



REQUEST FOR PROPOSALS

Domestic Relations Mediation Services

Crook County, Oregon

Fall 2024

Project Name: Domestic Relations Mediation Services

Date of Issue: November 5, 2024

Proposals Due: December 5, 2024

Recommendation Date: December 18, 2024

Project County: Crook County, Oregon

Department: County Counsel

Project Manager: John Eisler | 541-416-3919

PROPOSAL

TO: Crook County

ADDRESS: 300 NE Third Street, Prineville, Oregon 97754

PROJECT TITLE: Domestic Relations Mediation Services

Table of Contents

1. Introduction.....	1
2. Scope.....	2
3. Selection Process.....	3
4. Proposal Procedures and Submittal Requirements.....	4
5. Proposer Declaration and Information.....	9

The Attachments attached and incorporated into this Proposal are:

1. Proposer's Certificate
2. Sample Contract with Exhibits A - E
3. Acknowledgement of Insurance Requirements
4. Oregon Judicial Department Court-Connected Mediator Qualifications Rules

1. INTRODUCTION

A. Request for Proposals Advertisement

**CROOK COUNTY, OREGON
REQUEST FOR PROPOSALS
DOMESTIC RELATIONS MEDIATION SERVICES**

NOTICE IS HEREBY GIVEN that Crook County, through its Board of County Commissioners, is seeking a qualified mediator to provide domestic relations custody and parenting time mediation services for circuit court ordered mediation. **Sealed proposals will be received until 2:00 p.m. Thursday, December 5, 2024.** Proposals must be emailed to rfps@crookcountyor.gov or enclosed in a sealed envelope, with the proposer's name and marked "Domestic Relations Mediation Services Proposal," and delivered on or before the deadline to Crook County Counsel, Attn: John Eisler at 300 NE 3rd St., Prineville, OR 97754, or hand delivered to the Crook County Administration Office at 203 NE Court St., Prineville, OR 97754. Recommendation of award and commencement of contract negotiations will be announced during a Board of County Commissioners Meeting at approximately 9:00 a.m. on **Wednesday, December 18, 2024.**

Complete proposal documents and any addenda are available for download from the County's website at <http://co.crook.or.us/rfps> or from Assistant County Counsel John Eisler at 300 NE 3rd St., Prineville, OR 97754; telephone: (541) 416-3919; email: john.eisler@crookcountyor.gov, who is

also designated as the person to whom all inquiries are to be directed regarding the RFP or requests of a faxed or hard copy of the RFP.

This is **not** a public work contract subject to State Prevailing Wage Rate or the Federal Prevailing Rate of Wage required under the Davis-Bacon Act (40 USC § 3141 et seq.).

- Published in the Central Oregonian November 5, 2024.

B. Project Coordinator Point of Contact

Questions should be directed to John Eisler, Assistant County Counsel, at john.eisler@crookcountyor.gov or (541)416-3919 (the “Point of Contact” or “POC”). Information obtained from County Counsel or any officer, agent, or employee of Crook County or any other person shall not affect the risks or obligations assumed by the proposer or relieve the proposer from fulfilling any conditions of the Contract Documents. Should a proposer desire an interpretation of the Contract Documents, such proposer shall send such written request to the POC no later than November 22, 2024, at 2 p.m. No oral questions will be accepted. All questions received will be answered by addenda to this RFP. Subject to Oregon law, anonymity of the source of the specific questions will be maintained in the written responses.

C. Procurement Documents

The RFP Packet is available on the Crook County website at <http://co.crook.or.us/rfps>; or via request to the POC.

D. Addenda

This RFP may be changed only by a written addendum issued by the County. Addenda shall be posted on the Crook County website at <http://co.crook.or.us/rfps> not later than November 26, 2024. Failure of a prospective proposer to respond to timely noticed addenda in their proposal may cause a proposal to be rejected as non-responsive. Each proposer shall ascertain, prior to submitting a proposal, that the proposer has received all addenda issued and affirmatively mark receipt of the addenda in section 5, Proposer Declaration and Information.

E. Prevailing Wage Rates and Bid Security

This is **not** a public work contract subject to State Prevailing Wage Rate or the Federal Prevailing Rate of Wage required under the Davis-Bacon Act (40 USC § 3141 et seq.). No bid security is required for this solicitation.

F. Notice of Intent to Award

A notice of intent to award will be posted on the Crook County website at <http://co.crook.or.us/rfps>.

2. SCOPE

Mediation is a process that provides an opportunity for people in conflict to reach a mutually satisfying resolution with the help of an impartial third party—the mediator. Mediation is voluntary and confidential. A mediator is trained to help people resolve disputes. The mediator is neutral and does not make decisions for the parties. The mediator helps parties communicate by listening to both parties and helping them listen to each other so that they can agree on mutually acceptable solutions. A mediator will help parties reach and draft their own agreements.

Crook County, on behalf of the Circuit Court, seeks a highly qualified mediator to provide all court-ordered domestic relations custody and parenting mediation services as provided by ORS 107.775(2). In contested court proceedings involving domestic relations custody and parenting, the court refers the parties to an approved mediator whenever the court determines it is in the best interests of the child(ren). The County envisions the execution of an initial two-year contract with the selected Mediator, with the option to renew for additional terms dependent upon the Mediator's performance and compliance with the Contract Documents.

The number of child custody/visitation mediations in the County is approximately ten per month. The Mediator will conduct mediations of child custody and visitation disputes, including reviewing case files; maintaining the confidentiality of mediation proceedings; obtaining and reviewing medical, mental health, school, and law enforcement records; preparing reports and recommendations for the court; and occasionally testifying in court on findings of mediation sessions.

Scheduling days and hours for mediation sessions will be the responsibility of the Mediator. The Mediator must provide all necessary supplies, equipment and support staff for the performance of its duties under the contract. The Mediator may, as needed, arrange with the court to use a room in the Justice Center to conduct mediation sessions.

The complete qualifications and ongoing requirements for this position are found in the Oregon Judicial Department Court-Connected Mediator Qualifications Rules (the "OJD Rules), attached to this RFP as Attachment 4. In some instances, minimum qualifications may be substituted or waived by the Presiding Judge with the condition that the applicant commit to a written plan to meet the minimum qualifications within a specified reasonable period of time. If the proposer does not meet the minimum qualifications, a statement that the proposer will commit to such plan is required and will become part of the contractual agreement for services.

3. SELECTION PROCESS

A. Selection Process Overview

The selection process will conform with Crook County Code 3.12.110 and implement ORS 279B.060. All proposals submitted by the RFP due date will be subject to a standard review process. An initial review of each proposal will be conducted to determine if it is complete, in the required format, and in compliance with all requirements of this RFP. Failure to meet all of the requirements may result in a rejected proposal. Each proposal that passes the initial review will be evaluated and scored by a pre-selected Evaluation Committee, which will evaluate and score each proposal on a 100-point scale, using the assigned weights listed below.

The process may include a panel interview with the Evaluation Committee. The County also reserves the right to investigate and consider the references and past performance of any proposer with respect to such things as provision of similar services, compliance with specification and contractual obligations, and lawful payment to suppliers and workers. The County may postpone the award or execution of the Contract after announcement of the notice of intent to award in order to complete its investigation. Both interviews and information obtained from references may affect the proposal's ranking in the selection process. The Evaluation Committee will make a recommendation to the

Board of County Commissioners (the “BOCC”), who will select the proposal it determines is the most advantageous to the County based on the criteria in the RFP.

The scoring criteria will be as follows:

Evaluation Criteria:	Point Value:
Professional Qualifications	25
Experience	25
Fee and Fee Structure	20
Approach	20
<u>Local Knowledge</u>	<u>10</u>
Total:	100 Points

B. Schedule for Selection

The milestones for the selection process are set forth below. The dates are approximate but will be followed to the extent reasonably possible. The purpose of this schedule is for proposer information only. Required dates for submittals and any other activities are provided elsewhere in this RFP. The County reserves the right to change this schedule or terminate the entire procurement at any time.

- RFP publication: November 5, 2024
- Deadline for questions: 2 p.m. on November 22, 2024
- Final addenda, if any: November 26, 2024
- Proposals due: 2 p.m. on December 5, 2024
- Recommendation to BoCC: 9 a.m. on December 18, 2024
- Notice of Intent to Award: December 18, 2024
- Protest period: December 18 – 26, 2024
- Contract negotiations commence: December 26, 2024

C. Protests or Objections Regarding the Selection Procedure

A proposer may file a written protest or make a written request that the County Administration change any RFP procedure, provision, or specification. Any protest or request for change must be delivered in writing to John Eisler, Assistant County Counsel, at 300 NE Third Street, Prineville, Oregon 97754 or john.eisler@crookcountyor.gov on or before November 22, 2024, at 2:00 p.m. The purpose of this protest/request for a change in procedure is to permit the County time to correct, prior to the submission of proposals, specifications or procedures that may be improvident, unlawful, or which may unnecessarily restrict competition. This requirement is intended to eliminate, by permitting corrections prior to the submission of proposals, the waste of resources and delay that may result from the untimely detection of errors in the RFP, possible protests, and possible rejection of proposals. The County will consider each protest or request, amend the RFP accordingly, if warranted, and will notify in writing each known prospective proposer of any change. No amendment of this RFP shall be effective unless made in writing and signed by County Counsel.

4. PROPOSAL PROCEDURES AND SUBMITTAL REQUIREMENTS

A. Form and Quantity of Proposals

Proposals may be submitted by hardcopy or digitally. If by hardcopy, one original and two copies of the proposal must be submitted, addressed to: Crook County Counsel, Attn: John Eisler, 300 N.E.

Third Street, Prineville, Oregon 97754, or hand delivered to Crook County Administration, 203 NE Court Street, Prineville, Oregon 97754, and must be received no later than 2:00 p.m. on December 5, 2024 (the “Due Date”). Hardcopy proposals must be submitted in a sealed envelope and plainly marked on the outside showing the name of the proposer and the phrase “Domestic Relations Mediation Services Proposal.”

E-mail electronic submissions must be emailed to rfps@crookcountyor.gov, with all signature pages on the project-provided forms that do not contain unauthorized alterations. Bids should be received in non-editable PDF format when submitted electronically; no links to documents will be accepted. The total size limit for each email submittal response should be less than 20 MB. An automated response will be generated back to the sender stating, “Proposal has been received by the County.”

Any proposals received after the Due Date will not be considered. Postmarks and sent-by dates will not be used as a basis for determining timely delivery. Proposals received after the specified time or submitted to any other office will not be considered, except that, in the County’s sole discretion, the County may accept late submittals if no timely submittals are received. It is the proposer’s responsibility to ensure the proposal is submitted by the time and date and to the location as specified.

B. Content and Format

Proposals shall be no more than 8 pages long, excluding the transmittal letter, certifications, and supporting documents. One page is considered to be one side of a single 8.5”x11” page and the minimum font size is 12 for the main text.

Proposals submitted in response to this RFP must include the items and be in the order as listed below. All of the items combined comprise your completed proposal pursuant to this RFP. All signature lines must be signed by the proposer, personally, or an authorized representative if an entity. A signature certifies that proposer has read, fully understands, and agrees to be bound by the RFP and all attachments and addenda. It is the proposer’s sole responsibility to submit information in fulfillment of the requirements of this RFP. If submittals are not substantially compliant in all material respects with the criteria outlined in the RFP, it will cause the proposal to be deemed non-responsive.

Proposers must submit the following information and are encouraged to include graphics, images, or anything deemed to effectively convey the information requested in the proposal:

Required Submittals	Check Off
Proposal packet, filled in and signed.	<input type="checkbox"/>
Narrative section describing in detail how the services offered satisfy the qualifications and statement of work. Include the following details:	<input type="checkbox"/>
• Professional Qualifications	<input type="checkbox"/>
• Experience	<input type="checkbox"/>
• Approach	<input type="checkbox"/>
• Local Knowledge	<input type="checkbox"/>
• Fee and Fee Structure	<input type="checkbox"/>

Proposer Certificate (Att. 1)	<input type="checkbox"/>
Acknowledgement of Insurance Requirements (Att. 3)	<input type="checkbox"/>
Supportive Information (not counted toward page limit)	<input type="checkbox"/>

The narrative section should provide the following information in detail:

Professional Qualifications

Demonstrate the proposer has met or exceeded all applicable Qualifications and can comply with all Ongoing Obligations contained in Sections 2.1 and 2.2 or otherwise in the OJD Rules. Such standards pertain to areas that include:

- Education;
- Training;
- Experience;
- Continuing Education;
- Conduct;
- Public Information; and
- Supervision.

Experience

Provide a concise overview of your professional experience as it relates to domestic relations custody and parenting time mediation. While directly applicable experience is most valued, we encourage you to include any experience you believe is pertinent to the role. Your response should:

- Highlight projects or roles that demonstrate your capability to provide the requested services;
- Focus primarily on experience directly related to custody and parenting time mediation;
- Include other relevant experience you believe prepares you for this role, explaining its applicability;
- Describe your track record of compliance with the Mediator Ethics outlined in Section 1.4 of the OJD Rules; and
- Present your experience in a way that illustrates your unique qualifications for this position.

Approach

Provide a concise explanation of your mediation approach for domestic relations custody and parenting time cases. The response may address:

- Your overall mediation philosophy and model(s) used;
- Key strategies for managing high-conflict situations and power imbalances;
- Methods for incorporating children's best interests into the mediation process;
- Approach to drafting and reviewing parenting agreements; and
- A brief example (maintaining confidentiality) that illustrates your mediation style in action.

Local Knowledge

Crook County is a unique community. Describe your knowledge and experience with community members from Crook County and/or Central Oregon and how such knowledge and experience may be beneficial to the parties of mediation services in Crook County.

Fee and Fee Structure

Provide a detailed explanation of your proposed fee structure. Your response may address:

- Preferred billing method:
 - Per mediation session

- Hourly rate
- Other (please specify)
- Detailed fee breakdown:
 - Rate for mediation sessions
 - Hourly rate (if applicable)
 - Charges for preparation time or document review
 - Fees for drafting agreements or other documents
 - Any minimum charges
 - Cancellation or rescheduling policies and any associated fees
 - Any other costs or fees not covered above
 - Flexibility in fee structure, if any
- Policy on billing for travel time and expenses
 - Travel time
 - Travel expenses.

Supportive Information

Include additional support materials, which may include graphs, charts, photos, resumes, etc.

C. Modification and Withdrawal of Proposals

Prior to the Due Date, any proposal may be modified or withdrawn by written notice to the POC. Such notice shall be in writing, signed by the proposer or its authorized representative and delivered by the Due Date. Negligence on the part of the proposer in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened. The proposal will be irrevocable for 90 days or until such time as Crook County specifically cancels the procurement, rejects the proposal, or awards a contract.

D. Sample Contract

A sample contract containing contractual terms and conditions is included as Attachment 2. It is anticipated that the initial contract term will be twenty-four months. The successful Mediator will be required to execute a final contract substantially similar to the sample contract and be bound by its terms and conditions.

E. Public Records

All proposals submitted in response to this RFP shall become the property of Crook County and may be utilized in any manner and for any purpose by Crook County. Be advised that proposals and all documents submitted in response to this RFP are subject to public disclosure as required by applicable state and/or federal laws. Proposals should not include personal identifier information in resumes or other documents such as social security numbers, dates of birth, criminal clearance documents, etc. Crook County shall not in any way be liable or responsible for the disclosure of any such records. If you intend to submit any information with your proposal which you believe is confidential, proprietary, or otherwise protected from public disclosure (trade secret, etc.), you must separately bind and clearly identify all such material. Where authorized by law, and at its sole discretion, Crook County will endeavor to resist disclosure of properly identified portions of the proposals.

F. Acceptance or Rejection of Proposals

Crook County reserves the right to accept or reject any or all proposals. Any proposal which Crook County determines to be incomplete or nonconforming may be rejected. Any evidence of collusion between proposers may constitute a cause for rejection of any proposals so affected.

G. Minority, Women, or Disadvantaged Business Enterprise (M/W/DBE)

M/W/DBEs shall receive equal opportunities to submit proposals and shall not be discriminated against on the grounds of race, color, sex, disability, or national origin in consideration of an award. A MWDBE is defined as a small business concern which is at least 51% owned and controlled by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals. Socially and economically disadvantaged individuals include Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans.

H. Award and Commencement of Work

In awarding a contract, Crook County will accept and consider the proposal or proposals which, in the estimation of Crook County, will best serve the interest of Crook County. Crook County will award a contract to the proposer whose proposal is most advantageous to the County based upon the evaluation process and evaluation criteria contained within this RFP.

Recommendation for award is contingent upon successful negotiation of the contract and resolution of any protests. The successful proposer shall be required to sign the negotiated contract, which will be in the form and content as approved by Crook County. The final authority to award a contract rests solely with the BOCC. The successful proposer shall not be allowed to begin work under any negotiated contract until such time as the contract has been approved by Crook County Counsel's Office and executed by the BOCC. The successful proposer must agree to all terms, insurance coverage provisions, and conditions of the contract with Crook County. The required insurance coverage is listed in Attachment 3.

I. Protest of Award

After Crook County approves and selects a proposer, Crook County will provide notice of its intent to award the contract to all other proposers and post to its website. If no written protest is filed by 5:00 p.m. on the seventh day following announcement of the decision, the award will be deemed final. Crook County will not entertain protests submitted after this time period.

The written protest must specify the grounds upon which the protest is based, citing the law, rule, regulation, or practice. If a timely protest is filed, the decision of Crook County will be considered final only upon issuance of a written notice deciding the merit of the protest. The BOCC shall have the authority to settle or resolve a written protest. The award and any written decision regarding the protest will be sent to each proposer. An aggrieved proposer may seek judicial review in the manner provided in ORS 279B.415.

J. Rights Reserved by the County

The County reserves the right, in its sole discretion, to pursue any or all of the following actions in regard to this RFP:

- Issue addenda;
- Request additional information and/or clarification from the proposers;
- Permit the timely correction of errors and waive minor deviations;
- Issue subsequent proposals based on refinements of concepts proposed in response to the RFP;
- Withdraw this RFP;
- Extend the time for submittal of proposals;
- Select the proposer that, in the judgment of the County and any evaluation process notwithstanding, is most likely to succeed in providing the services at the level desired by the County;
- Take whatever other action it deems in its best interest;
- To conduct interviews with proposers to further facilitate ranking pursuant to the criteria;
- To reject any and all proposals not in compliance with all prescribed public contracting procedures and requirements, reject for good cause any proposals upon the finding that it is in the public interest to do so, and waive any and all informalities;
- To decline to accept any proposal, negotiate with any proposer, award a contract, or proceed with the services described in response to this RFP;
- All proposals shall become the property of the County and will not be returned to the proposer. All bids and proposals are subject to Oregon Public Records law;
- This RFP does not and shall not commit the County or any of its agents to enter into any agreement, pay any costs incurred in the preparation of any response, or procure or contract for any product, services, or supplies. Responses to this RFP are entirely voluntary and made with this knowledge;
- It is the policy of Crook County to provide equal employment opportunity for all persons in compliance with federal and state laws without regard to race, color, religion, sex, age, national origin, physical or mental disability.

K. Hold Harmless

The proposer agrees to indemnify, defend, and hold the County, its commissioners, agents, officers, and employees, harmless and defend all damages, losses, and expenses included, and to defend all claims, proceedings, lawsuits, and judgments arising out of or relating from the fault of the proposer, the proposer's agents, representatives, or subcontractors in the performance or failure to perform in accordance with instructions to proposers. However, the proposer shall not be required to indemnify any indemnitee to the extent the damage, loss, or expense is caused by the indemnitee's negligence.

The proposer shall not permit any lien or claim to be filed or prosecuted against the County or the County's property in connection with the contract and agrees to assume responsibility should lien or claim be filed.

5. PROPOSER DECLARATION AND INFORMATION

A. Proposer's Declaration and Understanding

The undersigned, hereinafter called the "Proposer," declares that the only persons or parties interested in this proposal are those named herein, that this proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the County, and that the proposal

is made without any connection or collusion with any person submitting another proposal to this RFP.

The Proposer further declares that it has carefully examined the Contract Documents for the services requested and has satisfied itself as to level and scale of work involved, including the fact that the description of the scope of services, as included herein, is brief and is intended only to indicate the general nature of the work. Each proposer must inform itself of the conditions relating to the execution of the work and be thoroughly familiar with all Contract Documents. Failure to do so will not relieve the successful Proposer of its obligation to enter into a contract and complete the contemplated work in strict accordance with the Contract Documents.

Each proposer shall inform itself of, and the Proposer awarded a Contract shall comply with, federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, applicable regulations concerning minimum wage rates, nondiscrimination in the employment of labor, protection of public and employee safety and health, environmental protection, fees, and similar subjects.

B. Proposer’s Information

Acknowledgement of Addenda numbers: _____

The names of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

If sole proprietor or partnership:

IN WITNESS hereto the undersigned has set its hand this ____ day of December, 2024.

Signature: _____ Title: _____

If Corporation or LLC:

IN WITNESS WHEREOF, the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this _____ day of December, 2024.

Name of Entity: _____

By: _____
Signature

Print Name

Its: _____

Attachment 1 – Submittal Certificate

SUBMITTAL CERTIFICATE

This certification must be completed, signed, and returned.
Failure to do so will result in submittal disqualification.

PUBLIC CONTRACTING LAWS

Proposer has reviewed and is familiar with and agrees to abide by the terms and provisions required by Crook County Code Chapter 3.12 for public contracts and ORS Chapter 279A – 279C. Proposer further agrees that all of the applicable provisions of Oregon law relating to public contracts are, by this reference, incorporated in and made a part of this invitation.

RESIDENT PROPOSER

A “resident bidder or proposer” is a proposer that has paid unemployment taxes or income taxes in Oregon during the 12 calendar months immediately preceding submission of this proposal and has a business address in Oregon.

Check One: Bidder is is not a resident proposer.

If a non-resident bidder, enter your state of residency: _____.

NON-DISCRIMINATION

ORS 279A.110(1) states: "A bidder . . . may not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055." Subsection (4) states "A bidder ... shall certify ... that the bidder ... has not discriminated and will not discriminate, in violation of subsection (1)."

Check One: Proposer states that it:

Has discriminated or will discriminate against minorities, women, or emerging small business enterprises in obtaining any required subcontracts.

Has not discriminated and will not discriminate against minorities, women, or emerging small business enterprises in obtaining any required subcontracts.

OREGON TAX LAWS

For purposes of this certificate, “Oregon Tax Laws” means those programs listed in ORS 305.380(4), which is incorporated herein by this reference. Examples include the state inheritance

tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue (Lane Transit District Employer Payroll Tax, The County Metropolitan Transit District of Oregon "Tri- Met" Employer Payroll Tax, and Tri-Met Self-Employment Tax).

Check One: Proposer states that it:

Has authority and knowledge regarding the payment of taxes, and that Proposer is, to the best of its knowledge, not in violation of any Oregon tax laws.

Does not have authority and knowledge regarding the payment of taxes, and that Contractor is, to the best of its knowledge, not in violation of any Oregon tax laws.

CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

- 1) The applicant represents that it is (✓) is not (✓) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is (✓) is not (✓) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

FEDERAL FAIR LABOR STANDARDS ACT

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same

force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

STATEMENT REGARDING CERTIFICATIONS

Proposer understands and acknowledges that the above representations are material and important and will be relied on by the Crook County Court in awarding the contract for which this proposal is submitted. The Proposer understands that any misstatement in these certifications is and shall be treated by the Crook County Court as fraudulent concealment of the true facts relating to the submission of proposals for the contract.

I, the undersigned, a duly authorized representative of the Proposer, hereby certify that the answers to the foregoing Proposer Certificate questions and all statements therein contained are true and correct.

Signature: _____

Date: _____

By: _____

Title: _____

Phone: _____

Email: _____

Company Name: _____

Company Address: _____

Attachment 2 – Sample Contract with Exhibits

PERSONAL SERVICES CONTRACT

CONTRACTOR: _____ * DATE: * _____

ADDRESS: _____ * _____ * _____ * _____ *
Street Address City State Zip

PHONE NUMBER: * _____ EMAIL: _____ *

This Personal Services Contract (Agreement) by and between [name] (Contractor) and Crook County, a political subdivision of the State of Oregon (County), entered into this date written above, authorizes Contractor to carry out and complete the services as described below in consideration of the mutual covenants set forth herein.

1. **PROJECT:** The services as described on Exhibit D *[and E] to this Agreement are to be provided by Contractor in connection with a Project identified as follows: Domestic Relations Mediation Services, the solicitation document for which was published on [], 2024 and is fully incorporated herein.
2. **DURATION:** This Agreement shall run from * (“effective date”) through * unless terminated or extended according to the provisions of this Agreement.
3. **SCOPE OF SERVICES:** Contractor will perform the services as described on Exhibit E attached hereto.
4. **FEE FOR SERVICES:** Contractor’s fee for the services identified on Exhibit E to this Agreement shall be: * and no/100 Dollars (\$*).
5. **EXTRA SERVICES:** Contractor may also perform Extra Services (services not specified in the Scope of Services), provided Contractor and County have agreed in advance and in writing to the scope and fees for such Extra Services.
6. **EXHIBITS:** The following documents which are attached to this Agreement are incorporated herein and by this reference made part hereof:
 - Exhibit A: Required Terms for All Public Contracts
 - Exhibit B: Independent Contractor Status
 - Exhibit C: Protected Information
 - Exhibit D: Business Associate Agreement
 - Exhibit E: Scope of Services
7. **TAX DUTIES AND LIABILITIES:** Contractor shall be responsible for all taxes applicable to any payments received pursuant to this Agreement and is currently and will remain fully compliant with tax laws, as certified in Exhibit A. County shall not withhold, pay, or in any other manner be responsible for payment of any taxes on behalf of Contractor.
8. **SUBMITTAL OF W-9 BEFORE PAYMENT:** Contractor must provide County with a fully completed W-9 form upon execution of the Agreement and prior to beginning services. Contractor will not be paid until a fully completed W-9 form is submitted.
9. **REIMBURSEMENT OF EXPENSES:** Contractor shall not be entitled to reimbursement by County for any expenses incurred by Contractor unless otherwise agreed in writing.
10. **PAYMENT BY COUNTY:** Unless otherwise agreed to within this Agreement, County will pay invoices on the 10th or 25th days of the month based upon date the invoice is received.

11. **INDEMNIFICATION AND HOLD HARMLESS:** The Contractor shall assume all responsibilities for the work, and bear all losses and damages directly or indirectly resulting to the Contractor, the County, or to others on account of the character or performance of the work, unforeseen difficulties, accidents, or any other cause whatsoever. The Contractor shall assume defense of, indemnify and save harmless the County, its officials, agents, and employees from all claims, liability, loss, damage and injury of every kind, nature and description, directly or indirectly resulting from activities in the performance of the Agreement, the ownership, maintenance or use of motor vehicles in connection therewith, or the acts, omissions, operations, or conduct of the Contractor or any subcontractor under the Agreement or any way arising out of the Agreement, irrespective of whether any act, omission or conduct of the County connected with the Agreement is a condition or contributory cause of the claim, liability loss, damage or injury and irrespective of whether act, omission, or conduct of the Contractor or subcontractor is merely a condition rather than a cause of a claim, liability, loss damage or injury. The Contractor shall not be liable for nor be required to defend or indemnify, the County relative to claims for damage or damages resulting solely from acts or omissions of the County, its officials, agents or employees. The absence of or inadequacy of the liability insurance required in section 15 below shall not negate Contractor's obligations in this paragraph.
12. **CONTRACTOR STATUS:** Contractor certifies it is a "Contractor" under ORS 670.600 and relevant law as it pertains to this contract and as further described in incorporated Exhibit B.
13. **CONFORMANCE WITH OREGON PUBLIC CONTRACT LAWS:** Contractor shall fully comply with Oregon law for public contracts, as more fully set forth in the Exhibits.
14. **TERMINATION:**
- 14.1. Either party may terminate this Agreement after giving ten (10) days' prior written notice to the other of intent to terminate without cause. The parties shall deal with each other in good faith during the ten (10) day period after notice of intent to terminate without cause has been given;
- 14.2. With reasonable cause, either party may terminate this Agreement effective immediately after giving written notice of termination for cause. Reasonable cause shall include material violation of this Agreement or any act exposing the other party to liability to others for personal injury or property damage;
- 14.3. Notwithstanding any other provision of this Agreement, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of County's future fiscal years unless and until the Crook County Court appropriates funds for this Agreement in County's budget for such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated.
15. **INSURANCE:**
- 15.1. **GENERAL INSURANCE:** Contractor shall maintain in force for the duration of this agreement a Commercial General Liability insurance policy written on an occurrence basis with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury or property damage. The policy will contain a "per project" Aggregate endorsement. Automobile Liability (owned, non-owned and hired) insurance with limits not less than \$2,000,000 per occurrence shall be maintained. The County, its employees, officials and agents will be named as an Additional Insured where operations are being conducted related to this Agreement, on the General Liability policy as respects to work or services performed under this Agreement to the extent that the death or bodily injury to persons or damage to property arises out of the fault of Contractor or the fault of Contractor's agents, representatives or subcontractors. This insurance will be primary over any insurance the County may carry on its own. Contractor understands that County is a public entity subject to the requirements of the Oregon Governmental Tort Claims Act, ORS 30.260 et seq. In the event that County's financial obligations or liabilities are modified by any amendment to the liability limits imposed by the Oregon Governmental Tort Claims Act, Contractor agrees that the limits regarding liability insurance set forth in this section 15.1 will

be modified to conform to such limits. Contractor and County shall sign an amendment to this Agreement incorporating such modification.

- 15.2. **WORKERS' COMPENSATION:** Contractor shall provide and maintain workers' compensation coverage with limits not less than \$500,000 for its employees, officers, agents, or partners, as required by applicable workers' compensation laws as defined in ORS 656.027 and ORS 701.035(5). If Contractor is exempt from coverage, a written statement signed by Contractor so stating the reason for exemption shall be provided to the County.
 - 15.3. **EVIDENCE OF INSURANCE COVERAGE:** Evidence of the required insurance coverages issued by an insurance company satisfactory to the County shall be provided to the County by way of a County approved certificate of insurance before any work or services commence.
 - 15.3.1. **NOTICE OF CANCELLATION OR MATERIAL CHANGE IN COVERAGE:** The certificate of insurance shall contain a requirement that the insurance company notify the County 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30-day notice, Contractor shall provide written notice to County within 2 calendar days after Contractor becomes aware that its coverage has been canceled or has been materially changed. Regardless of what circumstances caused Contractor's insurance coverage to cease or be modified, it is Contractor's responsibility to notify County. Failure to maintain proper insurance or provide notice of cancellation or modification shall be grounds for immediate termination of this contract.
 - 15.4. **EQUIPMENT AND MATERIAL:** Contractor shall be responsible for any loss, damage, or destruction of its own property, equipment, and materials used in conjunction with the work.
 - 15.5. **SUBCONTRACTOR:** The Contractor shall require all subcontractors to provide and maintain general liability, auto liability, professional liability (as applicable), and workers' compensation insurance with coverage's equivalent to those required of the general contractor in this Agreement. Contractor shall require certificates of insurance from all subcontractors as evidence of coverage.
 - 15.6. **EXCEPTION OR WAIVERS:** Any exception or waiver of these requirements shall be subject to review and approval from the County.
 - 15.7. **ABESTOS ABATEMENT:** (Only applicable to contracts where asbestos may be present.) The Commercial General Liability policy shall be written on a form that meets the following criteria and must be ASBESTOS SPECIFIC as follows:
 - (a) A full occurrence form, or
 - (b) A limited occurrence form with at least a 3-year tail, or
 - (c) A claim made form with a 3-year tail.
16. **GENERAL PROVISIONS:**
- 16.1. **ENTIRE AGREEMENT:** This Agreement signed by both parties is the final and entire agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents, and representatives
 - 16.2. **AMENDMENTS:** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written approval of County. No modification of this Agreement shall bind either party unless reduced to writing and subscribed by both parties, or ordered by a Court.
 - 16.3. **ASSIGNMENT/SUBCONTRACT:** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this agreement, in whole or in part, without the prior written approval of County. No such written approval shall relieve Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Contractor. Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.

- 16.4. **SUB-AGREEMENTS:** If this project is funded in whole or in part with grant funds received by County, Contractor, as a sub-recipient of those funds, shall fully comply with all applicable terms, conditions, and requirements of the Grant Agreement, including but not limited to procurement regulations, property and equipment management and records, indemnity, and insurance provisions.
- 16.5. **SUCCESSORS IN INTEREST:** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.
- 16.6. **AUTHORIZED SIGNATURES REQUIRED:** Only those persons authorized by the Crook County Purchasing Rules and Procedures may enter into a binding agreement or contract, including a purchase order, for the purchase or sale of goods or services on the part of the County. All persons doing business with the County shall be responsible for being familiar with the Crook County Purchasing Rules and Procedures and for ensuring that the person purporting to act for the County has been duly authorized.
- 16.7. **NO ENCUMBRANCES:** Any property delivered or granted to County under this Agreement, and Contractor's Services rendered in the performance of Contractor's obligations under this Agreement, shall be provided to 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.
- 16.8. **NO AUTHORITY TO BIND CROOK COUNTY:** Contractor has no authority to enter into contracts on behalf of County. This Agreement does not create a partnership between the parties.
- 16.9. **HOW NOTICES SHALL BE GIVEN:** Any notice given in connection with this Agreement must be in writing and be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address as stated on the work authorization or to Crook County at 300 NE 3rd Street, Prineville, OR 97754, attention "Legal Department."
- 16.10. **GOVERNING LAW AND VENUE:** Any dispute under this Agreement shall be governed by Oregon law, with venue being located in Crook County, Oregon.
- 16.11. **SEVERABILITY:** If any provision of this Agreement is declared by a court 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 provision held to be invalid.
- 16.12. **ACCESS TO RECORDS:** County and its duly authorized representatives shall have access to books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- 16.13. **CONFIDENTIALITY:** During the course of performance of work under this Agreement, Contractor may receive information regarding organizations and County's business practices, employees, clients, etc. Contractor agrees to maintain the confidentiality of such information and to safeguard such information against loss, theft or other inadvertent disclosure
- 16.14. **FEDERAL EMPLOYMENT STATUS:** In the event payment made pursuant to this Agreement is to be charged against federal funds, Contractor hereby certifies that it is not currently employed by the Federal Government and the amount charged does not exceed Contractor's normal charge for the type of services provided.
- 16.15. **COMPLIANCE WITH ALL GOVERNMENT REGULATIONS:** Contractor shall comply with all Federal, State and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Agreement. Damages or costs resulting from noncompliance shall be the sole responsibility of Contractor.
- 16.16. **FORCE MAJEURE:** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. County may

terminate this Agreement upon written notice after determining such delay or default will unreasonably prevent successful performance of the Agreement.

- 16.17. RIGHTS IN DATA: All original written material, including programs, card decks, tapes, listings, and other documentation originated and prepared for County pursuant to this Agreement, shall become exclusively the property of County. The ideas, concepts, know-how, or techniques developed during the course of this Agreement by Contractor personnel can be used by either party in any way it may deem appropriate. Material already in Contractor's possession, independently developed by Contractor, outside the scope of this Agreement, or rightfully obtained by Contractor from third parties, shall belong to Contractor. This Agreement shall not preclude Contractor from developing materials which are competitive, irrespective of their similarity to materials which might be delivered the County pursuant to this Agreement. Contractor shall not, however, use any written materials development under this Agreement in developing materials for others, except as provided in this section.
- 16.18. ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT: In the event of any claim or suit against County on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any material furnished or work or services performed hereunder, Contractor shall defend County against any such suit or claim and hold County harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit.
- 16.19. EQUIPMENT, TOOLS, MATERIALS, AND/OR SUPPLIES: Contractor will provide all equipment, tools, materials or supplies necessary to fulfill Contractor's obligations under the terms of this Agreement.
- 16.20. ATTORNEY FEES: In the event an action, lawsuit, or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Agreement, each party shall bear its own attorney fees, expenses, costs, and disbursements for said action, lawsuit, proceeding, or appeal.
- 16.21. WAIVER: The failure of either party at any time or from time to time to enforce any of the terms of this Agreement shall not be construed to be a waiver of such term or of such party's right to thereafter enforce each and every provision of the Agreement.
- 16.22. TAX CREDITS: Should Contractor become entitled to tax credits or tax deductions directly attributable to the costs of energy-efficiency attributes included in the project, such as those provided for in IRS Notice 2008-40, Contractor and County agree to share equally in any net tax benefit received by Contractor. For the purposes of this provision: (a) "net tax benefit" means the reasonable estimate of the net reduction in Contractor's tax liability for the current period, including any tax benefit, reduced by Contractor's reasonable costs for applying for and calculating the benefit, and (b) "reduction in Contractor's tax liability" means a reduction in the amounts due or to become due for federal and state income taxes of Contractor, Contractor's subcontractors, its partners, members, and shareholders.

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16.23. COUNTERPARTS: This Personal Services Contract may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective the date first set forth above.

For Contractor

[name]

By: _____
Signature

Printed Name

Title: _____

Date: _____

For Crook County

BOARD OF COUNTY COMMISSIONERS

Seth Crawford, County Commissioner

Date: _____

Susan Hermreck, County Commissioner

Date: _____

Brian Barney, County Commissioner

Date: _____

DRAFT

EXHIBIT A

REQUIRED TERMS FOR ALL PUBLIC CONTRACTS

1. PAYMENTS AND DEBTS:

- 1.1. Contractor shall promptly, as due, make payment to:
 - 1.1.1. Any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services;
 - 1.1.2. All persons supplying to Contractor labor or material for the performance of the work provided for in the Agreement;
 - 1.1.3. All contributions or amounts due the Industrial Accident Fund from Contractor or subcontractor incurred in the performance of this Agreement; and
 - 1.1.4. The Department of Revenue all sums withheld from employees under ORS 316.167.
- 1.2. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished under this Agreement.

2. EMPLOYEES:

- 2.1. Contractor and subcontractors shall either be employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- 2.2. Contractor shall comply with the prohibition on wage discrimination of ORS 652.220; failure to do so is a material element of the contract and a breach that entitles County to terminate this Agreement for cause.
- 2.3. For all work under this Agreement, Contractor may not employ an employee for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or when the public policy absolutely requires otherwise, and in such cases, Contractor shall pay the employee at least time-and-a-half pay for:
 - (a) All overtime in excess of eight hours in any one day or 40 hours in any one week if the work week is five consecutive days, Monday through Friday; or all overtime in excess of 10 hours in any one day or 40 hours in any one week if the work week is four consecutive days, Monday through Friday; and
 - (b) All work the employee performs on Saturday and on any legal holiday specified in ORS 279B.020;
- 2.3.1. If this Agreement is for services, Contractor shall pay employees at least time-and-a-half pay for work the employees perform under this Agreement on the legal holidays specified in a collective bargaining agreement or in 279B.020 (1)(b)(B) to (G) and for all time the employees work in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater;
- 2.3.2. If this Agreement is for personal services, as described in ORS 279A.055, Contractor shall pay its employees who work under this Agreement at least time-and-a-half for all overtime the employees work in excess of 40 hours in any one week, unless said employees are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime;
- 2.3.3. If this Agreement is for services at a county fair, or for another event that Crook County Fair Board authorizes, Contractor shall pay employees who work under this Agreement at least time-and-a-half for work in excess of 10 hours in any one day or 40 hours in any one week.
- 2.4. Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.
- 2.5. Contractor shall give notice in writing to employees who work under this Agreement, either at the time of hire or before work begins on the Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that Contractor may require the employees to work.

3. OTHER PROVISIONS:

- 3.1. By executing this Agreement, Contractor represents and warrants that it has complied with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318; Contractor further covenants to continue with said compliance during the term of this Agreement. Noncompliance with this provision is a default for which County may terminate the Agreement, in whole or part, and seek damages under the terms of this Agreement or applicable law.
- 3.2. If this Agreement involves lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

EXHIBIT B

INDEPENDENT CONTRACTOR STATUS

Contractor states and represents that contractor is an Independent Contractor as that term is defined in Oregon Revised Statute 670.600 and more specifically represents, states and agrees that in providing the services and scope of work specified in this Agreement:

1. Contractor provides services for remuneration; and
2. Contractor is free from direction and control over the means and manner of providing the services and scope of work subject only to the right of County to specify the desired results; and
3. Contractor is customarily engaged in an independently established business; and
4. Contractor is licensed within the state of Oregon to provide any services for which a license is required under ORS Chapter 671 or 701 and is responsible for obtaining other licenses or certificates necessary to provide the service or scope of work; and
5. Contractor complies with at least three of the following requirements:
 - (a) A business location is maintained that is separate from the business or work location of County; or is in a portion of the Contractor's residence and that portion is used primarily for the business.
 - (b) The Contractor bears the risk of loss related to the provision of services or scope of work such as entering into a fixed price contract, defective work is required to be corrected, the services provided are warranted or indemnification agreements, liability insurance and performance bonds and errors and omissions insurance are provided.
 - (c) Contracted services for two or more different persons or entities within a twelve month period have been obtained, or routinely engaged in business advertising, solicitation, or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
 - (d) Significant investment in the business has been made such as purchasing tools or equipment, paying for premises or facilities where services are provided, paying for licenses, certificates or specialized training.
 - (e) Possesses authority to hire other persons to assist in providing their services and has the authority to fire those persons.
6. Contractor will immediately inform County in the event that it fails to conduct its services in one or more particulars as represented in 1 through 5 above.

EXHIBIT C

PROTECTED INFORMATION

If Contractor obtains any personal information as defined in ORS 646A.602(11) related to this Agreement or concerning any County employee, Contractor agrees to provide appropriate safeguards to protect the security of this information. Contractor shall have provided appropriate safeguards by meeting or exceeding the requirements stated in ORS 646A.622. Furthermore:

1. **“Protected Information”** shall be defined as *data or information* that has been designated as private or confidential by law or by the County. Protected Information includes, but is not limited to, employment records, medical records, personal financial records (or other personally identifiable information), trade secrets, and classified government information. To the extent there is any uncertainty as to whether any data constitutes Protected Information, the data in question shall be treated as Protected Information until a determination is made by the County or proper legal authority.
2. **Data Confidentiality.** Contractor shall implement appropriate measures designed to ensure the confidentiality and security of Protected Information, protect against any anticipated hazards or threats to the integrity or security of such information, protect against unauthorized access or disclosure of information, and prevent any other action of unauthorized disclosure that could result in substantial harm to the County or an individual identified with the data or information in Contractor’s custody or access.

To the extent that Contractor may have access to County protected health information (as the same is defined in the privacy regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and the implementing regulations known and referred to as Privacy Rule, Security Rule, Enforcement Rule and Breach Notification Rule, referred to herein collectively as “HIPAA”), Contractor agrees to protect such information in compliance with HIPAA and represents that it has the processes, systems and training to assure compliance with the same.

3. **Data and Network Security.** Contractor agrees at all times to maintain commercially reasonable network security that, at a minimum, includes: network firewall provisioning, intrusion detection/prevention and periodic third party penetration testing. Likewise Contractor agrees to maintain network security that at a minimum conforms to current standards set forth and maintained by the National Institute of Standards and Technology, including those at: <http://checklists.nist.gov/repository>. Contractor agrees to protect and maintain the security of data with protection security measures that include maintaining secure environments that are patched and up to date with all appropriate security updates as designated by a relevant authority.
4. **Security Breach.** In the unlikely event of a security breach or issue, Contractor will notify the appropriate County contact no later than one hour after they are aware of the breach. Contractor will be responsible for all remedial action necessary to correct the breach; provided however, that Contractor will not undertake litigation on behalf of the County without prior written consent.
5. **Data Storage and Backup.** Contractor agrees that any and all County data will be stored, processed, and maintained solely on designated servers and that no County data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that storage medium is in use as part of the Contractor's designated backup and recovery processes. All servers, storage, backups, and network paths utilized in the delivery of the service shall be contained within the states, districts, and territories of the United States unless specifically agreed to in writing by a County officer with designated data, security, or signature authority. An appropriate officer with the necessary authority can be identified by the County Information Security Officer for any general or specific case.

Contractor agrees to store all County backup data stored as part of its backup and recovery processes in encrypted form, using no less than AES 256.

6. **Data Re-Use.** Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor. Contractor further agrees that no County data of any kind shall be revealed, transmitted, exchanged or otherwise passed to other Contractor or interested parties except on a case-by-case basis as specifically agreed to in writing by a County officer with designated data, security, or signature authority.
7. **PCI Compliance.** Contractor agrees to comply with PCI DSS (Payment Card Industry Data Security Standard). As evidence of compliance, Contractor shall provide upon request a current attestation of compliance signed by a PCI QSA (Qualified Security Assessor).
8. **End of Agreement Data Handling.** Contractor agrees that upon termination of this Agreement it shall erase, destroy, and render unreadable all County data in its entirety in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities, and certify in writing that these actions have been completed within 30 days of the termination of this Agreement or within 7 days of the request of an agent of County whichever shall come first.
9. **Mandatory Disclosure of Protected Information.** If Contractor becomes compelled by law or regulation (including securities' laws) to disclose any Protected Information, Contractor will provide County with prompt written notice so that County may seek an appropriate protective order or other remedy. If a remedy acceptable to County is not obtained by the date that Contractor must comply with the request, Contractor will furnish only that portion of the Protected Information that it is legally required to furnish, and the Contractor shall require any recipient of the Protected Information to exercise commercially reasonable efforts to keep the Protected Information confidential.
10. **Remedies for Disclosure of Confidential Information.** Contractor and County acknowledge that unauthorized disclosure or use of the Protected Information may irreparably damage County in such a way that adequate compensation could not be obtained from damages in an action at law. Accordingly, the actual or threatened unauthorized disclosure or use of any Protected Information shall give County the right to seek injunctive relief restraining such unauthorized disclosure or use, in addition to any other remedy otherwise available (including reasonable attorneys' fees). Contractor hereby waives the posting of a bond with respect to any action for injunctive relief. Contractor further grants County the right, but not the obligation, to enforce these provisions in Contractor's name against any of Contractor's employees, officers, board members, owners, representatives, agents, contractors, and subcontractors violating the above provisions.
11. **Non-Disclosure.** Contractor is permitted to disclose Confidential Information to its employees, authorized subcontractors, agents, consultants and auditors on a need-to-know basis only, provided that all such subcontractors, agents, consultants and auditors have written confidentiality obligations to both Contractor and County.
12. **Criminal Background Check.** County shall perform criminal background checks on all talent assigned to this project before a person is allowed to work on any of the County's Criminal Justice Information System (CJIS) protected data, software systems or facilities.
13. **Survival.** The confidentiality obligations shall survive termination of any agreement with Contractor for a period of ten (10) years or for so long as the information remains confidential, whichever is longer and will inure to the benefit of County.

EXHIBIT D

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BA Agreement”) between County of Crook (County) and Contractor is adopted to ensure that Contractor will appropriately safeguard protected health information (“PHI”) that is created, received, maintained, or transmitted on behalf of County in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended (“HIPAA”), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the “HITECH Act”).

A. General Provisions

1. **Meaning of Terms.** The terms used in this BA Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this BA Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this BA Agreement shall be interpreted to permit compliance with HIPAA.

B. Obligations of Business Associate

Contractor agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this BA Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with Subpart C of 45 CFR Part 164 to prevent use or disclosure of PHI other than as provided for by this BA Agreement;
3. Report to County any use or disclosure of PHI not provided for by this BA Agreement of which it becomes aware, including any security incident (as defined in 45 CFR 164.304) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to County without unreasonable delay but in no case later than 60 days after discovery of the breach;
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Contractor agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such information;
5. Make available PHI in a designated record set to County as necessary to satisfy County’s obligation under 45 CFR 164.524 in no more than 30 days of a request;
6. Make any amendment(s) to PHI in a designated record set as directed by County, or take other measures necessary to satisfy County’s obligations under 45 CFR §164.526 in no more than 30 days of a request;
7. Maintain and make available information required to provide an accounting of disclosures to County or an individual who has a right to an accounting within 60 days and as necessary to satisfy County’s obligations under 45 CFR §164.528;
8. To the extent that Contractor is to carry out any of County’s obligations under Subpart E of 45 CFR Part 164, Contractor shall comply with the requirements of Subpart E of 45 CFR Part 164 that apply to County when it carries out that obligation;

9. Make its internal practices, books, and records available to the Secretary of the Department of Health and Human Services for purposes of determining compliance with the HIPAA rules;
10. County shall notify Contractor of any restriction on the use or disclosure of PHI that County has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Contractor's use or disclosure of PHI; and
11. If County is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Contractor agrees to assist County in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of County's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of County agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting County of any red flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to County of any threat of identity theft as a result of the incident.
12. If Contractor is part of a larger organization, Contractor will implement policies and procedures to protect PHI from unauthorized access by the larger organization.

C. Permitted Uses and Disclosures by Business Associate

The specific uses and disclosures of PHI that may be made by Contractor on behalf of County are limited to:

1. The review of patient care information in the course of Contractor conducting risk and compliance assessment activities, or providing County with a Control Activity Gap Analysis, or the review of PHI and other information necessary to assist County in developing its HIPAA compliance program; and
2. Other uses or disclosures of PHI as permitted by the HIPAA rules as necessary to perform the services set forth in the Agreement.
3. Uses or disclosures of protected health information as required by law.

D. Termination

1. County may terminate this Agreement if County determines that Contractor has violated a material term of the BA Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this BA Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement, if feasible.
3. Upon termination of this Agreement for any reason, Contractor shall return to County or destroy all PHI received from County, or created, maintained, or received by Contractor on behalf of County that Contractor still maintains in any form. Contractor shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this BA Agreement will extend to such PHI.
4. The obligations under section D are perpetual and shall survive termination of this Agreement.

Attachment 3 – Acknowledgement of Insurance Requirements

Contractor shall at all times maintain in force at Contractor's expense, each insurance noted below. Insurance coverage must apply on a primary or non-contributory basis. All insurance policies, except Professional Liability, shall be written on an occurrence basis and be in effect for the term of the contract. Policies written on a "claims made" basis must be approved and authorized by Crook County.

Workers Compensation insurance in compliance with ORS 656.017, requiring contractor and all subcontractors to provide workers' compensation coverage for all subject workers, or provide certification of exempt status. Worker's Compensation Insurance to cover claims made under Worker's Compensation, disability benefit or any other employee benefit laws, including statutory limits in any state of operation with Coverage B Employer's Liability coverage all at the statutory limits. In the absence of statutory limits, the limits of said Employers Liability coverage shall be not less than \$500,000 each accident, disease, and each employee. This insurance must be endorsed with a waiver of subrogation endorsement, waiving the insured's right of subrogation against County.

Professional Liability insurance with an occurrence combined single limit of not less than:

Per Occurrence limit:	Annual Aggregate limit
\$1,000,000	\$2,000,000

Professional Liability insurance covers damages caused by error, omission, or negligent acts related to professional services provided under the contract. The policy must provide extended reporting period coverage, sometimes referred to as "tail coverage" for claims made within two years after the contract work is completed. **Required by County**

Commercial General Liability insurance with a combined single limit of not less than:

Per Single Claimant and Incident	All Claimants Arising from Single Incident
\$1,000,000	\$2,000,000

Commercial General Liability insurance includes coverage for personal injury, bodily injury, advertising injury, property damage, premises, operations, products, completed operations and contractual liability. The insurance coverages provided for herein must be endorsed as primary and non-contributory to any insurance of County, its officers, employees, or agents. Each such policy obtained by contractor shall provide that the insurer shall defend any suit against the named insured and the additional insureds, their officers, agents, or employees, even if such suit is frivolous or fraudulent. Such insurance shall provide County with the right, but not the obligation, to engage its own attorney for the purpose of defending any legal action against County, its officers, agents, or employees, and that contractor shall indemnify County for costs and expenses, including reasonable attorneys' fees, incurred or arising out of the defense of such action. The policy shall be endorsed to name Crook County, and its officers, agents, employees, and volunteers as an additional insured. The additional insured endorsement shall not include declarations that reduce any per occurrence or aggregate insurance limit. The contractor shall provide additional coverage based on any outstanding claim(s) made against policy limits to ensure that minimum insurance limits required by the County are maintained. Construction contracts may include aggregate limits that apply on a "per location" or "per project" basis. The additional insurance protection shall extend equal protection to County as to contractor or subcontractors and shall not be limited to vicarious liability only or any similar limitation. To the extent any aspect of this Paragraph shall be deemed unenforceable,

then the additional insurance protection to County shall be narrowed to the maximum amount of protection allowed by law. **Required by County**

Automobile Liability insurance with a combined single limit of not less than:

Per Occurrence \$1,000,000

Automobile Liability insurance includes coverage for bodily injury and property damage resulting from operation of a motor vehicle. Commercial Automobile Liability Insurance shall provide coverage for any motor vehicle (symbol 1 on some insurance certificates) driven by or on behalf of Contractor during the course of providing services under this contract.

Commercial Automobile Liability is required for contractors that own business vehicles registered to the business. Examples include: plumbers, electricians, or construction contractors. An Example of an acceptable personal automobile policy is a contractor who is a sole proprietor that does not own vehicles registered to the business. **Required by County**

Additional Requirements. Contractor shall pay all deductibles and self-insured retentions. A cross-liability clause or separation of insured's condition must be included in all commercial general liability policies required by the contract. Contractor's coverage will be primary in the event of loss.

Certificate of Insurance Required. Contractor shall furnish a current Certificate of Insurance to the County with the signed contract. Contractor shall notify the County in writing at least thirty (30) days in advance of any cancellation, termination, material change, or reduction of limits of the insurance coverage. The Certificate shall also state the deductible or, if applicable, the self-insured retention level. Contractor shall be responsible for any deductible or self-insured retention.

I certify that I acknowledge the above insurance information as a requirement to enter into a contract with Crook County. I also certify that I carry the required insurance limits as stated in this Exhibit or can, if selected as a result of this RFP, obtain the required insurance and provide proof of the required insurance certificates prior to signature and execution of the contract.

Signature: _____

Date: _____

Printed Name and Title: _____

Attachment 4 – Oregon Judicial Department Court-Connected Mediator Qualification Rules

In the Matter of the Adoption of Oregon
Judicial Department Court-Connected
Mediator Qualifications Rules, Effective
August 1, 2005

) CHIEF JUSTICE ORDER
) No. 05-028
)
) ORDER TO ADOPT OJD COURT-
) CONNECTED MEDIATOR
) QUALIFICATIONS RULES

Pursuant to ORS 1.002 and 36.200, it is ordered that the rules concerning court-connected mediator qualifications, as shown in Attachment A, are adopted and are effective August 1, 2005.

These rules shall be known as the OJD Court-Connected Mediator Qualifications Rules.

Dated this 28th day of July, 2005



Wallace P. Carson, Jr.
Chief Justice

Oregon Judicial Department Court-Connected Mediator Qualifications Rules

**Effective
August 1, 2005**



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OREGON JUDICIAL DEPARTMENT COURT-CONNECTED MEDIATOR QUALIFICATIONS RULES

PREFACE

Historical Background:

Court-Connected Mediator Qualifications were first adopted by the Oregon Dispute Resolution Commission (ODRC) between 1992 and 1998. In October 2003, the legislature abolished the ODRC and transferred responsibility for establishing such rules on qualifications to the Oregon Judicial Department (OJD). At that time, Chief Justice Wallace P. Carson, Jr., adopted a version of these rules as Uniform Trial Court Rules Chapter 12.

Prior to its abolition, the ODRC had begun a process of reviewing and revising the substance of these qualifications. Upon receiving the responsibility for these rules, the OJD convened the Court-Connected Mediator Qualifications Advisory Committee to continue the work begun by the ODRC. The committee included representatives from each of the kinds of court-connected mediation, as well as advocates for users of mediation.

The committee included mediation coordinators from urban and rural trial courts; domestic relations mediators from county-based agencies and independent contractor panels; private mediators; mediation trainers; and representatives of the Oregon Association of Community Dispute Resolution Centers, Oregon Association of Family Court Services, Oregon Department of Justice, Oregon Mediation Association, Oregon State Bar Alternative Dispute Resolution Section Executive Committee, Oregon State Bar Family Law Section Executive Committee, State Family Law Advisory Committee, and University of Oregon Law School Office for Dispute Resolution.

During the development of this proposal, public comment was solicited through a variety of channels, including all of the groups represented above plus trial court administrators, Oregon State Bar Litigation Section Executive Committee, Oregon Trial Lawyers Association, and Oregon Association of Defense Counsel.

After consideration of comments received, the Chief Justice decided to remove these rules from under the structure of the Uniform Trial Court Rules (UTCRC) and issue them as a separate policy. Final rules were adopted by Chief Justice Order effective on August 1, 2005. These rules are not part of the UTCRC and are not subject to the UTCRC process.

Process for Revision:

The rules will be updated as necessary. Questions or comments can be submitted at any time to:

Statewide Appropriate Dispute Resolution Analyst
Supreme Court Building
1163 State Street
Salem, OR 97301-2563
503.986.4539
ojd.adr@ojd.state.or.us

TABLE OF CONTENTS

1: General Requirements for All Court-Connected Mediators	1
1.1 Applicability	1
1.2 Definitions	1
1.3 Determining Authority, Determining Mediator Qualifications, Other Responsibilities and Authority	2
1.4 Mediator Ethics	4
1.5 Providing and Maintaining Publicly Available Information	4
2: Qualifications for Court-Connected Mediators by Case Type	5
2.1 Qualification as an Approved General Civil Mediator, Ongoing Obligations	5
2.2 Qualification as an Approved Domestic Relations Custody and Parenting Mediator, Ongoing Obligations	6
2.3 Qualification as an Approved Domestic Relations Financial Mediator, Ongoing Obligations	8
3: Components of Qualifications for Court-Connected Mediators	9
3.1 Independent Qualification Review	9
3.2 Basic Mediation Curriculum	10
3.3 Domestic Relations Custody and Parenting Mediation Curriculum	11
3.4 Domestic Relations Financial Mediation Training	12
3.5 Court-System Training	12
3.6 Continuing Education Requirements	13
Appendix A	
Court-Connected Mediator Information for Public Dissemination	16

**OREGON JUDICIAL DEPARTMENT
COURT-CONNECTED MEDIATOR QUALIFICATIONS RULES**

1: GENERAL REQUIREMENTS FOR ALL COURT-CONNECTED MEDIATORS

SECTION 1.1 APPLICABILITY

Sections 1.1 to 3.6 of these rules:

- (1) Establish minimum qualifications, obligations, and mediator disclosures, including education, training, experience, and conduct requirements, applicable to:
 - (a) General civil mediators as provided by ORS 36.200(1).
 - (b) Domestic relations custody and parenting mediators as provided by ORS 107.775(2).
 - (c) Domestic relations financial mediators as provided by ORS 107.755(4).
- (2) Provide that a mediator approved to provide one type of mediation may not mediate another type of case unless the mediator is also approved for the other type of mediation.
- (3) Do not:
 - (a) In any way alter the requirements pertaining to personnel who perform conciliation services under ORS 107.510 to 107.610.
 - (b) Allow mediation of proceedings under ORS 30.866, 107.700 to 107.732, 124.005 to 124.040, or 163.738, as provided in ORS 107.755(2).
 - (c) In any way establish any requirements for compensation of mediators.
 - (d) Limit in any way the ability of mediators or qualified supervisors to be compensated for their services.

SECTION 1.2 DEFINITIONS

As used in these rules:

- (1) “Approved mediator” means a mediator who a circuit court or judicial district of this state officially recognizes and shows by appropriate official documentation as being approved within that court or judicial district as a general civil mediator, domestic relations custody and parenting mediator, or domestic relations financial mediator for purposes of the one or more mediation programs operated under the auspices of that court or judicial district that is subject to Section 1.1.
- (2) “Basic mediation curriculum” means the curriculum set out in Section 3.2.
- (3) “Continuing education requirements” means the requirements set out in Section 3.6.

- (4) "Court-system training" means a curriculum or combination of courses set out in Section 3.5.
- (5) "Determining authority" means an entity that acts under Section 1.3 concerning qualification to be an approved mediator.
- (6) "Domestic relations custody and parenting mediation curriculum" means the curriculum set out in Section 3.3.
- (7) "Domestic relations custody and parenting mediation supervisor" means a person who is qualified at the level described in Section 2.2.
- (8) "Domestic relations custody and parenting mediator" means a mediator for domestic relations, custody, parenting time, or parenting plan matters in circuit court under ORS 107.755 who meets qualifications under Section 2.2 as required by ORS 107.775(2).
- (9) "Domestic relations financial mediation supervisor" means a person who is qualified at the level described in Section 2.3.
- (10) "Domestic relations financial mediation training" means a curriculum or combination of courses set out in Section 3.4.
- (11) "Domestic relations financial mediator" means a mediator for domestic relations financial matters in circuit court under ORS 107.755 who meets qualifications under Section 2.3 as required by ORS 107.755(4).
- (12) "General civil mediator" means a mediator for civil matters in circuit court under ORS 36.185 to 36.210, including small claims and forcible entry and detainer cases, who meets qualifications under Section 2.1 as required by ORS 36.200(1).
- (13) "General civil mediation supervisor" means a person who is qualified at the level described in Section 2.1.
- (14) "Independent qualification review" means the process described in Section 3.1.
- (15) "Mediation" is defined at ORS 36.110.

SECTION 1.3 DETERMINING AUTHORITY, DETERMINING MEDIATOR QUALIFICATIONS, OTHER RESPONSIBILITIES AND AUTHORITY

- (1) The determining authority:
 - (a) Is the entity within a judicial district with authority to determine whether applicants to become an approved mediator for courts within the judicial district meet the qualifications as described in these rules and whether approved mediators meet any continuing qualifications or obligations required by these rules.
 - (b) Is the presiding judge of the judicial district unless the presiding judge has delegated the authority to be the determining authority as provided or allowed by statute. Delegation under this paragraph may be made to an entity chosen by the presiding

judge to establish a mediation program as allowed by law or statute. A delegation must be in writing and, if it places any limitations on the presiding judge's ultimate authority to review and change decisions made by the delegatee, must be approved by the State Court Administrator before the delegation can be made.

- (2) Authority over qualifications. Subject to the following, a determining authority, for good cause, may allow appropriate substitutions, or obtain waiver, for any of the minimum qualifications for an approved mediator.
 - (a) Except as provided in paragraph (b) of this subsection, a determining authority that allows a substitution must, as a condition of approval, require the applicant to commit to a written plan to meet the minimum qualifications within a specified reasonable period of time. A determining authority that is not a presiding judge must notify the presiding judge of substitutions allowed under this subsection.
 - (b) For good cause, a determining authority, other than the presiding judge for the judicial district, may petition the presiding judge for a waiver of specific minimum qualification requirements for a specific person to be an approved mediator. A presiding judge may waive any of the qualifications to be an approved mediator in an individual case with the approval of the State Court Administrator.
- (3) The determining authority may revoke a mediator's approved status at his or her discretion, including in the event that the mediator no longer meets the requirements set forth in these rules.
- (4) The determining authority may authorize the use of an evaluation to be completed by the parties, for the purpose of monitoring program and mediator performance.
- (5) In those judicial districts where a mediator is assigned to a case by the court, or where mediators are assigned to a case by a program sponsored or authorized by the court, the determining authority shall assure that parties to a mediation have access to information on:
 - (a) How mediators are assigned to cases.
 - (b) The nature of the mediator's affiliation with the court.
 - (c) The process, if any, that a party can use to comment on, or object to the assignment or performance of a mediator.
- (6) The minimum qualifications of these rules have been met by an individual who is an approved mediator at the time these rules become effective if the individual has met the minimum requirements of the Uniform Trial Court Rules in effect prior to August 1, 2005.
- (7) The State Court Administrator may approve the successful completion of a standardized performance-based evaluation to substitute for formal degree requirements under Sections 2.2 or 2.3 upon determining an appropriate evaluation process has been developed and can be used at reasonable costs and with reasonable efficiency.

SECTION 1.4 MEDIATOR ETHICS

An approved mediator, when mediating under ORS 36.185 to 36.210 or 107.755 to 107.795, is required to:

- (1) Disclose to the determining authority and the participants at least one of the relevant codes of mediator ethics, standards, principles, and disciplinary rules of the mediator's relevant memberships, licenses, or certifications. It is not the court's responsibility to enforce any relevant codes of mediator ethics, standards, principles, and/or rules;
- (2) Comply with relevant laws relating to confidentiality, inadmissibility, and nondiscoverability of mediation communications including, but not limited to, ORS 36.220, 36.222, and 107.785; and
- (3) Inform the participants prior to or at the commencement of the mediation of each of the following:
 - (a) The nature of mediation, the role and style of the mediator, and the process that will be used;
 - (b) The extent to which participation in mediation is voluntary and the ability of the participants and the mediator to suspend or terminate the mediation;
 - (c) The commitment of the participants to participate fully and to negotiate in good faith;
 - (d) The extent to which disclosures in mediation are confidential, including during private caucuses;
 - (e) Any potential conflicts of interest that the mediator may have, i.e., any circumstances or relationships that may raise a question as to the mediator's impartiality and fairness;
 - (f) The need for the informed consent of the participants to any decisions;
 - (g) The right of the parties to seek independent legal counsel, including review of the proposed mediation agreement before execution;
 - (h) In appropriate cases, the advisability of proceeding with mediation under the circumstances of the particular dispute;
 - (i) The availability of public information about the mediator pursuant to Section 1.5; and
 - (j) If applicable, the nature and extent to which the mediator is being supervised.

SECTION 1.5 PROVIDING AND MAINTAINING PUBLICLY AVAILABLE INFORMATION

- (1) Information for court use and public dissemination: All approved mediators must provide the information required to the determining authority of each court at which the mediator is an approved mediator. Reports must be made using the form located in Appendix A of these rules, or any substantially similar form authorized by the determining authority.

- (2) All approved mediators must update the information provided in Section 1.5 at least once every two calendar years.
- (3) The information provided in Section 1.5 must be made available to all mediation parties and participants upon request.

2: QUALIFICATIONS FOR COURT-CONNECTED MEDIATORS BY CASE TYPE

SECTION 2.1 QUALIFICATION AS AN APPROVED GENERAL CIVIL MEDIATOR, ONGOING OBLIGATIONS

To become an approved general civil mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements as described:

- (1) Training. An applicant must have completed training, including all the following:
 - (a) The basic mediation curriculum described in Section 3.2, or substantially similar training; and
 - (b) Court-system training in Section 3.5, or substantially similar training or education.
- (2) Experience. An applicant must have:
 - (a) Observed three actual mediations; and
 - (b) Participated as a mediator or co-mediator in at least three cases that have been or will be filed in court, observed by a person qualified as a general civil mediation supervisor under this section and performing to the supervisor's satisfaction.
- (3) Continuing Education.
 - (a) During the first two calendar years beginning January 1 of the year after the mediator's approval by the determining authority, general civil mediators must complete at least 12 hours of continuing education as follows:
 - (i) If the approved mediator's basic mediation training was 36 hours or more, 12 hours of continuing education as described in Section 3.6.
 - (ii) If the approved mediator's basic mediation training was between 30 and 36 hours, then one additional hour of continuing education for every hour of training fewer than 36 (i.e., if basic mediation training was 30 hours, then 18 hours of continuing education; if the basic mediation training was 32 hours, then 16 hours of continuing education).
 - (b) Thereafter, as an ongoing obligation, an approved general civil mediator must complete 12 hours of continuing education requirements every two calendar years as described in Section 3.6.

- (4) Conduct. An applicant and, as an ongoing obligation, an approved general civil mediator must subscribe to the mediator ethics in Section 1.4.
- (5) Public information. An applicant and, as an ongoing obligation, an approved general civil mediator must comply with requirements to provide and maintain information as provided in Section 1.5.
- (6) Supervision. A qualified general civil mediation supervisor is an individual who has:
 - (a) Met the qualifications of a general civil mediator as defined in this section, and
 - (b) Mediated at least 35 cases to conclusion or completed at least 350 hours of mediation experience beyond the experience required of an approved general civil mediator in this section.

SECTION 2.2 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations custody and parenting mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements as described.

- (1) Education. An applicant must possess at least one of the following:
 - (a) A master's or doctoral degree in counseling, psychiatry, psychology, social work, marriage and family therapy, or mental health from an accredited college or university.
 - (b) A law degree from an accredited law school with course work and/or Continuing Legal Education credits in family law.
 - (c) A master's or doctoral degree in a subject relating to children and family dynamics, education, communication, or conflict resolution from an accredited college or university, with coursework in human behavior, plus at least one year full-time equivalent post-degree experience in providing social work, mental health, or conflict resolution services to families.
 - (d) A bachelor's degree in a behavioral science related to family relationships, child development, or conflict resolution, with coursework in a behavioral science, and at least seven years full-time equivalent post-bachelor's experience in providing social work, mental health, or conflict resolution services to families.
- (2) Training. An applicant must have completed training in each of the following areas:
 - (a) The basic mediation curriculum in Section 3.2;
 - (b) The domestic relations custody and parenting mediation curriculum in Section 3.3; and
 - (c) Court-system training in Section 3.5, or substantially similar training.

- (3) Experience. An applicant must have completed one of the following types of experience:
- (a) Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or comediated with a person qualified as a domestic relations custody and parenting mediation supervisor under this section. At least ten cases and 50 hours of the supervised cases in this paragraph must be in domestic relations custody and parenting mediation. At least three of the domestic relations custody and parenting mediation cases must have direct observation by the qualified supervisor; or
 - (b) At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:
 - (i) Participated as a mediator or comediator in a total of at least ten cases including a total of at least 50 hours of domestic relations custody and parenting mediation, and
 - (ii) An understanding of court-connected domestic relations programs.
- (4) Continuing education. As an ongoing obligation, an approved domestic relations custody and parenting mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in Section 3.6.
- (5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting mediator must subscribe to the mediator ethics in Section 1.4.
- (6) Public information. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting mediator must comply with requirements to provide and maintain information in Section 1.5.
- (7) Supervision. A qualified domestic relations custody and parenting mediation supervisor is an individual who has:
- (a) Met the qualifications of a domestic relations custody and parenting mediator as defined in Section 2.2,
 - (b) Completed at least 35 cases including a total of at least 350 hours of domestic relations custody and parenting mediation beyond the experience required of a domestic relations custody and parenting mediator in this section, and
 - (c) An understanding of court-connected domestic relations programs.

SECTION 2.3 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS FINANCIAL MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations financial mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet all ongoing requirements as described.

- (1) Education. An applicant must meet the education requirements under Section 2.2 applicable to an applicant to be approved as a domestic relations custody and parenting mediator.
- (2) Training. An applicant must have completed training in each of the following areas:
 - (a) The basic mediation curriculum in Section 3.2;
 - (b) The domestic relations custody and parenting mediation curriculum in Section 3.3;
 - (c) Domestic relations financial mediation training in Section 3.4; and
 - (d) Court-system training in Section 3.5, or substantially similar training.
- (3) Experience. An applicant must have completed one of the following types of experience:
 - (a) Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or comediated with a person qualified as a domestic relations financial mediation supervisor under this section. At least ten cases and 50 hours of the supervised cases in this paragraph must be in domestic relations financial mediation. At least three of the domestic relations financial mediation cases must have direct observation by the qualified supervisor; or
 - (b) At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:
 - (i) Participated as a mediator or comediator in a total of at least ten cases including a total of at least 50 hours of domestic relations financial mediation, and
 - (ii) An understanding of court-connected domestic relations programs.
- (4) Continuing education. As an ongoing obligation, an approved domestic relations financial mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in Section 3.6.
- (5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must subscribe to the mediator ethics in Section 1.4.

- (6) Public information. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must comply with requirements to provide and maintain current information in Section 1.5.
- (7) Insurance. As an ongoing obligation, an approved domestic relations financial mediator shall have in effect at all times the greater of:
 - (a) \$100,000 in malpractice insurance or self-insurance with comparable coverage; or
 - (b) Such greater amount of coverage as the determining authority requires.
- (8) Supervision. A qualified domestic relations financial mediation supervisor is an individual who has:
 - (a) Met the qualifications of a domestic relations financial mediator as defined in this section,
 - (b) Completed at least 35 domestic relations cases including a total of at least 350 hours of domestic relations financial mediation beyond the experience required in this section, and
 - (c) Malpractice insurance coverage for the supervisory role in force.

3: COMPONENTS OF QUALIFICATIONS FOR COURT-CONNECTED MEDIATORS

SECTION 3.1 INDEPENDENT QUALIFICATION REVIEW

- (1) In programs where domestic relations financial mediators are independent contractors, the determining authority must appoint a panel consisting of at least:
 - (a) A representative of the determining authority;
 - (b) A domestic relations financial mediator; and
 - (c) An attorney who practices domestic relations law locally.
- (2) The panel shall interview each applicant to be an approved domestic relations financial mediator solely to determine whether the applicant meets the requirements for being approved or whether it is appropriate to substitute or waive some minimum qualifications. The review panel shall report its recommendation to the determining authority in writing.
- (3) Nothing in this section affects the authority under Section 1.3 to make sole and final determinations about whether an applicant has fulfilled the requirements to be approved or whether an application for substitution should be granted.

SECTION 3.2 BASIC MEDIATION CURRICULUM

The basic mediation curriculum is a single curriculum that is designed to integrate the elements in this section consistent with any guidelines promulgated by the State Court Administrator. The basic mediation curriculum shall:

- (1) Be at least 30 hours, or substantially similar training or education.
- (2) Include training techniques that closely simulate the interactions that occur in a mediation and that provide effective feedback to trainees, including, but not be limited to, at least six hours participation by each trainee in role plays with trainer feedback to the trainee and trainee self-assessment.
- (3) Include instruction to help the trainee:
 - (a) Gain an understanding of conflict resolution and mediation theory,
 - (b) Effectively prepare for mediation,
 - (c) Create a safe and comfortable environment for the mediation,
 - (d) Facilitate effective communication between the parties and between the mediator and the parties,
 - (e) Use techniques that help the parties solve problems and seek agreement,
 - (f) Conduct the mediation in a fair and impartial manner,
 - (g) Understand mediator confidentiality and ethical standards for mediator conduct adopted by Oregon and national organizations, and
 - (h) Conclude a mediation and memorialize understandings and agreements.
- (4) Be conducted by a lead trainer who has:
 - (a) The qualifications of a general civil mediator as defined in Section 2.1, except the requirement in Section 2.1(1)(a) to have completed the basic mediation curriculum;
 - (b) Mediated at least 35 cases to conclusion or completed at least 350 hours of mediation experience beyond the experience required of a general civil mediator in Section 2.1; and either
 - (c) Served as a trainer or an assistant trainer for the basic mediation curriculum outlined in this section at least three times; or

- (d) Have experience in adult education and mediation as follows:
 - (i) Served as a teacher for at least 1000 hours of accredited education or training for adults, and
 - (ii) Completed the basic mediation curriculum outlined under this section.

SECTION 3.3 DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATION CURRICULUM

The domestic relations custody and parenting mediation curriculum shall:

- (1) Include at least 40 hours in a domestic relations custody and parenting mediation curriculum consistent with any guidelines promulgated by the State Court Administrator.
- (2) Include multiple learning methods and training techniques that closely simulate the interactions that occur in a mediation and that provide effective feedback to trainees.
- (3) Provide instruction with the goal of creating competency sufficient for initial practice as a family mediator and must include the following topics:
 - (a) General Family Mediation Knowledge and Skills;
 - (b) Knowledge and Skill with Families and Children;
 - (c) Adaptations and Modifications for Special Case Concerns; and
 - (d) Specific Family, Divorce, and Parenting Information.
- (4) Be conducted by a lead trainer who has all of the following:
 - (a) The qualifications of a domestic relations custody and parenting mediator as defined in Section 2.2,
 - (b) Completed at least 35 cases including a total of at least 350 hours of domestic relations custody and parenting mediation beyond the experience required of a domestic relations custody and parenting mediator in Section 2.2,
 - (c) Served as a mediation trainer or an assistant mediation trainer for the domestic relations custody and parenting mediation curriculum outlined in this section at least three times, and
 - (d) An understanding of court-connected domestic relations programs.

SECTION 3.4 DOMESTIC RELATIONS FINANCIAL MEDIATION TRAINING

- (1) Domestic relations financial mediation training shall include at least 40 hours of training or education that covers the topics relevant to the financial issues the mediator will be mediating, including:
 - (a) Legal and financial issues in separation, divorce, and family reorganization in Oregon, including property division, asset valuation, public benefits law, domestic relations income tax law, child and spousal support, and joint and several liability for family debt;
 - (b) Basics of corporate and partnership law, retirement interests, personal bankruptcy, ethics (including unauthorized practice of law), drafting, and legal process (including disclosure problems); and
 - (c) The needs of self-represented parties, the desirability of review by independent counsel, recognizing the finality of a judgment, and methods to carry out the parties' agreement.
- (2) Of the training required in subsection (1) of this section:
 - (a) Twenty-four of the hours must be in an integrated training (a training designed as a single cohesive curriculum that may be delivered over time).
 - (b) Six hours must be in three role plays in financial mediation with trainer feedback to the trainee.
 - (c) Fifteen hours must be in training accredited by the Oregon State Bar.

SECTION 3.5 COURT-SYSTEM TRAINING

When court-system training under this section is required, the training shall include, but not be limited to:

- (1) At least six hours including, but not limited to, the following subject areas:
 - (a) Instruction on the court system including, but not limited to:
 - (i) Basic legal vocabulary;
 - (ii) How to read a court file;
 - (iii) Confidentiality and disclosure;
 - (iv) Availability of jury trials;
 - (v) Burdens of proof;
 - (vii) Basic trial procedure;

- (viii) The effect of a mediated agreement on the case including, but not limited to, finality, appeal rights, remedies, and enforceability;
 - (ix) Agreement writing;
 - (x) Working with interpreters; and
 - (xi) Obligations under the Americans with Disabilities Act.
- (b) Information on the range of available administrative and other dispute resolution processes.
 - (c) Information on the process that will be used to resolve the dispute if no agreement is reached, such as judicial or administrative adjudication or arbitration, including entitlement to jury trial and appeal, where applicable.
 - (d) How the legal information described in this subsection is appropriately used by a mediator in mediation, including avoidance of the unauthorized practice of law.
- (2) For mediators working in contexts other than small claims court, at least two additional hours including, but not limited to, all of the following:
- (a) Working with represented and unrepresented parties, including:
 - (i) The role of litigants' lawyers in the mediation process;
 - (ii) Attorney-client relationships, including privileges;
 - (iii) Working with lawyers, including understanding of Oregon State Bar disciplinary rules; and
 - (iii) Attorney fee issues.
 - (b) Understanding motions, discovery, and other court rules and procedures;
 - (c) Basic rules of evidence; and
 - (d) Basic rules of contract and tort law.

SECTION 3.6 CONTINUING EDUCATION REQUIREMENTS

- (1) Of the continuing education hours required of approved mediators every two calendar years:
- (a) If the mediator is an approved general civil mediator:
 - (i) One hour must relate to confidentiality,
 - (ii) One hour must relate to mediator ethics, and

- (iii) Six hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation.
- (b) If the mediator is an approved domestic relations custody and parenting or domestic relations financial mediator:
 - (i) Two hours must relate to confidentiality;
 - (ii) Two hours must relate to mediator ethics;
 - (iii) Twelve hours must be on the subject of either custody and parenting issues or financial issues, respectively;
 - (iv) Twelve hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation; and
 - (v) The hours required in subparagraphs (i) and (ii) can be met in the hours required in subparagraph (iii) if confidentiality or mediator ethics is covered in the context of domestic relations.
- (2) Continuing education topics may include, but are not limited to, the following examples:
 - (a) Those topics outlined in Sections 3.2, 3.3, and 3.4;
 - (b) Practical skills-based training in mediation or facilitation;
 - (c) Court processes;
 - (d) Confidentiality laws and rules;
 - (e) Changes in the subject matter areas of law in which the mediator practices;
 - (f) Mediation ethics;
 - (g) Domestic violence;
 - (h) Sexual assault;
 - (i) Child abuse and elder abuse;
 - (j) Gender, ethnic, and cultural diversity;
 - (k) Psychology and psychopathology;
 - (l) Organizational development;
 - (m) Communication;
 - (n) Crisis intervention;

- (o) Program administration and service delivery;
 - (p) Practices and procedures of state and local social service agencies; and
 - (q) Safety issues for mediators.
- (3) Continuing education shall be conducted by an individual or group qualified by practical or academic experience. For purposes of this section, an hour is defined as 60 minutes of instructional time or activity and may be completed in a variety of formats, including but not limited to:
- (a) Attendance at a live lecture or seminar;
 - (b) Attendance at an audio or video playback of a lecture or seminar with a group where the group discusses the materials presented;
 - (c) Listening or viewing audio, video, or internet presentations;
 - (d) Receiving supervision as part of a training mentorship;
 - (e) Formally debriefing mediation cases with mediator supervisors and colleagues following the mediation;
 - (f) Lecturing or teaching in qualified continuing education courses; and
 - (g) Reading, authoring, or editing written materials submitted for publication that have significant intellectual or practical content directly related to the practice of mediation.
- (4) Continuing education classes should enhance the participant's competence as a mediator and provide opportunities for mediators to expand upon existing skills and explore new areas of practice or interest. To the extent that the mediator's prior training and experience do not include the topics listed above, the mediator should emphasize those listed areas relevant to the mediator's practice.
- (5) Where applicable, continuing education topics should be coordinated with, reported to, and approved by the determining authority of each court at which the mediator is an approved mediator and reported at least every two calendar years via the electronic Court-Connected Mediator Continuing Education Credit Form available on the Oregon Judicial Department's web page or other reporting form authorized by the appropriate determining authority.

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7/27/05

Appendix A
Court-Connected Mediator Information for Public Dissemination

Name of Mediator:	
Business or Program Name (if applicable):	
Business or Program Contact Information below (as applicable)	
Mailing Address:	
Telephone Number:	Fax Number:
E-Mail Address:	

Description of mediation training: _____

Description of other relevant education: _____

If you are a domestic relations mediator, description of formal education: _____

Description of mediation experience, including type and approximate number of cases mediated: _____

Relevant organizations with which the mediator is affiliated: _____

Description of other relevant experience: _____

Description of fees (if applicable): _____

Description of relevant codes of ethics to which the mediator subscribes: _____

I hereby certify that the above is true and accurate.

(Name)

(Date)