



BOARD OF COMMISSIONERS
Agenda Item Summary

Agenda Category: Agreement

Item No:

Meeting Date: 10/13/2020

Originating Department: BOCC

Issue: In the matter of approving an agreement with Monica Shaw for the Child Care Co-Op Program.

Background: The Klamath County Commissioners created the temporary Child Care Co-Op Program to assist parents and families with the time their children would normally be in school but cannot attend Full time or at all due to COVID-19 and current restrictions. Ms. Shaw will develop policies and procedures, method of tracking compliance, monitor health and safety, create and submit monthly monitor reports, as well as work with project manager on final reporting for program compliance.

Fiscal Impact: Expenditure not to exceed \$2,200.00 per month from the CARES grant funding.

Recommended Motion: Approve and authorize the Chair to sign the agreement with Monica Shaw. **Fiscal Impact:** Expenditure not to exceed \$2,200.00 per month from the CARES grant funding.

DONE AND DATED this 13th day of October, 2020.

Chair

Approved

Denied

Vice-Chair

Approved

Denied

Commissioner

Approved

Denied

Independent Contractor Certification Statement
[as required by OAR 125-246-0333]

Klamath County Departmental Certification

In order to comply with the provisions of ORS 670.600, an individual or business entity performing labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the following standards are met:

1. The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
2. The individual or business entity providing the labor or services is responsible for obtaining all assumed business registrations or professional occupational licenses required by state law or local government ordinance for the individual or business to conduct the business;
3. The individual or business entity providing labor or services furnishes the tools or equipment necessary for the performance of the contracted labor or services;
4. The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;
5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer.

I hereby certify that the contracted work or intended contracted work meets these standard.

Department Head	Date
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(Contractor/Proposed Contractor is to complete the next page)

To establish status as an "independent contractor" as defined in ORS 670.600, certain standards must be met by the individual or business entity performing that work.

The undersigned certifies that he/she/the business entity meets the following standards:

1. The individual or business entity providing labor or services is registered under ORS Chapter 701, "construction contractors", if the individual or business entity provides labor or services for which such registration is required; and,
2. Federal and state income tax returns in the name of the business or business Schedule C or farm Schedule F as part of the personal income tax return(s) filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and,
3. The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the person income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist.

Contractor is to check four or more of the following:

The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;

Commercial advertising or business cards are customary in operating similar businesses, are for the business, or the individual or business entity has a trade association membership;

Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or service;

Labor or services are performed only pursuant to written contracts.

Labor or services are performed for two or more different persons within a period of one year; or,

The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership or performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be performed.



Contractor Signature

10/1/2020

Date

Monica Shaw

Printed Name

545-59-2237

Federal Tax ID #

BIDDER/PROPOSER RESIDENCY STATEMENT

Pursuant to ORS 279A.120, Oregon's Reciprocal Preference Law, public contracting agencies shall, for the purposes of determining the lowest responsible bidder/proposer and the awarding of a contract, add a percent increase on the bid of a non-resident bidder/proposer equal to the percent, if any, of the preference given to that bidder/proposer in the state in which the bidder/proposer resides.

As defined in ORS 279A.120, "resident bidder/proposer" means a bidder/proposer that has paid unemployment taxes or income taxes in this state in the twelve calendar months immediately preceding submission of the bid, has a business address in this state, and has stated in the bid whether the bidder/proposer is a "resident bidder/proposer". A "non-resident bidder/proposer" is a bidder/proposer who does not meet the definition of a "resident bidder/proposer" as stated above.

- 1. Bidder/Proposer IS IS NOT a "resident bidder/proposer" as set forth above.

- 2. If a resident bidder/proposer, enter your Oregon business address below:

- 3. If a non-resident bidder/proposer, enter state of residency:

Bidder/Proposer hereby certifies that the information provided is true and accurate.

Signature: Monica Shaw Date: 10/1/2020

Printed or Typed Name: Monica Shaw

Title: Director

Firm: OCDC

Telephone: 541-040-1690

CONTRACTOR'S CERTIFICATION REGARDING DRUG TESTING PROGRAM

- (1) Pursuant to OAR 137-049-0200, contractor certifies by its signature on this document that it has a Qualifying Drug Testing Program in place for its employees that includes, at a minimum, the following:
- (a) A written employee drug testing policy; and
 - (b) Required drug testing for all new subject employees or, alternatively, required testing of all subject employees every 12 months on a random selection basis; and
 - (c) Required testing of a subject employee when the contractor has reasonable cause to believe the subject employee is under the influence of drugs.
- (2) A drug testing program that meets the above requirements will be deemed a "Qualifying Employee Drug Testing Program." An employee is a "subject employee" only if that employee will be working on the project job site.
- (3) Contractor agrees that by signing this certification it represents and warrants to the County that its Qualifying Employee Drug Testing Program is in place and will continue in full force and effect for the duration of the contract. The County's performance obligation (which includes, without limitation, the County's obligation to make payment) shall be contingent on contractor's compliance with this representation and warranty.
- (4) Contractor also agrees that, as a condition to County's performance obligation (which includes, without limitation, the County's obligation to make payment), contractor shall require each sub-contractor providing labor for the project to:
- (a) Demonstrate to the contractor that it has a Qualifying Employee Drug Testing Program for the sub-contractor's subject employees, and represent and warrant to the contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract; or
 - (b) Require that the sub-contractor's subject employees participate in the contractor's Qualifying Employee Drug Testing Program for the duration of the subcontract.

CONTRACTOR'S CERTIFICATION REGARDING POLICY AND PRACTICE PREVENTING SEXUAL HARASSMENT, SEXUAL ASSAULT AND DISCRIMINATION AGAINST MEMBERS OF A PROTECTED CLASS

- (1) Pursuant to ORS 279A.112, contractor certifies by its signature on this document that it has a qualifying policy and practice in place preventing sexual harassment, sexual assault and discrimination against members of a protected class that includes, at a minimum, the following:
- (a) A written notice to each employee that clearly prohibits and specifies disciplinary measures for conduct that constitutes sexual harassment, sexual assault, or discrimination against a member of a protected class;
 - (b) A clear process that:
 - (i) Enables an employee that experiences or witnesses conduct that constitutes sexual harassment, sexual assault or discrimination against a member of a protected class to report and stop the conduct; and
 - (ii) Guides the prospective contractor in responding to the report, resolving the issues identified in the report, and disciplining employees who engage in prohibited conduct;
 - (c) A regular written procedure for submitting a report that identifies the specific individuals to whom an employee may submit the report and the individuals who have responsibility for resolving issues identified in the report;
 - (d) A practice of treating as confidential, to the extent permitted by law, any report that an employee makes under the contractor's policy and practice;
 - (e) A prohibition against retaliating against an employee who experiences; witnesses, or reports, conduct that constitutes sexual harassment, sexual assault or discrimination against a member of a protected class;
 - (f) A prohibition against discrimination in providing benefits to an employee or a dependent of the employee based on the employee's membership in a protected class or the membership of the employee's dependent in a protected class; and
 - (g) A prohibition on denying benefits to an employee or a dependent of the employee based solely on the employee's gender identity or the gender identity of the employee's dependent, if the prospective contractor provides health insurance or health care benefits.
- (2) Contractor may provide the written notice described in paragraph (1)(a) of this subsection by means of a printed or electronic employee handbook.
- (3) Contractor agrees that by signing this certification it represents and warrants to the County that its policy and practice in place preventing sexual harassment, sexual assault and discrimination against members of a protected class is in place and will continue in full force and effect for the duration of the contract. The County's performance obligation (which includes, without limitation, the County's obligation to make payment) shall be contingent on contractor's compliance with this representation and warranty.
- (4) Contractor also agrees that, as a condition to County's performance obligation (which includes, without limitation, the County's obligation to make payment), contractor shall require each sub-contractor providing labor for the project to:
- (a) Demonstrate to the contractor that it has a qualifying policy and practice in place preventing sexual harassment, sexual assault and discrimination against members of a protected class for the sub-contractor's subject employees, and
 - (b) Represent and warrant to the contractor that the qualifying policy and practice preventing sexual harassment, sexual assault and discrimination against members of a protected class is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract.

Printed or Typed Name: Monica Shaw Signature: 

Name of Firm and Tax ID #: 545-59-2237 Date: 10/1/2020

CERTIFICATE OF NON-DISCRIMINATION

Pursuant to ORS 279A.110, discrimination in subcontracting is prohibited. Any contractor who contracts with a public contracting agency shall not discriminate against minority, women or emerging small business enterprises or a business enterprise that is owned or controlled by or that employs a disabled veteran in the awarding of contracts.

By signature of the authorized representative of the bidder/proposer, the bidder/proposer hereby certifies to Klamath County that this bidder/proposer has not discriminated against minority, women, or emerging small business enterprises; will not discriminate against minority, women or against a business enterprise that is owned or controlled by or that employs a disabled veteran in obtaining any subcontracts; and, further, that if awarded the contract for which this bid or proposal is submitted, shall not so discriminate.

COMPLIANCE WITH OREGON TAX LAWS AND CERTIFICATE OF COMPLIANCE WITH ORS 305.380 AND 305.385

The undersigned is authorized to act on behalf of contractor and that contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon tax laws.

The undersigned, as provider or potential provider of goods, services or real estate space to Klamath County, hereby certifies under penalty of perjury that to the best of my knowledge, the undersigned is not in violation of any Oregon tax described in ORS 305.380(4).

The undersigned certifies under penalty of perjury both individually and on behalf of contractor that:

The undersigned is a duly authorized representative of contractor, has been authorized by contractor to make all representations, attestations, and certifications contained in this contract and to execute this contract on behalf of contractor.

CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

Contractor represents and warrants to Klamath County that:

1. Contractor has the power and authority to enter into and perform this contract.
2. This contract, when executed and delivered, is a valid and binding obligation of contractor, enforceable in accordance with its terms.
3. Contractor (to the best of contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the effective date of this contract, faithfully has complied with:
 - a. All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318;
 - b. Any tax provisions imposed by a political subdivision of this state that applied to contractor, to contractor's property, operations, receipts, or income, or to contractor's performance of or compensation for any work performed by contractor;
 - c. Any tax provisions imposed by a political subdivision of this state that applied to contractor, or to goods, services, or property, whether tangible or intangible, provided by contractor; and
 - d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

4. Any goods, items, equipment, components, hardware, software, intellectual property rights, etc. delivered to or granted to Klamath County under this contract, and contractor's services rendered in the performance of contractor's obligations under this contract, shall be provided to Klamath County free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

Printed or Typed Name: Monica Shaw Signature: 

Name of Firm and Tax ID #: 545-59-2237 Date: 10/1/2020

**KLAMATH COUNTY'S PROFESSIONAL CONTRACT
CHILD CARE CONSULTING**

This Client Services Contract (Contract) is between the Klamath County ("County") acting by and through Board of County Commissioners, and Monica Shaw, an individual. This agreement shall be effective on the date first signed below through completion of the project, but no later than December 31, 2020, unless terminated prior to that date pursuant to Section 7, "Termination", of this Contract. Upon mutual consent, this contract may be extended for one (1) additional five month period beginning January 1, 2020.

The Department's **Contract Administrator** for this Contract is: Commissioner Kelley Minty Morris
Phone Number: 541-851-2125 Address: 350 Main Street, 2nd Floor, Klamath Falls, OR 97601

The Contractor's **Contract Administrator** for this Contract is: Monica Shaw
Phone Number: 541-646-1690 Address: 5619 North Hills Dr., Klamath Falls, OR 97603.

1. Services to be Provided.

- a. **Required Services.** Deliverables and Delivery Schedule. Contractor shall provide, or cause to be provided, as an independent contractor and not as an agent of the County, services, as specified in "Exhibit A", attached to and hereby made a part of this Contract. [Proposal shall include: work to be done, schedule of work, deliverables and tasks, performance monitoring requirements, criteria for acceptance by Department, documents and reporting requirements.]
- b. **Special Requirements.**
 - i. **Confidentiality of Information.** The use or disclosure by any party of any information concerning a recipient of services purchased under this Contract, for any purpose not directly connected with the administration of the Department's or the Contractor's responsibilities with respect to such purchased services, is prohibited, except on written consent of the Department.
 - ii. **Client Records.** Contractor shall appropriately secure all records and files to prevent access by unauthorized persons. The Contractor shall, and shall require its employees and subcontractors to, comply with all appropriate federal and state laws, rules and regulations regarding confidentiality of client records.
 - iii. **Media Disclosure.** The Contractor shall not provide information to the media regarding services purchased under this Contract without first consulting the Department. The Contractor will make immediate contact with the Department's office when media contact occurs. The Department will assist the Contractor with an appropriate follow-up response for the media.

2. Compensation.

- a. For services provided under this Contract, the Contractor shall be compensated in an amount not to exceed \$2200.00 per month, payable beginning on October 1, 2020, and on the first of each month thereafter until termination of this contract. Contractor shall also be reimbursed for expenses associated with liability insurance incurred as a contractor.
- b. In the event that the Board of County Commissioners of Klamath County reduces, changes, eliminates, or otherwise modifies the funding for this Contract, or if funding from federal, state or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services, the County may terminate this Contract, in whole or in part, effective upon delivery of written notice to the Contractor, or at such later date as may be established by the County, and Contractor agrees to abide by any such decision.

3. Subcontracts, Assignment, Successors. Contractor shall not enter into any subcontracts for any of services required under this Contract without Department's prior written consent. In addition to any other provisions Department may require, Contractor shall include in any permitted subcontract provisions to ensure that Department will receive the benefit of subcontractor's performance as if the subcontractor were Contractor. Department's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

4. Assignments. Contractor shall not assign, delegate or transfer any of its rights or obligations under this Contract without Department's prior written consent. Department's written consent does not relieve Contractor of any obligations under this Contract, and any assignee, transferee, or delegate is considered Contractor's agent.

5. Successors. The provisions of this Contract are binding upon, and inure to the benefit the parties and their respective successors and permitted assigns, if any.

6. Ownership of Work Product. All work product of the Contractor that results from this Contract (the "work product") is the exclusive property of the County. The County and the Contractor agree that such work product be deemed "work made for hire" of which the Department be deemed the author. If for any reason the work product is not deemed "work made for hire," the Contractor hereby irrevocably assigns to the County all of its right, title, and interest in and to any and all of the work product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. The Contractor shall execute such further documents and instruments as the Department, or both, may reasonably request in order to fully vest such rights in the County. The Contractor forever waives any and all rights related to the work product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification or authorship or rights of approval, restriction or limitation on use or subsequent modifications.

7. Termination.

- a. This Contract may be terminated by either party by giving written notice to the other party at least thirty (30) days prior to the termination date.
- b. The County reserves the right to terminate this Contract upon ten (10) days' notice should the Contractor fail to comply with the provisions of the insurance section of this Contract.
- c. The County reserves the right to immediately terminate this Contract upon loss of licensure of Contractor.
- d. The County reserves the right to terminate this Contract with twenty-four (24) hours' notice should the County find the Contractor has failed to provide the agreed upon services in keeping with the conditions of this Contract, or relevant law, rule or regulation or has performed in a manner determined to have violated the civil rights of, or otherwise caused harm to, any individual serviced under this Contract.

8. Amendments. This Contract may be amended to the extent permitted by applicable statutes and administrative rules. No waiver, consent, or amendment of terms of this Contract shall bind either party unless in writing and signed by County and Contractor, and all necessary approvals have been obtained. Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

9. Access to Records. Klamath County, Department, and their duly authorized representatives shall have access to the Contractor's books, documents, papers and records pertinent to this Contract for the purpose of making audit, examination, excerpts and transcripts.

10. Compliance with Applicable Laws and Standards.

- a. The Contractor, throughout the duration of this Contract and any extensions, shall comply with all federal, state and local laws, regulations, and ordinances applicable to this Contract or to the Contractor's obligations under this Contract, as those laws, regulations and ordinances may be adopted or amended from time to time.
- b. The Department's performance under this Contract is conditioned upon the Contractor's compliance with ORS 279B.220, 279B.225, 279B.230 and 279B.235. The Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010 (1) (ee)), recycled PETE products (as defined in ORS 279A.010 (1) (ff)), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010 (1) (gg)).
- c. Any violation of subsection (a.) of this section shall constitute a material breach of this Contract. Further, any violation of this Contract shall constitute a material breach of this Contract. Any violation shall entitle the County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:
 - i. Termination of this Contract, in whole or in part;
 - ii. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State's setoff right, without penalty; and
 - iii. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing the replacement services/replacement goods/ a replacement contractor.

These remedies are cumulative to the extent the remedies are not inconsistent, and the County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

11. Independent Contractor; Responsibility for Taxes and Withholding. The Contractor shall perform all required services as an independent contractor. Although the Department may (a) determine and modify the delivery schedule for services to be performed and (b) evaluate the quality of the completed performance. The Contractor is responsible for determining the appropriate means and manner of performing any services required under this Contract. The Contractor certifies, represents and warrants that the Contractor is an independent contractor of the County under all applicable state and federal law. The Contractor is not an "officer," "employee," or "agent" of the County as those terms are used in ORS 30.265.

12. Notice Regarding Oregon Corporate Activity Tax.

- a. The County is providing this notice to ensure contractors are informed of the Corporate Activity Tax (CAT), effective January 1, 2020. Contractors must consider this tax and all other applicable taxes in preparing and submitting bids and proposals; the County will pay according to the contract amount(s) as submitted in the Bid or proposal, in accordance with the contract documents.
- b. For more information and to receive updates by subscribing to the Oregon Department of Revenue (ODR) email notification list, visit the ODR website at www.oregon.gov/dor and click on the Corporate Activity Tax link. Bidders may also follow ODR at @Orrevenue on Twitter. If you have questions regarding the tax, you may call 503-945-8005 or email ODR at cat.help.dor@oregon.gov.

13. Indemnification. Contractor agrees to defend, indemnify and save County, its agents, officers and employees harmless from any and all losses, claims, actions, costs, expenses, judgments, subrogation or other damages resulting from injury to any person (including injury resulting in death), or damage (including loss or destruction) to property, arising or resulting from the fault, negligence, wrongful act or wrongful omission of Contractor or its agents or employees.

14. Insurance. Contractor shall procure and maintain in force, for the entire duration of this Contract, insurance providing coverage for bodily injury and property damage which may arise out of the operations of the Contractor or his subcontractors, employees, agents, assigns or for anyone whose acts any of them may be liable. Such insurance shall have coverage limits equal to or greater than the minimum limits set forth herein.

- a. Contractor shall furnish to Klamath County an Accord 25-S certificate of insurance evidencing the existence of all insurance coverage(s) required by this contract prior to the commencement of any work.
- b. Contractor shall endorse the Contractor General Liability (CGL) to include Klamath County as an "additional insured", including coverage for products and completed operations, and a copy of this endorsement shall accompany each certificate. The additional insurance endorsement shall be CG2010\1985 edition or its equivalent.
- c. **NOTICE OF CANCELLATION OR CHANGE.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days' written notice from the Contractor or its insurer(s) to the County.
- d. Contractor's insurance shall be primary and not excess to, or contributory with any insurance coverage provided by Klamath County. Contractor's insurance shall be endorsed to provide project specific aggregate limits with respect to project covered by this contract.
- e. CGL coverage, including products and completed operations coverage, shall be maintained from the date work commences until two years after the work has been completed.
- f. If the work required by this contract or the location of the work specified in this contract constitutes an exposure to the employees of the contractor or his subcontractors under the U.S. Longshoremen and harbor Workers Act, The Jones Act, or under any laws, regulations or statutes that apply to maritime workers, the contractor shall ensure that proper coverage is purchased and maintained.
- g. Contractor and all Subcontractors shall endorse the Worker's Compensation coverage to provide a "waiver of subrogation" in favor of Klamath County when available.
- h. Klamath County will waive the required Worker's Compensation (WC) coverage if the Contractor submits a letter, on official letter head, stating they agree that they will obtain WC coverage immediately upon utilizing volunteers or hiring any employees during the period of the contract.
- i. Klamath County will waive the required Auto Liability coverage if the Contractor submits a letter, on official letter head, stating absolutely no driving will be done related to the contract and that they will obtain Auto Liability coverage in advance if they travel in any way in support of the contract, i.e. training our staff, meetings to implement, etc.
- j. Contractor shall ensure that the County is provided with a renewal certificate at least thirty (30) days prior to the expiration date of the coverage in the event that the original certificate expires prior to the scheduled termination of the Contract.

❖ **Professional Services Contracts:**

a. Contracts should have the following:

- General Liability
 - o Each Occurrence \$2,000,000
 - o Aggregate \$4,000,000
 - o Product and Completed Operations \$2,000,000
 - Products and Completed
 - o Personal/Advertising Injury \$2,000,000
- Auto Liability
 - o Combined Single \$1,000,000
- Workers' Compensation
 - o Statutory Limits
 - o Employers Liability
 - \$500,000
- Professional Liability
 - Errors/Omission \$2,000,000.

15. No Third-Party Beneficiaries. The County and the Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract 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 Contract.

16. Merger. This Contract constitutes the entire agreement between the parties, and there are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract.

17. Health Insurance Portability and Accountability Act.

Contractor shall comply and cause all providers to comply with the following:

- a. If the services funded in whole or in part with financial assistance provided under this Contract are covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Contractor agrees to deliver the services in compliance with HIPAA. Without limiting the generality of the foregoing, services funded in whole or in part with financial assistance provided under this Contract are covered by HIPAA.

- b. **Privacy and Security of Individually Identifiable Health Information.** Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between Contractor and County for purposes directly related to the provision of services to Contractor's clients, which are funded in whole or in part under this Contract. However, Contractor shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate the Oregon Privacy Rules, OAR 410-014-0000 et. seq., or County policy, Section 900. "HIPAA Policy" of the Klamath County Human Resources Policy & Procedures Manual, if done by County. A copy of the most recent Klamath County Human Resources Policy & Procedures Manual is available through the Human Resources Department at 305 Main Street, Klamath Falls, Oregon 97601.

18. Events of Breach.

- a. **Breach by Contractor.** Contractor breaches this Contract if:
 - i. Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
 - ii. Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under this Contract and Contractor has not obtained the license or certificate within fourteen (14) calendar days after Department delivers notice of breach to Contractor or a longer period as Department may specify in the notice; or
 - iii. Contractor commits any material breach of any covenant, warranty, obligation or certification under this Contract, fails to perform its obligations under this Contract within the time specified or any extension of that time, and Contractor fails to cure the breach within fourteen (14) calendar days after Department delivers notice of breach to Contractor or a longer period as Department may specify in the notice.
 - iv. Contractor is in breach or default in any other Contracts or agreements with the County.
- b. **Breach by County.** County breaches this Contract if:
 - i. County fails to pay Contractor any amount pursuant to the terms of this Contract, and County fails to cure its failure to pay within fourteen (14) calendar days after Contractor delivers notice of breach to County or a longer period as Contractor may specify in the notice; or
 - ii. County commits any material breach of any covenant, warranty, or obligation under this Contract, fails to perform its obligations hereunder within the time specified or any extension thereof, and County fails to cure the breach within fourteen (14) calendar days after Contractor delivers notice of breach to County or a longer period as Contractor may specify in the notice.

19. Remedies.

- a. **County's Remedies.** If Contractor is in breach, then in addition to the remedies afforded elsewhere in this Contract, County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages. County may, at Department's option, pursue any or all of the remedies available under this Contract and at law or in equity, including, but not limited to:
 - i. Termination of this Contract;
 - ii. Withholding payment of all amounts in Contractor's invoices for services that Contractor is obligated to but has failed to deliver or perform within any scheduled completion dates or has performed inadequately or defectively;
 - iii. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief; or
 - iv. Exercise of the right of setoff and withholding of amounts otherwise due and owing to Contractor in an amount equal to County's setoff right, without penalty.

These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If it is determined for any reason that Contractor was not in breach, the rights and obligations of the parties shall be the same as if this Contract was terminated pursuant to section 7.

- b. **Contractor's Remedies.** If County is in breach of Contract, Contractor's sole remedy is one of the following, as applicable:
 - i. For services compensable on an hourly basis, a claim against County for unpaid invoices, hours worked but not yet invoiced, and authorized expenses for services completed and accepted by Department less any claims County has against Contractor.
 - ii. For deliverable-based services, a claim against County for the Sum designated for completing the deliverable multiplied by the percentage of services completed and accepted by Department, less previous amounts paid and any claims County has against Contractor.


If previous amounts paid to Contractor for services and goods exceed the amount due to Contractor, Contractor shall pay the excess amount to County immediately upon written demand.

- 20. Governing Law.** The Contract is governed by and construed in accordance with the laws of Oregon, without regard to principles of conflicts of laws.

21. **Severability.** The parties agree that if any term or provision of this Contract is declared by a court or 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 Contract did not contain the particular term or provision held to be invalid.
22. **Attorney Fees.** In the event suit or action is instituted to enforce any of the terms of this Contract, each party shall be responsible for its own attorney fees costs and related expenses.
23. **Notices.** Any notice required to be given pursuant to this Contract shall be in writing and may be given by personal delivery or by registered or certified mail, addressed to County or Contractor at the addresses provided in this Contract, or to either party in any other manner prescribed by law.
24. **Force Majeure.** Neither County nor Contractor shall be responsible for any failure to perform or for any delay in the performance of any obligation under this Contract caused by fire, riot, acts of God, terrorism, war, or any other cause which is beyond the breaching party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate the cause of Contractor's delay or breach and shall, upon the cessation of the cause, continue performing under this Contract. County may terminate this Contract upon written notice to Contractor after reasonably determining that the delay or breach will likely prevent successful performance of this Contract.
25. **Conflict of interest.**
- Klamath County desires to have the Contractor refrain from activities which could be interpreted as creating an organizational conflict of interest.
 - The Contractor agrees to avoid any activities which may influence the decisions of Klamath County or which directly or indirectly affect the interest of the County where the Contractor has a personal interest in the matter which may be incompatible with the interest of Klamath County Government, and to promptly notify County regarding any change in Contractor's private interests or the services under this agreement which may result or appear to result in a conflict of interest.
26. **Authorization**
 The undersigned certifies under penalty of perjury both individually and on behalf of Contractor that: The undersigned is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract and to execute this Contract on behalf of Contractor.

CONTRACTOR:

Monica Shaw
 5619 North Hills Drive
 Klamath Falls, OR 97603
 Phone: 541-648-1640

Signature: 

Printed or Typed Name: Monica Shaw

Federal Tax I.D. # 545-59-2237

Date: 10/17/2020

**KLAMATH COUNTY BOARD
 of COMMISSIONERS:**
 305 Main Street
 Klamath Falls, OR 97601

(541) 883-5100

Approved this ____ day of _____, 20__.

 Chair

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Klamath County Counsel

Exhibit A

SCOPE OF WORK

Create policies and procedures for the Child Care Co-Op including employee handbook, parent handbook, and employee orientation. Conduct new staff orientation and compliance training. Create health and safety documents. Consult with Project Manager and Education Consultant on Office of Child Care/ELD requirements to develop site procedures related to Health and Safety to include:

- Program Registration
- Staff training requirements and tracking (Center training records)
- Sick Child Guidelines
- Active Supervision of children (teacher placement, ratios, sight and sound, behaviors, child engagement and positive discipline, visual sweeps, daily facility and maintenance checks)
- Illness and Injury
- Incident reporting
- Child Abuse and Neglect reporting
- Allergies
- Health Plans/Special needs
- Child Medications
- First Aid Kits
- Emergency Procedures (drills, teacher emergency kits, evacuations, lock-down, communication)
- Sanitation (handwashing, site sanitation)
- COVID requirements (daily health checks for staff and children, Sick child exclusions, COVID exposure, record keeping)
- Child safety (Emergency contacts, releasing children at pick-up, hazardous items, transitions and counting, site security)

Develop procedures and method of tracking compliance. Monitor health and safety each week while the Co-Op runs. Create and submit a monthly monitoring report. Work with Project Manager on a final outcome report of program compliance.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/28/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hiscox Inc. 520 Madison Avenue 32nd Floor New York, NY 10022	CONTACT NAME: PHONE (A/C. No. Ext): (888) 202-3007	FAX (A/C. No):
	E-MAIL ADDRESS: contact@hiscox.com	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Hiscox Insurance Company Inc	10200	
INSURED Monica Shaw 5619 N HILLS DR KLAMATH FALLS OR 97603	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			UDC-4614484-EO-20	09/28/2020	09/28/2021	Each Claim: \$ 2,000,000 Aggregate: \$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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