget aggregating less than 10% of the total budget for any of the funding sources. This notification will be reviewed by OCCF. The State reserves the right to require that the County notification be reviewed by the JCPAC for approval prior to the changes taking effect.
- (iv) All amendments to the Plan which comply with this Section shall be on file with OCCF and shall become a part of the Plan and this Agreement from its effective date without the necessity of executing a formal amendment to this Agreement. For purposes of this Section, the effective date of a Plan amendment is the date the Plan amendment is approved or notification is received by the Agency.
- (v) In the event Agency increases or decreases the amount of funding in this Agreement pursuant to Section 11 of Exhibit E in an amount aggregating 10% or greater of the total budget for JCP Prevention Services, County may amend the Plan in response to the funding change, but only in a manner that is consistent with state law and rules. Such Plan amendment shall be effective no sooner than the effective date of the funding change. No later than five (5) days from its effective date, County must send any Plan amendment to OCCF, who must review the amendment within thirty (30) days of its effective date. The Plan must be approved as presented or as agreed upon by the parties no later than sixty (60) days from the effective date.

**2. Cultural Competency.** County shall deliver all Services and require all Providers to deliver Services in a culturally competent and gender appropriate manner.

**3. Grievance System.** During the term of this Agreement, County shall establish and operate a system through which youths receiving Services, and the youths' parents or guardian may present grievances about the delivery of the Services. At the time arrangements are made for delivery of Services to a particular youth, County shall advise the youth and the parents for guardian of the youth of the existence of this grievance system.

**4. Outcomes.** County shall target its Juvenile Crime Prevention Services to the Target Population for Juvenile Crime Prevention and shall implement those services with the goal of

achieving the following high level outcomes: (i) reduction of juvenile arrest rate in County, (ii) reduction of juvenile recidivism rate in County, and (iii) reduction (or maintenance) in the use of beds at OYA's Close Custody Facilities by youth from County to (or at) a level at or below Discretionary Bed Allocation. The specific targets for high level outcomes are set forth in the Plan. County shall also implement its Juvenile Crime Prevention Services and Basic Services with the goal of achieving the intermediate outcomes identified in the Plan.

**5. Evaluation**

a. County shall furnish OCCF with such data, information and reports, on County's implementation of the Juvenile Crime Prevention Services and expenditure of the funds therefore paid to County hereunder, in such format and at such frequency as may be reasonably requested by OCCF or as needed to comply with state or federal laws, regulations, or executive orders. County agrees to and does hereby grant the State the right to reproduce, use and disclose all or any part of such data, information or reports furnished under this Agreement.

b. County agrees to produce screening and assessment data as required by the JCPAC to the State in such form and at such times as the State may reasonably request.

c. In addition to the other reporting requirements of this Agreement, the County must ensure that all OYA required JJIS data fields are entered into JJIS.

d. If the County does not meet the intermediate outcomes identified in the Plan for Juvenile Crime Prevention Services, OCCF shall conduct a performance review of the County's efforts under the Plan in order to identify ways in which the Juvenile Crime Prevention Services portion of the Plan may be improved. If, upon review, the OCCF determines that there are reasonable grounds to believe that County is not in substantial compliance with the Plan or this Agreement, OCCF or the JCPAC, at OCCF's direction, may notify County regarding the alleged noncompliance and offer technical assistance, which may include peer review or other assistance, to reach such compliance. Nothing in this Section shall be construed to limit or restrict any OCCF right arising out of County's default, as described in Exhibit E.

**6. Evidence-Based Programs.** County shall work with OCCF to develop a process to ensure that programs and services funded under this Agreement are appropriate and workable and meet the guidelines of evidence-based programs and cost effectiveness as described under SB 267 (2003), ORS 182.515, as applicable. County shall work with OCCF to develop a reporting process on County's evidence-based programs and services funded under this Agreement.

**7. Records Maintenance, Access and Confidentiality.** County shall maintain and shall require all Providers by contract to maintain a Client record for each youth that receives a Service.

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## ATTACHMENT B

From: "Sandra A. Flickinger" <Sandra\_Flickinger@class.oregonvos.net>  
To: "HAYS Alicia A" <Alicia.A.HAYS@co.lane.or.us>  
Sent: 7/18/07 3:28 PM  
Subject: 2007-09 Medicaid Admin Claiming IGA

Dear Local Commission Director:

The 2007-09 Healthy Start Medicaid Administrative Claiming Intergovernmental Agreement is attached for your review and signature.

The Medicaid Agreement from the 2005-07 biennium was reviewed by counties. Recommended changes were reviewed by the Attorney General's office and incorporated to the largest extent possible.

The limitation amount in Section III B was determined by reviewing your program's claiming history in 2005-07 and estimating that claims for reimbursement will be approximately the same. In keeping with the two phase approach to Healthy Start general fund distribution, that estimate was divided in half to arrive at the limitation stated in the enclosed agreement for the fiscal year 2007-08. As we near the end of this first fiscal year, if it is apparent that your county's Healthy Start program may exceed this limitation, please contact the OCCF Business Services Office. Requests for increased limitation will be reviewed on a case-by-case basis to ensure that we do not exceed our statewide Medicaid limitation.

Please complete the blank County and Provider information in Section B, G. 2-3 (page 24 and 25) of the agreement. This will provide OCCF with contact information for both the County and the Provider.

After reviewing the agreement, if you have any questions, please do not hesitate to contact Marsha Clark at 503-378-5135 or by email at Marsha.Clark@state.or.us or through First Class.

After the appropriate county signatures have been obtained, please mail the original signed agreement to my attention at the address below. Once all signatures have been obtained, I will send one fully executed agreement back to you for your files.

Thank you.

Sandra A. Flickinger  
Oregon Commission on Children and Families  
Grants/Procurement/Medicaid  
530 Center Street NE, Suite 405  
Salem, OR 97301  
(503) 378-5125  
Sandra\_A\_Flickinger@class.oregonvos.net

**Attachment C**  
**Oregon Commission on Children and Families Healthy**  
**Start Medicaid IGA**

**OREGON COMMISSION ON CHILDREN AND FAMILIES  
HEALTHY START - MEDICAID ADMINISTRATIVE ACTIVITIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT**

This Oregon Commission on Children and Families 2007-2009 **COUNTY** Intergovernmental Agreement (this "Agreement") is between the State of Oregon (the "State") acting by and through its State Commission on Children and Families ("**AGENCY**") and **COUNTY**, a political subdivision of the State of Oregon, acting by and through its Local Commission on Children and Families ("**COUNTY**").

**RECITALS**

WHEREAS, 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, Centers for Medicare and Medicaid Services ("CMS") for proper and efficient administration of the Title XIX Medicaid Oregon State Plan (the "State Medicaid Plan").

WHEREAS, the State Medicaid program is administered by the Department of Human Services ("DHS"), pursuant to ORS 409.010(3), 417.735(7), and 417.735(13), DHS has an interagency agreement with **AGENCY** that authorizes **AGENCY** to administer Medicaid administrative activities for purposes of the Healthy Start Family Support Services Program authorized under ORS 417.795. **AGENCY** administers those Medicaid administrative services through its Agreement with the **COUNTY**.

WHEREAS, ORS 417.760 et seq. establish **COUNTY** as a governmental agency authorized to perform governmental functions and exercise governmental powers. The Healthy Start Program authorized in ORS 417.795, authorizes **COUNTY** to establish Healthy Start Family Support Services programs through contracts, as funding becomes available.

WHEREAS, consistent with the goals of the Healthy Start Program, **AGENCY** and **COUNTY**, intend to improve health services access and availability for children and families eligible for medical assistance under Medicaid who reside in the geographic areas served by the **COUNTY** pursuant to ORS 417.760 et seq. Under the Agreement, **COUNTY**, through subcontracts with local providers ("Providers"), who must be enrolled with the DHS Department of Medical Assistance Program ("DMAP") to provide Medicaid services, will perform Title XIX administrative activities. **COUNTY** will utilize its Providers to provide outreach, health care coordination, and other medical assistance related administrative activities that support the administration of the State Medicaid Plan.

WHEREAS, 42 CFR 433.51 permits the use of State funds allocated to the **COUNTY** to be considered as the State Share in obtaining FFP; and

WHEREAS, **AGENCY** and **COUNTY** desire to enter into this contractual relationship to ensure optimal utilization of available federal funding for Healthy Start administrative activities in order to better serve the eligible Medicaid population of Oregon;

NOW THEREFORE, in consideration of the mutual premises set forth above and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

## **AGREEMENT**

**I. EFFECTIVE DATE AND DURATION.** Upon execution by each of the parties hereto and approval as required by applicable law, the Agreement shall become effective as of July 1, 2007. Unless terminated earlier in accordance with its terms, the Agreement shall terminate on June 30, 2009.

**II. STATEMENT OF WORK.** **COUNTY** shall, through subcontracts with its Providers, provide Title XIX administrative activities, including but not limited to Outreach Activities to Inform Families about Health Services and Benefits, Case Planning/Referral/Interagency Coordination, and Wellness Activities and Preventative Health Care Services, each as further defined in the attached Attachment A, which is incorporated herein by this reference (the "Work"). 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.

**A. COUNTY Responsibilities.**

1. **COUNTY** represents that it is a local governmental entity established pursuant to ORS 417.760 et seq., and that it is authorized by local authority to enter into the Agreement.
2. **COUNTY** shall enter into written subcontracts that require its Providers to submit, necessary information for developing a Medicaid claim for Medicaid allowable activities to **AGENCY** on a quarterly basis, including: a list of each individual identified as performing activities under the Agreement and the salary and other personnel expenses for each identified individual; and the actual time study record of all activities.
3. **COUNTY** shall enter into written subcontracts that require its Providers to participate in time studies required under the Agreement and to utilize the specific activity codes ("Activity Codes") and time study methodology approved by **AGENCY**, DHS, and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services ("CMS") to document time spent on each administrative activity listed in Attachment A and to claim all allowable costs under the Agreement. **COUNTY** shall require its Providers to participate in the time study during the four days per quarter determined by **AGENCY**. The Activity Codes that **COUNTY** shall require its Providers to use are attached to

the Agreement as Attachment A. **AGENCY** will provide the form of the time study Providers must utilize to **COUNTY**.

4. **COUNTY** shall enter into written subcontracts that require its Providers to participate, not less than annually, in State-offered Medicaid training on the implementation of the time study and Activity Codes to ensure its Providers makes claims only for allowable Medicaid administrative activities.

5. **COUNTY** shall enter into written subcontracts that require of its Providers that all reimbursement claims for administrative activities are claimed in accordance with OMB Circular A-87. The administrative activities eligible for reimbursement must be directly related to the administration of the State Medicaid Plan.

6. **COUNTY** shall enter into written subcontracts that require its Providers to maintain, and make available to **COUNTY** and **AGENCY** upon request, the following information on:

a. Employees who perform services under the Agreement: the employee's name, title, job description, education level, salary, and other personnel expenses for each individual; and

b. Cost information: records to indicate the nature and extent of services provided, and other resources that have been applied to offset costs; and

c. Time study records

d. Any other information applicable to the Medicaid administrative services provided under the Agreement.

7. **COUNTY** shall enter into written subcontracts that require its Providers to provide, all records that support the quarterly claim, upon request of **AGENCY**, DHS, the Oregon Department of Justice, the Oregon Secretary of State, or federal officials.

8. **COUNTY'S** written subcontracts shall comply with all requirements of 42 CFR 434.6 as applicable.

9. **COUNTY** shall enter into written subcontracts that require of its Providers that Medicaid eligible children and families receiving assistance administered under this Agreement be 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 DHS.

10. **COUNTY** must advise Provider that Provider may include in its claim to **COUNTY** the actual costs billed to Provider by **COUNTY** for the performance of Medicaid Administrative Activities provided by **COUNTY** to Provider in its submission to the **COUNTY** for the purpose of calculating the Provider's Medicaid Administrative Claim.

11. **COUNTY** shall comply with and require by contract that any Provider comply with all requirements set forth in Attachment B, "Additional Requirements", attached to and made a part of this Agreement by this reference.

**B. AGENCY Responsibilities.**

1. DHS shall determine the dates during each quarter on which the time study shall be conducted, and **AGENCY** shall communicate those dates to the **COUNTY** and Providers conducting the time study.

2. Upon receipt of time study records from Providers, **AGENCY** will compile the time study results on a quarterly basis, calculate the administrative Medicaid claim, and submit the administrative Medicaid claim for payment to DHS.

3. **AGENCY** shall provide technical assistance in the identification of allowable Medicaid administrative activities under the Agreement.

4. **AGENCY** shall assist **COUNTY** and Providers in responding to any federal Medicaid compliance issues related to the Agreement.

**III. CONSIDERATION**

**A. Summary of Medicaid Payment Methodology**

Under Title XIX of the Act, the federal government and states share the cost of providing allowable Medicaid administrative activities. **COUNTY** will provide under this Agreement 50% of the total allowable costs attributable to Medicaid Administrative activities. **AGENCY** will pay **COUNTY** the total allowable costs of providing Medicaid administrative activities in arrears on a quarterly basis. **COUNTY** shall then reimburse **AGENCY** 50% of the total allowable costs of providing Medicaid administrative activities, which represents the State match portion of the Medicaid expenditures. The State match funds **COUNTY** transfers to **AGENCY** shall be public funds that are not federal funds, or shall be federal funds authorized by federal law to be used to match other federal funds. DHS will claim the Federal Financial Participation (FFP) amount from U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS).

In addition, **COUNTY** on a quarterly basis will pay to **AGENCY** an intergovernmental charge of 1% (one percent) of the total allowable cost of providing Medicaid administrative activities.

Allowable administrative Medicaid costs are separate from any other direct Medicaid or other services that may be provided by **COUNTY** pursuant to separate Medicaid funding agreements or authorizations. 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.

**AGENCY'S** payment obligation is conditioned on: (1) **AGENCY** receiving payment from DHS in an amount sufficient to pay **COUNTY**; (2) **AGENCY** receiving the necessary time study results from Providers to calculate the quarterly claim for Medicaid administrative activities; and (3) **AGENCY** reasonably determining to accept the quarterly claim for Medicaid administrative activities, in whole or in part. **COUNTY'S** obligation to perform under this Agreement is conditioned on: (1) **AGENCY'S** timely payment in arrears for past performance due under this Agreement, and (2) **AGENCY** receiving payment from DHS in an amount sufficient to pay **COUNTY** for the provision of prospective performance due under this Agreement.

- B.** Payment for all Work performed under this Agreement shall be subject to the provisions of ORS 293.462. The maximum, not to exceed amount for the total cost of providing Medicaid administrative activities under this Agreement is \$66,000. **COUNTY** shall reimburse **AGENCY** 50% of this amount for the State match portion.
- C.** **AGENCY** will not pay for any Work performed before the beginning date or after the expiration date of this Agreement including amendments thereto.
- D.** **COUNTY** shall submit claims for Medicaid allowable activities only. 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. In addition, 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.
- E.** Total Allowable Administrative Costs for which **COUNTY** may request reimbursement from **AGENCY** under this Agreement include the following costs.

  - 1. **AGENCY** incurs administrative costs in its administration of the Agreement, including but not limited to processing the Provider time studies and calculating the allowable Medicaid administrative claiming on behalf of **COUNTY**, and payment of an intergovernmental charge to DHS. **AGENCY** invoices **COUNTY** on a quarterly basis for the administrative expenses incurred from the above responsibilities under this Agreement, not to exceed actual costs.
  - 2. **COUNTY** incurs indirect Medicaid costs in its administration of the Agreement, including payment of **AGENCY** administrative costs invoiced to **COUNTY** as described in paragraph 1 of this subsection and other actual Medicaid indirect costs associated with administering the tasks authorized under this Agreement with its Providers such as implementation of the time study requirements. **COUNTY'S** actual Medicaid indirect costs must be

documented and justifiable. **COUNTY** will include in its claim for Total Allowable Administrative Costs to **AGENCY** the amount of the **COUNTY'S** actual Medicaid indirect costs.

3. Consistent with Subsection II.A of this Agreement, **COUNTY** will obtain Provider time study information for the purpose of obtaining reimbursement for Provider Medicaid administrative claiming. **COUNTY'S** total Allowable Administrative Costs shall include the Provider Medicaid administrative claiming information.
4. Total Allowable Administrative Costs that may be claimed by **COUNTY** under this Agreement are the amounts described in paragraphs 2 and 3 of this subsection.

**F. COUNTY** shall invoice **AGENCY** quarterly, in arrears for the Total Allowable Administrative Costs identified in Subsection E of this section.

1. **AGENCY** will reimburse **COUNTY** in arrears on a quarterly basis for the total allowable costs of providing Medicaid administrative services accepted by **AGENCY**.
2. **COUNTY** will reimburse **AGENCY** quarterly upon invoice from the State for the State match portion which is equal to 50% of the amount billed by **COUNTY** and accepted by **AGENCY** for the total allowable Medicaid administrative costs.

**G. COUNTY** shall send itemized invoice to the following **AGENCY** supervising representative:

Marsha Clark, Business Services Manager  
State Commission on Children and Families  
Contracts and Procurement Office  
530 Center Street NE, #405  
Salem, OR 97301-3754

**H. COUNTY** represents by its signature to this Agreement that for the purposes of 42 CFR 433.51, the funds it transfers to **AGENCY** pursuant to this Agreement are public funds that are not federal funds, or are federal funds authorized by federal law to be used to match other federal funds.

#### **IV. RECOVERY OF FUNDS**

To the extent permitted by law, including without limitation, applicable constitutional, statutory and regulatory provisions and controlling governmental determinations and orders, , **COUNTY** shall be financially responsible for the final amount of any claim for Work provided under this Agreement that CMS, DHS, or **AGENCY** finds unallowable under the Medicaid program. In the event CMS, DHS, or **AGENCY** finds any costs claimed by **COUNTY** unallowable, **AGENCY** shall provide **COUNTY** written notice identifying the amount that must be refunded to CMS, DHS, or **AGENCY**. Within thirty

(30) calendar days of **AGENCY'S** notice, **COUNTY** shall either (1) make payment to **AGENCY** for the full amount of the unallowable cost identified by **AGENCY** in its notice; or (2) notify **AGENCY** in writing that **COUNTY** wishes to repay the unallowable amount from future payments or other means. **AGENCY** may then offset the unallowable amount from future payments owed to **COUNTY** under this Agreement, or any payment to **COUNTY** from **AGENCY** under any other contract or agreement between **COUNTY** and **AGENCY**, present or future. Nothing in this section shall be construed as a waiver by either party of any process or remedy that might otherwise be available. The rights and remedies of **AGENCY** set forth in this section shall not be exclusive and are in addition to any other rights and remedies provided to **AGENCY** by law or under this Agreement.

If payments to **COUNTY** by **AGENCY** under this Agreement are made in error or are found to be excessive under the terms of this Agreement, **AGENCY**, after giving written notification to **COUNTY**, shall enter into nonbinding discussions with **COUNTY** within 15 days of the written notification. If, after discussions, the parties agree that payments were made in error or found to be excessive, **AGENCY** may withhold payments due **COUNTY** under this Agreement in such amounts, and over such periods of time, as are deemed necessary by the parties to recover the amount of the overpayment.

Nothing in this Agreement shall require **COUNTY** or **AGENCY** to act in violation of law, including without limitation, applicable constitutional, statutory and regulatory provisions and controlling governmental determinations and orders.

## **V. GENERAL PROVISIONS**

**A. Compliance with Law.** **COUNTY** shall comply and shall require its Providers to comply, with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement. Without limiting the generality of the foregoing, **COUNTY** expressly agrees to comply with: (i) Title VI of the Civil Right Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) the Health Insurance Portability and Accountability Act of 1996; (v) all regulations and administrative rules established pursuant to the foregoing laws; and (vi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. In the performance of Work under this Agreement, **COUNTY** shall use recyclable and recycled products to the maximum extent which is economically feasible. No federal funds may be used to provide Services in violation of 42 USC 14402.

**B. Subcontracts.** **COUNTY** shall enter into subcontracts for the purposes of performing the Work under the Agreement. **COUNTY** shall not permit any person or entity to be a Provider unless the person or entity holds all licenses, certificates, authorizations and other approvals required by applicable law to deliver the Work. Subcontracts must be in writing and contain each of the provisions necessary to permit **COUNTY** to comply with its obligations under the Agreement with respect to the Work performed by the Provider, and any other provisions **AGENCY** deems to be reasonably appropriate. **COUNTY** shall maintain an originally executed copy of each subcontract at its office and shall furnish a copy of any subcontract to **AGENCY** upon request.

**C. Termination.**

1. The Agreement may be terminated at any time by mutual written consent of both parties, or by either party upon thirty (30) days notice, in writing, and delivered by certified mail or in person.

2. In addition, either Party may terminate the Agreement, in whole or in part, immediately upon notice to the other, or if **AGENCY** terminates, at such later date as **AGENCY** may choose to establish in such notice, under any of the following conditions:

a. Federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the Work under the Agreement is prohibited or **AGENCY** is prevented from paying for such Work from the planned funding source;

b. **AGENCY** fails to receive funding, appropriations, limitations, or other expenditure authority at levels sufficient to pay for the Work; or

c. The other party, including its employees, agents or assigns, commits any material breach or default of any covenant, warranty, or obligation under this Agreement, fails to perform the Work under this Agreement within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger the other's performance under this Agreement in accordance with its terms, and fails to correct such breach, default, or failures within ten (10) calendar days after delivery of notice by the other Party, or if **AGENCY** terminates, such longer period as **AGENCY** may choose to specify in such notice.

3. Upon receiving a notice of termination from **AGENCY**, **COUNTY** shall immediately cease all activities under the Agreement, unless expressly directed otherwise by **AGENCY** in the notice of termination. Upon termination, **COUNTY** shall deliver to **AGENCY** all Agreement documents, information, works-in-progress and other property that are or would be deliverables had the Agreement been completed.

4. Termination of this Agreement pursuant to this Subsection V.C shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. Specifically, but without limiting the generality of the preceding sentence, termination of this Agreement shall neither affect **AGENCY'S** right to recover funds from **COUNTY** pursuant to Section IV nor **COUNTY'S** right to payment under Subsection III.A for Work appropriately performed prior to termination.

5. In the event insufficient funds are appropriated for performance of the Work under this Agreement and the **COUNTY** has no other lawfully available funds to pay for such Work, then the **COUNTY** may terminate this Agreement at the end of its current fiscal year, with no further liability or penalty to **AGENCY**. **COUNTY** must deliver written notice to **AGENCY** of termination pursuant to this paragraph 5 not later than (a) thirty (30) days from the determination by the **COUNTY** of the event of non-appropriation or (b) thirty (30) days from the end of the legislative session, whichever first occurs.

**D. Confidentiality of Client Information**

1. The Work provided under the Agreement does not include the use of, access to, exchange of or disclosure of personally identifiable health information. Therefore, the parties reasonably believe that the HIPAA Privacy Rules in 45 CFR Parts 160 and 164 do not apply. The Agreement does not require or provide for the use of “standard transactions” as that term is used in the HIPAA Transaction Rules, 45 CFR Part 162. If the Work is revised, or if the federal HIPAA requirements are changed or interpreted in a way that would require the Work to comply with any HIPAA requirement, the parties may amend the Agreement to address such change or interpretation.

2. The use or disclosure of information concerning the administration of the Medicaid program shall be limited to persons directly connected with the administration of the Agreement unless otherwise authorized or required by law. **AGENCY** and **COUNTY** shall apply confidentiality policies to all requests from outside sources.

**E. Record Maintenance; Access.** **COUNTY** shall maintain all fiscal records relating to the Agreement in accordance with generally accepted accounting principles. In addition, **COUNTY** shall maintain any other records pertinent to the Agreement in such a manner as to clearly document **COUNTY’S** performance. **COUNTY** acknowledges and agrees that **AGENCY**, DHS, the Oregon Department of Justice, the Oregon Secretary of State’s Office, and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of **COUNTY** that are pertinent to the Agreement to perform examinations and audits and to make excerpts and transcripts. **COUNTY** shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of seven (7) years, or such longer period as may be required by applicable law, following final payment and termination of the Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to the Agreement, whichever date is later. **COUNTY** shall require its Providers to comply with the requirements in this section.

**F. Notice.** Except as otherwise expressly provided in the 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 **AGENCY** 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 on the fifth calendar day after the date of 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 **AGENCY**, any notice transmitted by facsimile must be confirmed by telephone notice to **AGENCY’S** Office of Contracts and Procurement at (503) 373-1283. To be effective against **COUNTY**, any notice transmitted by facsimile must be confirmed by telephone notice to **COUNTY’S** Local Commission on Children and Families Office. Any communication or notice given by personal delivery shall be effective when actually delivered.

Notices to **AGENCY**: State Commission on Children and Families  
Contracts and Procurement Office  
530 Center Street NE, #405  
Salem, OR 97301-3754

Notices to **COUNTY**: Department of Children and Families  
125 East 8<sup>th</sup> Avenue  
Eugene, OR 97401

**G. Severability.** The parties agree that if any term or provision of the 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.

**H. Counterparts.** The Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

**I. Governing Law; Venue; Consent to Jurisdiction.** The 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 **AGENCY** (and/or any other agency of the State of Oregon) and **COUNTY** that arises from or relates to the Agreement shall be brought and conducted solely and exclusively within a circuit court in the State of Oregon of proper jurisdiction. In no event shall this section be construed as a waiver by the State of Oregon of 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. **COUNTY**, BY EXECUTION OF THE AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

**J. Assignment of Contract, Successors in Interest.**

1. **COUNTY** shall not assign or transfer its interest in the Agreement without prior written approval of **AGENCY**. Any such assignment or transfer, if approved, is subject to such conditions and provisions as the **AGENCY** may deem necessary. No approval by the **AGENCY** of any assignment or transfer of interest shall be deemed to create any obligation of the **AGENCY** in addition to those set forth in the Agreement.

2. 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.

**K. No Third Party Beneficiaries.** **AGENCY** and **COUNTY** are the only parties to the 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 **AGENCY** to assist and enable **AGENCY** to accomplish its statutory mission. Nothing in the 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 the Agreement.

**L. Integration and Waiver.** The Agreement, including all of its Attachments, constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding the Agreement. The failure of either party to enforce any provision of the Agreement shall not constitute a waiver by that party of that or any other provision. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

**M. Amendment.** No waiver, consent, modification or change of terms of the Agreement shall bind either party unless in writing and signed by both parties and when required the Department of Administrative Services and Department of Justice. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. COUNTY, by signature of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

**N. Headings.** The headings and captions to sections of the Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret the Agreement.

**O. Construction.** This Agreement is the product of negotiations between representatives of AGENCY and representatives of COUNTY. The provisions of this Agreement are to be interpreted and their legal effects determined as a whole. An arbitrator or court interpreting this Agreement shall give a reasonable, lawful and effective meaning to the Agreement to the extent possible, consistent with the public interest.

**P. Limitation of Liabilities.** EXCEPT FOR LIABILITY OF DAMAGES ARISING OUT OF OR RELATED TO SECTIONS VI AND V OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THE 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.

**Q. Force Majeure.** Neither AGENCY nor COUNTY shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes and war which is beyond respectively, the AGENCY'S or COUNTY'S reasonable control. 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 the Agreement.

**R. Time is of the Essence.** The parties agree that time is of the essence under this Agreement.

## VI. FEDERAL PROVISIONS

A. In addition to the requirements of Subsection V.A, **COUNTY** shall comply and, as indicated, require all Providers to comply with the following federal requirements. For purposes of the 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. **Equal Employment Opportunity.** If the Agreement, including amendments, is for more than \$10,000, then **COUNTY** shall 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).

2. **Clean Air, Clean Water, EPA Regulations.** If the Agreement, including amendments, exceeds \$100,000 then **COUNTY** shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), 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 (40 CFR Part 15), 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 **AGENCY**, the U.S. Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. **COUNTY** shall comply with, and include in its contracts with all Providers receiving more than \$100,000 in Federal Funds language requiring the Provider to comply with, the federal laws identified in this section.

3. **Energy Efficiency.** **COUNTY** shall 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 (Pub. L. 94-163).

4. **Truth in Lobbying.** **COUNTY** certifies, to the best of **COUNTY'S** knowledge and belief that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of **COUNTY**, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, **COUNTY** shall



complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

c. **COUNTY** shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into the Agreement imposed by section 1352, Title 31, 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.

5. **Resource Conservation and Recovery.** **COUNTY** shall comply and require all Providers to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Parts 247-253.

6. **Audits.** **COUNTY** shall comply and, if applicable, require Providers to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations."

7. **Debarment and Suspension.** **COUNTY** shall not permit any person or entity to be a Provider if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension" (See 45 CFR part 76). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Providers with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

8. **Medicaid Compliance.** To the extent **COUNTY** provides any Work whose costs are paid in whole or in part by Medicaid, **COUNTY** shall comply with and require its Providers to comply with the federal and state Medicaid statutes and regulations applicable to the Work, including but not limited to:

a. Keeping such records as may be necessary to disclose the extent of services furnished to clients and, upon request, furnish such records or other information to DHS, the Oregon Department of Justice and the Secretary of the U.S. Department of Health and Human Services;

- b. Complying with all applicable disclosure requirements set forth in 42 CFR 1002.3(a) and 42 CFR Part 455, Subpart B;
- c. Complying with any applicable advance directive requirements specified in 42 USC Section 1396(a)(57) and 42 CFR section 431.107(b)(4);
- d. Complying with the applicable certification requirements of 42 CFR sections 455.18 and 455.19, including that information submitted with any claim for the provision of Medicaid Services is true, accurate and complete; and
- e. Requiring that entities receiving \$5 million or more annually under this Agreement and any other Medicaid contract 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 USC §1396a(a)(68).

**COUNTY** shall include in all agreements with Providers receiving Medicaid language requiring the Provider to comply with the record keeping and reporting requirements set forth in this section and with the federal laws identified in this section.

**9. Americans with Disabilities Act.** **COUNTY** shall comply with and require all Providers by contract to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) 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 delivery of Work.

**10. Pro-Children Act.** **COUNTY** shall comply with and require all Providers by contract to comply with the Pro-Children Act of 1995 (codified at 20 USC section 6081 et. seq.).

**11. HIPAA Compliance.** **COUNTY** shall comply with and require all Providers to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) 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 delivery of services.

**Additional Certification:** By execution of the Agreement, I, an authorized representative of **COUNTY**, certify that **COUNTY** has provided training and education to its employees and agents employed to affect the required terms and conditions of this Agreement, and so require of them that all data, claims, submissions or other submissions that provide a basis for claiming or receiving reimbursement under the Agreement will be true, accurate, and complete; that payment of claims to **COUNTY** will be from federal and State funds, and therefore, any falsification or concealment of a material fact by **COUNTY** when submitting claims or other submissions to obtain payments may be prosecuted under federal and State laws.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the dates set forth below their respective signatures.

**State of Oregon**

**County**

acting by and through its Commission  
on Children and Families

acting by and through its Local Commission  
on Children and Families

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT  
ATTACHMENT A**

**ACTIVITY CODES**

**A1. Outreach Activities to Inform Families about Health Services and Benefits**

Meetings, home visits or phone contacts to obtain information about a family's access to health care, and to inform families about state programs to pay for medical care (i.e. Medicaid, EPSDT, etc.), creating or dissemination of materials to inform children and families about Medicaid and health benefits available, assisting a child and family in determining and establishing Medicaid eligibility (i.e. collecting information for the Medicaid application, helping complete necessary forms for the Medicaid application, helping complete necessary forms for the Medicaid application, updating any forms when a child's circumstances change), related staff travel, clerical, and paperwork.

**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 utilizing 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). Activities that assist the child/family in applying for these services, including form preparation, related staff travel, clerical, and paperwork.

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

Case planning and referral includes the following types of activities; included in all of them are related staff travel, clerical, and paperwork:

- **Case Planning:** Planning, coordination and monitoring case plans for vulnerable children and families, including any agency staffing to coordinate and plan services (Individual Family Support Plan, -IFSP-, multidisciplinary team meetings, conferencing on health, developmental, Public Health Department consultations), arranging for services, writing case plans or summaries, preparing material for case reviews, coordinating child specific services (i.e. psychological counseling, health, substance abuse counseling and consultation), arranging transportation, related travel and paperwork.
- **Referral and Coordination:** Making referrals for and coordinating the delivery of screenings, examinations, assessments and evaluations for health, vision, dental, developmental, mental health, substance abuse, and other medical or nutritional services, contact to parents regarding health needs of child, related travel and paperwork, gathering background information and supportive data such as social

history and medical history, from standardized forms, notifying primary medical providers of target population services, developmental screenings and related service information, arranging transportation.

- **Immunization:** Notifying parents of immunization requirements, scheduling immunizations, coordination of immunizations for children and recruitment of providers to do immunizations, assessing and tracking immunization status, arranging transportation, related travel and paperwork.
- **Maternal Care Services:** Arranging for prenatal, postpartum and newborn care, pre-pregnancy risk prevention, coordinating health education for new mothers regarding; 1) infant health and development, 2) accident and disease prevention and home safety. Arranging transportation, related travel and paperwork.
- **Family Planning:** 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, related travel and paperwork.
- **Developmental Delay:** Early identification of age appropriate child development and / or delays to assure health and developmental problems are found, diagnosed and treated; assuring early medical consultation and evaluation; preparing and disseminating child health related materials to parents and others; assisting families to use the appropriate medical care and understand age appropriate child development; promote and advocate for appropriate planning for the health / medical needs of children; related travel and paperwork.
- **Other Wellness Activities:** Disseminating preventative health care information and materials, programs and presentations on preventative health care related topics such as substance abuse prevention programs (this does not include teaching or facilitating health classes at educational institutions), related 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. Making referrals for and coordinating the delivery of these social services and community wellness programs. Arranging transportation for these services and 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.

**C1. Medicaid/OHP transportation and translation means:**

Assisting an individual to obtain transportation to services covered by OHP, arranging for or providing translation services to facilitate access to OHP services. Include related paperwork, clerical activities or staff travel required to perform these activities.

**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~~ 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. System Coordination Related to Medicaid/OHP 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.

**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 direct care, service or treatment to a child in order to correct a condition, (i.e. primary health care, speech, OT, PT, counseling, or providing screenings such as vision or hearing). Such services include related staff travel, clerical, and paperwork.

**F. Other Services**

All other paid job related activities that do not fall under one of the above categories, lunches, paid leaves, conferences, staff meetings, and personnel issues.

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**OREGON COMMISSION ON CHILDREN AND FAMILIES  
2007-2009 COUNTY INTERGOVERNMENTAL AGREEMENT**

**ATTACHMENT B**

**ADDITIONAL REQUIREMENTS**

**AGENCY** hereby grants **COUNTY** the authority to subcontract the Work required under this agreement but **COUNTY** may not assign or transfer any of its interests in this Agreement without the prior written consent of the **AGENCY**. **AGENCY'S** consent to subcontracts shall not relieve **COUNTY** of any of its duties or obligations under this Agreement. In addition to any other provisions **AGENCY** may require, **COUNTY** shall include in any permitted subcontract under this Agreement a requirement that subcontractor be bound by the following provisions as if the subcontractor were **COUNTY**:

**I. STATEMENT OF WORK**

**A. COUNTY Responsibilities. COUNTY shall:**

1. Utilize the specific activity codes ("Activity Codes") for time study ("Time Study"), as set forth in Attachment A, and approved by Department of Human Services ("DHS") and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services ("CMS") to document all time spent on the Work and to claim all costs under this Agreement for allowable Medicaid administrative activities.
2. Ensure training is available and provided to its employees and subcontractors on the implementation of the Time Study and Activity Codes to ensure **COUNTY'S** subcontractors make claims only for allowable Medicaid administrative activities.
3. Ensure that all reimbursement claims for the Work are in accordance with OMB Circular A-87 and the State Medicaid Plan, both of which are incorporated herein by this reference. The Work for which **COUNTY** claims reimbursement must be directly related to the administration of the State Medicaid Plan for Federal Financial Participation (FFP) to be available.
4. Maintain the following information on employees and subcontractors who perform Work under this Agreement: the employee's or subcontractors employee's name, title, job description, salary, and other personnel expenses for each individual; the percent of time each employee spends on the coded activities identified in the Time Study; costs attributable to each person's position providing Work; the salary of each person providing Work under subcontracts.
5. Claim indirect costs in accordance with OMB Circular A-87.
6. Monitor compliance with the requirements of this Agreement and maintain all records that support the quarterly payment claim for the Work performed, including but not limited to, position details, cost information, Time Study results, records to indicate that services were requested and the extent of services



provided, other resources that have been applied to offset costs, and any other information applicable to the Work provided under this Agreement.

7. Upon request from **AGENCY**, DHS, the Oregon Department of Justice, the Secretary of State's Office, or the federal government, make available all records that support the quarterly payment claim for Work performed.
8. Assure that Medicaid eligible children and families receiving assistance under this Agreement are free to accept or reject Medicaid services and/or to receive such services from an enrolled provider of their choice unless otherwise restricted to a provider of the Oregon Health Plan by DHS.
9. Use the Medicaid-eligible percentage for the **COUNTY** in its cost calculations unless another statistically based calculation has been approved by **AGENCY** and DHS.

## **II. CONSIDERATION.**

**COUNTY** shall submit claims for Medicaid allowable activities only. Medicaid does not pay for administrative expenditures related to, or in support of, services that are not included in the State Medicaid Plan, OHP, or services which are not reimbursed under Medicaid. In addition, 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.

## **III. GENERAL PROVISIONS**

### **A. Amendment**

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written agreement signed by the Parties. This Agreement shall not be amended after the expiration date. No amendment to this Agreement shall be effective until it has been signed by all Parties and all necessary governmental approvals have been obtained.

### **B. Compliance with Applicable Law**

**COUNTY** shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under the Agreement. Without limiting the generality of the foregoing, **COUNTY** expressly agrees to comply with the following laws, regulations and executive orders, as they may be amended from time to time during the term of the Agreement, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) The Family Educational Rights and Privacy Act, as amended; (viii) ORS Chapter 659, as amended; (ix) all

regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. 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. AGENCY'S performance under this Agreement is conditioned upon COUNTY'S compliance with the provisions of ORS 279.312, 279.314, 279.316, and 279.320, which are incorporated by reference herein. In the performance of Work under this Agreement, COUNTY shall use recycled and recyclable products to the maximum extent which is economically feasible.

### **C. Compliance with Federal Law**

#### **1. Equal Employment Opportunity**

If this Agreement, including amendments, is for more than \$10,000, then COUNTY shall 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).

#### **2. Clean Air, Clean Water, EPA Regulations**

If this Agreement, including amendments, exceeds \$100,000 then COUNTY shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), 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 (40 CFR Part 15), 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 AGENCY, DHS, the U.S. Department of Health and Human Services, and the appropriate Regional Office of the Environmental Protection Agency, COUNTY shall include and cause all subcontractors to include in all contracts with subcontractors receiving more than \$100,000 in Federal Funds, language requiring the subcontractor to comply with the federal laws identified in this section.

#### **3. Energy Efficiency**

COUNTY shall 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 (Pub. L. 94-163).

#### **4. Truth in Lobbying**

COUNTY certifies, to the best of the COUNTY'S knowledge and belief that:

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of **COUNTY**, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, **COUNTY** shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- c. **COUNTY** shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

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, 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.

**5. Resource Conservation and Recovery**

**COUNTY** shall comply and cause all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Parts 247-253.

**6. Audits**

**COUNTY** shall comply and, if applicable, cause a subcontractor to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations."

**7. Debarment and Suspension**

**COUNTY** shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 45 CFR part 76). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

**8. Medicaid Compliance**

To the extent **COUNTY** provides any service whose costs are paid in whole or in part by Medicaid, **COUNTY** shall comply with and require its subcontractors to comply with the federal and state Medicaid statutes and regulations applicable to the service, including but not limited to:

- a. Complying with all applicable disclosure requirements set forth in 42 CFR Part 455, Subpart B;
- b. Complying with any applicable advance directive requirements specified in 42 CFR section 431.107(b)(4);
- c. Complying with the certification requirements of 42 CFR sections 455.18 and 455.19; and.
- e. Requiring that entities receiving \$5 million or more annually under this Agreement and any other Medicaid contract 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 USC §1396a(a)(68).

**COUNTY** shall include and require all subcontractors to include in all contracts with subcontractors receiving Medicaid, language requiring the subcontractor to comply with the requirements set forth in this section and with the federal laws identified in this section.

**9. Americans with Disabilities Act**

**COUNTY** shall comply and require all subcontractors to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) 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 delivery of services.

**10. Pro-Children Act**

COUNTY shall comply and require all subcontractors to comply with the Pro-Children Act of 1995 (codified at 20 USC section 6081 et. seq.).

**11. HIPAA Compliance.**

COUNTY shall comply with and require all Providers to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) 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 delivery of services.

**D. No Third Party Beneficiaries**

The parties to this agreement are the only parties entitled to enforce its terms. Nothing in the 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 unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

**E. Confidentiality of Client Information**

1. COUNTY shall treat all information as to personal facts and circumstances obtained by COUNTY on Medicaid eligible individuals as privileged communication, shall hold such information confidential, and shall not disclose such information without the written consent of the individual, his or her attorney, the responsible parent of a minor child, or the child's guardian, except as required by law. Nothing prohibits the disclosure of information in summaries, statistical information, or other form which does not identify particular individuals.
2. The use or disclosure of information concerning Medicaid eligible or potentially eligible individuals shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources. AGENCY, COUNTY, DHS and subcontractors will share information as necessary to effectively serve Medicaid eligible, or potentially eligible individuals.
3. To the extent that any individually identifiable health information about students is used to perform the Work under this Agreement, the confidentiality of that information is governed by the Family Educational Rights and Privacy Act. Accordingly, such student information is not included within the requirements of the Privacy Rules, 45 CFR Part 164, adopted by the U.S. Department of Health and Human Services to implement the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). In addition, this Agreement does not require or provide for the use of "standard transactions" as that term is used in the HIPAA transaction rules, 45 CFR Part 162. If the Work is revised, or if the federal HIPAA requirements are changed, in a material way that would require compliance

with HIPAA, the Parties may amend the Agreement to address such material changes.

**F. Access to Records**

**COUNTY** shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles, In addition, **COUNTY** shall maintain any other records pertinent to this Agreement in such a manner as to clearly document **COUNTY'S** performance. **COUNTY** acknowledges and agrees that **AGENCY**, DHS, the Oregon Department of Justice, the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of **COUNTY** that are pertinent to this Agreement to perform examinations and audits and to make excerpts and transcripts. **COUNTY** shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of seven (7) 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.

**G. Written Notice**

Except as otherwise expressly provided in this Agreement, any notice to be given shall be in writing by personal delivery, facsimile, e-mail or mailing the same postage prepaid to **AGENCY** or **COUNTY** at the address or numbers set forth below or to such other addresses or numbers as either Party may indicate.

- 1. AGENCY:** Marsha Clark, Business Services Manager  
Oregon Commission on Children and Families  
530 Center Street, Suite 405  
Salem, OR 97301  
Phone: 503-373-1283  
Fax: 503-378-8395  
e-mail: [marsha.clark@state.or.us](mailto:marsha.clark@state.or.us)

This **AGENCY** employee is assigned to monitor Agreement compliance and act as **AGENCY'S** Agreement Administrator on matters concerning the Agreement.

- 2. COUNTY:**  
Patricia Haley, Accounting Analyst  
Lane County Department of Children and Families  
125 East 8<sup>th</sup> Av.  
Eugene, OR 97401  
Phone: 541-682-3863  
Fax: 541-682-7494  
e-mail:  
[Patricia.Haley@co.lane.or.us](mailto:Patricia.Haley@co.lane.or.us)\_\_\_\_\_

**3. PROVIDER:**

Pam Stuver, Nursing Supervisor  
Lane County Public Health  
135 East 6<sup>th</sup> Avenue  
Eugene, OR 97401  
Phone: 541-682-4670  
Fax: 541-682-2455  
e-mail:  
Pamela.Stuver@co.lane.or.us \_\_\_\_\_  
\_\_\_\_\_

Any notice delivered by fax shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against **AGENCY**, such fax transmission must be confirmed by telephone notice to the **AGENCY** person(s) identified in Subsection 1 above. Any notice given by e-mail shall be deemed to be given upon actual receipt by the addressee.

Any notice given in writing by personal delivery or mailing the same, postage prepaid, shall be deemed given five (5) days after mailing to **COUNTY** or **AGENCY** at the address or numbers set forth above. Any communication or notice by personal delivery shall be deemed given when actually received by the intended party.

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