

BRADLEY C. BERRY
DISTRICT ATTORNEY

MARGARET (PEGGY) SNOW
DEPUTY DISTRICT ATTORNEY
SUPPORT ENFORCEMENT

ALICIA KAY EAGAN
DEPUTY DISTRICT ATTORNEY

LISL E. MILLER
DEPUTY DISTRICT ATTORNEY

MEUY CHAO
DEPUTY DISTRICT ATTORNEY

KATHRYN (KATE) PETERSEN
DEPUTY DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY
FOR YAMHILL COUNTY
535 E. 5TH STREET
MCMINNVILLE, OREGON 97128
TELEPHONE (503) 434-7539
FAX: (503) 434-5760

MICHAEL VIDETICH
DEPUTY DISTRICT ATTORNEY
JUVENILE DEPARTMENT

AMANDA DRESEN
DEPUTY DISTRICT ATTORNEY

JEFF CARTER
DEPUTY DISTRICT ATTORNEY

HOLLY WINTER
DEPUTY DISTRICT ATTORNEY

ADAM SCHENKER
DEPUTY DISTRICT ATTORNEY

DEBRA BRIDGES
DIRECTOR OF VICTIM SERVICES

March 9, 2015

To: Yamhill County Board of Commissioners
CC: Laura Tschabold
From: Bradley C. Berry, District Attorney
Re: DOJ-AG/DA Contract

You are being asked to approve a continuing agreement between the Attorney General and the Yamhill County District Attorney. The contract has been in place for over 6 years and provides partial funding for the services that the DA's office provides in representing DHS in juvenile dependency proceedings. By the agreement, this office handles the proceedings until the court has taken jurisdiction in dependency cases. Once jurisdiction has been established, the AG's office takes over the responsibility for the remainder of the case.

The juvenile system is divided into two primary systems, the dependency system and the delinquency system. Dependency cases involve allegations of abuse, neglect, or abandonment, of children by their parents. The "delinquency system" deals with cases where youth are alleged to have done an act that if committed by an adult would be a crime. My office handles all aspects of the latter type cases.

The funding for the dependency cases does not cover the full costs of the DHS representation, but was established by AG Hardy Myers to aid the counties in funding the cost of the representation. As I recall, the overall fund has remained at about \$2M per biennium. The amount of the contract with Yamhill County has differed depending on the number of counties participating.

The costs of the Deputy District Attorney handling these cases has been part of the juvenile department budget. The contract is between the DA and the AG, but since its inception, I have transferred the funds to the juvenile department to cover their costs. Again, this is the continuation of a long standing agreement without significant modification.

Of course, should you have any questions, please do not hesitate to let me know.

15 APR 30 P4:15

B.O. 15-73



DHS SHARED SERVICES
Office of Contracts and Procurement



John A. Kitzhaber, MD, Governor

250 Winter St NE, Room 306
Salem, OR 97301
Voice: (503) 945-5818
FAX: (503) 373-7365

DOCUMENT RETURN STATEMENT

February 13, 2015

Re: Document #: **147926**, hereinafter referred to as "Document."

Please complete the following statement and return it along with the completed signature page and the Contractor Data and Certification page and/or Contractor Tax Identification Information form (if applicable).

Important: If you have any questions or find errors in the above referenced Document, please contact the contract specialist, Shelley Tognietti at (503) 945-6431.

I Allen Springer, Chair, Board of Commissioners
(Name) (Title)

received a copy of the above referenced Document, between the State of Oregon, acting by and through the Department of Human Services, the Oregon Health Authority, and Yamhill County, by e-mail from Tami Goertzen on February 13, 2015.

On 3-19-15, I signed the electronically transmitted Document without
(Date)

change. I am returning the completed signature page and Contractor Data and Certification page and/or Contractor Tax Identification Information form (if applicable) with this Document Return Statement.

Allen Springer
(Authorizing Signature)

3-19-15
(Date)

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CONFIDENTIAL
Contractor Tax Identification Information
For Accounting Purposes Only

February 13, 2015

Yamhill County

Re: Document #: 147926

The State of Oregon requires contractors to provide their Federal Employer Identification Number (FEIN) or Social Security Number (SSN). This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(2). Social Security numbers provided pursuant to this section will be used for the administration of state, federal and local tax laws. The State of Oregon may report this information to the Internal Revenue Service (IRS). Contractors must keep this information current at all times. Contractors are required to notify the State of Oregon contract administrator within 10 business days if this information changes. The State of Oregon reserves the right to ask contractors to update this information at any time during the document term.

Business Name (tax filing): Yamhill County

Billing Address: 535 NE Fifth St.

City: McMinnville State: OR Zip: 97128

Phone: (503) 434-7539

FEIN: 93-0002318 or

SSN: _____ - _____ - _____

Please return this completed form to:

Tami Goertzen
Department of Human Services
Office of Contracts and Procurement
250 Winter St NE
Salem, OR 97301
tami.j.goertzen@state.or.us
Phone: (503) 945-6940
Fax: (503) 373-7365

Agreement Number 147926



**STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Agreement is among the State of Oregon, acting by and through its Department of Human Services through its

Child Welfare, CW-SS Operations Administration

500 Summer Street NE, E93

Salem, Oregon 97301

Agreement Administrator: Aimee Dickson

Telephone: 503 / 945-6345

Facsimile: 503 / 373-7492

E-mail address: aimee.r.dickson@state.or.us

("DHS), and

Yamhill County

Allen Springer, Commission Chair

535 NE Fifth Street

McMinnville, OR 97128

Telephone: 503 / 434-7501

E-mail address: springera@co.yamhill.or.us

("County"), and

Yamhill County District Attorney

Bradley C. Berry

535 E 5th Avenue

McMinnville, OR 97128

Telephone: 503 / 434-7539

Facsimile: 503 / 434-5760

E-mail address: berrb@co.yamhill.or.us

(the "District Attorney," or "DA,") acting pursuant to Article VII, Section 17 (original) of the Oregon Constitution.

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RECITALS

1. Pursuant to ORS Chapter 180, the Attorney General, through the Department of Justice (“DOJ”), generally advises the State and its various agencies, departments, boards, bureaus, commissions, and officers, and provides legal services to the State, without depriving the district attorneys of any of their authority; and
2. Pursuant to ORS Chapter 419B, DHS carries out the policy of the State of Oregon to protect the interests of children in Oregon who may be removed from the custody of a parent in the case of abuse, neglect, or abandonment; and
3. Pursuant to ORS 419B.875 and ORS 8.685, district attorneys may appear on behalf of the state in juvenile court in any matter within the jurisdiction of the court; and
4. To ensure consistent statewide practices related to juvenile dependency proceedings, the District Attorneys, County, DHS and DOJ began to cooperate for the expressly limited purpose of participating in court appearances and related activities in juvenile dependency proceedings that occur at any time between the filing of a dependency petition or subsequent related dependency petitions pursuant to ORS 419B.809 and the entry by a court of a dispositional order on the merits on all allegations in that petition or petitions; and
5. The District Attorney, County and DHS wish to continue to cooperate to ensure consistent statewide practice with respect to juvenile dependency proceedings as described above; and
6. The alignment of interests between District Attorneys and DHS helps ensure that the focus of juvenile dependency proceedings is on the safety, permanency and well-being of Oregon’s children, and that, where appropriate, reasonable or active efforts are made to preserve and reunify families; and
7. The Legislative Assembly appropriated funds to DHS for the 2015-2017 biennium to help support District Attorneys in every county in Oregon in their continued involvement in juvenile dependency proceedings occurring at any time between the filing of a dependency petition pursuant to ORS 419B.809 and the entry by a court of a dispositional order on the merits on all allegations in that petition;
8. The Legislative Assembly intended that its appropriation of funds will increase involvement in, improve the quality of, or otherwise assist to maintain a successful and effective juvenile dependency litigation program in every county in Oregon;

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained in this Intergovernmental Agreement (“Agreement”) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Effective Date and Duration.

This Agreement when fully executed by all parties and approved as required by applicable law shall become effective **July 1, 2015** through **June 30, 2017**, unless terminated earlier in accordance with its terms. Agreement termination or expiration shall not extinguish or prejudice any party's right to enforce this Agreement with respect to any default by another party that has not been cured.

2. Agreement Documents.

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

Exhibit A, Part 1:	Description of Work and General Requirements
Exhibit A, Part 2:	Payment and Financial Reporting
Exhibit A, Part 3:	Special Terms and Conditions
Exhibit B:	Standard Terms and Conditions
Exhibit C:	Insurance Requirements
Attachment 1	Example Claim Form

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

- b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits, Exhibits A, B, and C.
- c. For purposes of this Agreement, "Work" means specific work to be performed or services to be delivered by County and District Attorney as set forth in Exhibit A.

3. Consideration.

- a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is **\$70,260.00**. DHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.
- b. DHS will pay only for completed Work under this Agreement, and may make interim payments as follows:

Designated Funds	Effective Dates	Amount	Quarterly Payment
State General Funds	July 1, 2015 – June 30, 2017	\$70,260.00	\$8,782.50

4. Vendor or Sub-Recipient Determination.

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

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

5. County and District Attorney Data and Certification.

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

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

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

Street address: 535 NE Fifth Street

City, state, zip code: McMinnville, OR, 97128

Email address: Springera@co.yamhill.or.us

Telephone: (503) 434-7501 Facsimile: (503) 434-7553

Federal Employer Identification Number: 93-0002318

District Attorney Name (exactly as filed with the IRS):

Bradley C. Berry

Street address: 535 NE Fifth Street

City, state, zip code: McMinnville, OR 97128

Email address: berrb@co.yamhill.or.us

Telephone: (503) 434-7539 Facsimile: (503) 434-5760

Federal Employer Identification Number: 93-0002318

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

b. **Certification.** The County and District Attorney acknowledge that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the County and District Attorney and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County and District Attorney certify that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County and District Attorney further acknowledge that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County and District Attorney. Without limiting the generality of the foregoing, by signature on this Agreement, the County and District Attorney hereby certify that:

- (1) Under penalty of perjury the undersigned is authorized to act on behalf of County and District Attorney and that County and District Attorney are, to the best of the undersigned’s knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, “Oregon Tax Laws” means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620;
- (2) The information shown in this Section 5., County and District Attorney Data and Certification , is County’s and District Attorney’s true, accurate and correct information;
- (3) To the best of the undersigned’s knowledge, County and District Attorney have not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (4) County and District Attorney and County’s and District Attorney’s employees and agents are not included on the list titled “Specially Designated Nationals and Blocked Persons” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:
<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;
- (5) County and District Attorney are not listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal procurement or Non-procurement Programs” found at <https://www.sam.gov/portal/public/SAM/>; and
- (6) County and District Attorney are not subject to backup withholding because:
 - (a) County and District Attorney are exempt from backup withholding;

- (b) County and District Attorney have not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified County and District Attorney that County and District Attorney are no longer subject to backup withholding.
- c. County and District Attorney are required to provide a Federal Employer Identification Number (FEIN). By County's and District Attorney's signature on this Agreement, County and District Attorney hereby certify that the FEIN provided to DHS is true and accurate. If this information changes, County and District Attorney are also required to provide DHS with the new FEIN within 10 days.

**EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY
ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT,
AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

6. Signatures.

Yamhill County

By:

Allen Springer Chair, Board of Commissioners 3-19-15
County Executive Date

Yamhill County District Attorney

[Signature] 3-19-15
Date

State of Oregon acting by and through its Department of Human Services

By:

sandy.dugan@dhsosha.state.or.us Digitally signed by sandy.dugan@dhsosha.state.or.us
DN: cn=sandy.dugan@dhsosha.state.or.us
Date: 2015.03.24 12:56:44 -07'00'
Authorized Signature Title Date

Approved for Legal Sufficiency
Not Required per OAR 137-045-0030(1)(a)
Assistant Attorney General Date

Office of Contracts and Procurement

[Signature] 3-31-15
Contract Specialist Date

Approved As To Form
by [Signature]
Christian Boenisch
County Counsel
Yamhill County

Accepted by Yamhill County
Board of Commissioners on
3-19-15 by Board Order
15-73

6. Signatures.

Yamhill County

By:

Allen Springer Chair, Board of Commissioners 3-19-15
County Executive Date

Yamhill County District Attorney

[Signature] 3-19-15
Date

State of Oregon acting by and through its Department of Human Services

By:

Authorized Signature Title Date

Approved for Legal Sufficiency

Not Required per OAR 137-045-0030(1)(a)

Assistant Attorney General Date

Office of Contracts and Procurement

Contract Specialist Date

Approved (As To Form)
by [Signature]
Christian Boenisch
County Counsel
Yamhill County

Accepted by Yamhill County
Board of Commissioners on
3-19-15 by Board Order
15-73

EXHIBIT A
Part 1
Description of Work and General Requirements

County and District Attorney shall, to the extent that resources permit and in proportion to the State General Funding available pursuant to this Agreement, augment, improve or otherwise maintain the quality of the juvenile dependency litigation program in accordance with the following procedural and operational requirements:

1. Hearings: The District Attorney shall prepare for, and an attorney shall actively participate in the following juvenile dependency events occurring in the county at any time between the filing of any dependency petition or subsequent related petitions and entry of a disposition order on the merits on all allegations in the petition(s):
 - a. Contested shelter hearings;
 - b. Jurisdiction hearings;
 - c. Disposition hearings (whether held with or separately from the jurisdiction hearing);
 - d. Formal and informal settlement and pretrial conferences; and
 - e. Aggravated circumstances hearings.

In addition, to the extent that remaining available resources permit, the District Attorney shall ensure that an attorney prepares for and actively participates in other hearings that are contested or likely to be contested and occur at any time between the filing of any dependency petition and entry of disposition orders on the merits on all allegations in the petition(s).

2. Conduct at Hearing: The District Attorney shall:
 - a. Present the State of Oregon's case-in-chief;
 - b. Present evidence regarding DHS' "reasonable/active efforts" to prevent removal and to make it possible for the child to safely return home and present evidence regarding whether it is in the "best interest of the child" to be removed from home;
 - c. Present and examine witnesses and, when appropriate, present or object to exhibits, settlements and stipulations;
 - d. Make opening and closing statements, when appropriate, to aid the court in understanding the issues; and
 - e. Perform other actions appropriate to active participation in a hearing.
3. Hearing Preparation and Post-Hearing Work: In dependency cases, from the time the child is taken into custody through the jurisdiction and disposition hearings, the District Attorney shall perform the following functions as to juvenile dependency proceedings:
 - a. Review for legal sufficiency, as appropriate, petitions, summons, stipulated orders, and other orders and documents;

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- b. Prepare pick-up orders (warrants), if needed;
- c. Take statutorily required steps to ensure that all necessary parties are properly given notice or served and summoned to court. If necessary to accomplish this, the District Attorney shall file motions for alternative service or service by publication or other motions to ensure that proper notice has been given prior to taking a default judgment against a parent;
- d. Prepare witness lists, issue witness subpoenas and arrange for service;
- e. Prepare, as necessary, witnesses for hearing;
- f. Draft necessary motions and pleadings and ensure that proper notice is provided to all parties;
- g. Review discovery material from other parties and follow-up as necessary;
- h. Stipulate to, litigate or otherwise resolve pre-hearing motions as appropriate;
- i. Prepare stipulated orders as appropriate and ensure that proper notice is provided to all parties; and
- j. Prepare orders when requested to do so by the court or when otherwise appropriate, and ensure that proper notice is provided to all parties and the order is signed by the judge.

The District Attorney may delegate functions described above in this subsection to a non-lawyer working under the supervision of the District Attorney or at the District Attorney's direction to the extent that the function does not require the exercise of independent legal judgment.

4. Casework Procedures:

- a. Consultation: The District Attorney is authorized by DOJ to consult with DHS as described herein. Prior to and, as appropriate, during negotiations, formal or informal settlement conferences and hearings, the District Attorney shall consult with DHS and consider DHS' position on decisions about:
 - (1) The need to remove a child from the child's home or to return the child to a parent;
 - (2) The need to obtain jurisdiction pursuant to certain allegations, at any point in the dependency proceedings, in order for DHS and the court to require parents to complete services related to the allegation; and
 - (3) Whether to accept, reject, litigate or otherwise resolve any offers of settlement or compromise on individual petition allegations and on any other issues that arise in the course of the case.
- b. Differences in Position: Prior to the hearing and as soon as practically possible, if the District Attorney determines that the fundamental nature of the State of Oregon's position or recommendations on an individual case is significantly different from what DHS has indicated its position or recommendations would

be, the District Attorney shall promptly inform the local DHS District Manager or Child Welfare Program Manager of the nature and extent of the differences.

- c. **Exceptional Circumstances:** If after full and informed consultation with the DHS District Manager or Child Welfare Program Manager, the District Attorney determines that the State of Oregon's position or recommendations on an individual case remains in conflict with DHS' position or recommendations, then the District Attorney may elect not to continue to consult with or appear and present information in conjunction with DHS and may elect to appear in court only to present the State of Oregon's position or recommendations on an individual case. A related criminal case should not automatically constitute an exceptional circumstance.
- d. **Presentation of DHS Position:** If the position or recommendations to the court expressed by the District Attorney are significantly different from DHS' position or recommendations, and DOJ is not appearing in a hearing on behalf of DHS, the District Attorney shall describe the differences to the court.

5. General Requirements: The District Attorney shall:

- a. Promote timely hearings and strive to reduce case continuances;
- b. Cooperate and communicate on a regular basis with other professionals and parties in a case, including DM;
- c. Provide that all attorney staff who work on these cases fully understand and comply with all relevant federal and state laws, regulations, policies, rules and the requirements of this Agreement; and
- d. Provide that all attorney staff who perform legal work on these cases receive at least one day's training on the juvenile dependency process and legal issues arising therein each year.

6. Resources: County and District Attorney shall make sufficient resources available to enable District Attorney to meet these procedural and operational requirements. Moneys provided pursuant to this Agreement may be used by County and District Attorney only to augment, improve the quality of, or continue to maintain a juvenile dependency litigation program that meets or exceeds the goals of this Agreement. None of the additional funds paid pursuant to this Agreement may be applied to any other non-juvenile dependency expenses, including service or supply costs.

7. Allocation of costs other than personnel costs: Notwithstanding paragraph F above, the District Attorney and County may continue to assign responsibility for payment of costs, including the cost of retaining experts and serving process or subpoenas, between the District Attorney, County, and DHS as those parties may have divided such costs on or before the effective date of this Agreement.

EXHIBIT A
Part 2
Payment and Financial Reporting

State General Funds

1. Of the not to exceed amount listed in Article 3 of this Agreement, DHS will pay one-eighth of the State General Funds NTE amount at the end of each quarter, in equal installments, in accordance with requirements set forth under paragraph 3 of this Exhibit.

DHS will not pay County and District Attorney any amount in excess of the amount stated in Article IV of this Agreement for completing the Work, will not pay County or District Attorney severally and will not pay for Work performed after the termination or expiration of the Agreement. DHS also will not pay for work performed on cases where the fundamental nature of the District Attorney's position or recommendations were significantly different from DHS' position or recommendations.

2. DHS may examine invoices and audit and review the actual expenses of the County and District Attorney to ensure that the payments under this Agreement are reasonable and necessary, and to ensure that the County's and DA's expenses are in accordance with applicable federal regulations and this Agreement. If DOJ, DHS, the Oregon Secretary of State's Office or the federal government finds, from an audit and review, that the County or District Attorney has made expenditures from the funds under this Agreement for expenses that are not reasonable and necessary or are not in accordance with applicable federal regulations or this Agreement, County and District Attorney shall promptly refund the monies so expended to DHS upon request.

The County or District Attorney shall forward to DHS a certification of the work performed (form attached) and claiming the one-eighth amount at the close of each calendar quarter

3. Certifications must be sent to DHS for review and approval at the following address:

Oregon Department of Human Services

Aimee Dickson
500 Summer Street NE, 93
Salem, Oregon 97301

Questions about invoices may be made to at the above address or at juvenile.dependencyinvoices@dhsosha.state.or.us

DHS must receive all quarterly certifications by October 1, 2017.

EXHIBIT A

**Part 3
Special Terms and Conditions**

1. Confidentiality of Client Information.

Confidential information provided to the District Attorney or County with respect to DHS client information is confidential and protected by state and federal law, and shall only be used and disclosed as authorized by law.

2. Amendments.

a. DHS reserves the right to amend or extend the Agreement under the following general circumstances:

- (1) DHS may extend the Agreement for additional periods of time up to a total Agreement period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on DHS' satisfaction with performance of the work or services provided by the County under this Agreement.
- (2) DHS may periodically amend any payment rates throughout the life of the Agreement proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if DHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.

b. DHS further reserves the right to amend the Description of Work and General Requirements for the following:

- (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Agreement or previous amendments to the Agreement;
- (2) Implement additional phases of the Work; or
- (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Agreement.

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

3. Background Checks.

- a. The County or DA shall verify that any County or District Attorney employee working with children who are the subject of a dependency petition that is covered by this Agreement has not been convicted of any of the following crimes: child abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of an employee scheduled to work with such children. The County or DA shall establish verification by:
- (1) For applicants for employment, having the applicant, as a condition of employment, apply for and receive a criminal history check from a local Oregon State Police (OSP) office, which shall be shared with the County or DA,
 - (2) For applicants and employees, obtaining from the OSP for an "Oregon only" criminal history check on the applicant or employee. The County or DA shall give OSP the applicant's or employee's name, birth date and social security number, or
 - (3) Any other process by which the County or DA obtains the employee's or applicant's criminal history.
- b. The County or DA shall determine, after receiving the applicant's or employees criminal history, whether the applicant or employee has been convicted of any crime listed above, and whether these convictions pose a risk to working safely with such children.

If the County or DA learns of a conviction of any of the above listed crimes from the applicant or employee's record, and the County or DA chooses to hire the employee or applicant, the County or DA shall confirm in writing the reasons for hiring the individual. These reasons shall address how the applicant/employee is presently suitable or able to work with such children in a safe and trustworthy manner. The County or DA shall place this information, along with the applicant's or employee's criminal history check, in the employee's personnel file, and make it available upon request in a review or audit.

4. **Equal Access to Services.** County or DA shall provide equal access to covered services for both males and females under 18 years of age, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270.
5. **Media Disclosure.** The County or DA will not provide information to the media regarding a recipient of services purchased under this Agreement without first consulting the DHS office that referred the child or family. The County will make immediate contact

with the DHS office when media contact occurs. The DHS office will assist the County with an appropriate follow-up response for the media.

6. **Mandatory Reporting.** The County or DA shall immediately report any evidence of child abuse, neglect or threat of harm to DHS Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 to 419B.045). If law enforcement is notified, the County shall notify the referring DHS caseworker within 24 hours. County shall immediately contact the local DHS Child Protective Services office if questions arise as to whether or not an incident meets the definition of child abuse or neglect.
7. **Nondiscrimination.** The County or DA must provide services to DHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language and other special needs of clients.

Remainder of page left blank intentionally.

EXHIBIT B

Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** All parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of Client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County, District Attorney and DHS, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that County and District Attorney is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
 - a. County represents and warrants as follows:
 - (1) **Organization and Authority.** County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

- (2) **Due Authorization.** The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.
- (3) **Binding Obligation.** This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession;
- (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
- (6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

b. DHS represents and warrants as follows:

- (1) **Organization and Authority.** DHS has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
- (2) **Due Authorization.** The making and performance by DHS of this Agreement (a) have been duly authorized by all necessary action by DHS and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which DHS is a party or by which DHS may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or

performance by DHS of this Agreement, other than approval by the Department of Justice if required by law.

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

- c. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

5. Funds Available and Authorized Clause.

- a. The State of Oregon's payment obligations under this Agreement are conditioned upon DHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow DHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County and District Attorney is not entitled to receive payment under this Agreement from any part of Oregon state government other than DHS. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. DHS represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.

- b. **Payment Method.** Payments under this Agreement will be made by Electronic Funds Transfer (EFT), unless otherwise mutually agreed, and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County and District Attorney shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County and District Attorney shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Agreement. County and District Attorney shall provide this designation and information on a form provided by DHS. In the event that EFT information changes or the County and District Attorney elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the County and District Attorney shall provide the changed information or designation to DHS on a DHS-approved form. DHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from the County and District Attorney.

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

giving to County and District Attorney written notification and an opportunity to object, may withhold from payments due to County and District Attorney such amounts, over such periods of time, as are necessary to recover the amount of the overpayment, subject to Section 7 below. Prior to withholding, if County and District Attorney object to the withholding or the amount proposed to be withheld, County and District Attorney shall notify DHS that it wishes to engage in dispute resolution in accordance with Section 19 of this Agreement.

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

8. **Ownership of Intellectual Property.**

a. **Definitions.** As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:

- (1) "County and District Attorney Intellectual Property" means any intellectual property owned by County or District Attorney and developed independently from the Work.
- (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than DHS, County or District Attorney.

b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, DHS will not own the right, title and interest in any intellectual property created or delivered by County, District Attorney or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that the County or District Attorney owns, County or District Attorney grants to DHS a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 8.b.(1) on DHS' behalf, and (3) sublicense to third parties the rights set forth in Section 8.b.(1).

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

- d. County and District Attorney shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as DHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.
9. **County Default.** County or District Attorney shall be in default under this Agreement upon the occurrence of any of the following events:
- a. County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
 - b. Any representation, warranty or statement made by County herein or in any documents or reports relied upon by DHS to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;
 - c. County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or
 - d. A proceeding or case is commenced, without the application or consent of County or District Attorney, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).
10. **DHS Default.** DHS shall be in default under this Agreement upon the occurrence of any of the following events:
- a. DHS fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or

- b. Any representation, warranty or statement made by DHS herein or in any documents or reports relied upon by County to measure performance by DHS is untrue in any material respect when made.

11. Termination.

- a. **County Termination.** County or District Attorney may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to DHS;
- (2) Upon 45 days advance written notice to DHS, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement, as determined by County in the reasonable exercise of its administrative discretion;
- (3) Upon 30 days advance written notice to DHS, if DHS is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as County may specify in the notice; or
- (4) Immediately upon written notice to DHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

- b. **DHS Termination.** DHS may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to County;
- (2) Upon 45 days advance written notice to County, if DHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of DHS under this Agreement, as determined by DHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, DHS may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces DHS' legislative authorization for expenditure of funds to such a degree that DHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by DHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;
- (3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a

way that DHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;

- (4) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as DHS may specify in the notice;
- (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a subcontractor no longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification;
- (6) Immediately upon written notice to County, if DHS determines that County or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.

c. **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

12. **Effect of Termination**

a. **Entire Agreement.**

- (1) Upon termination of this Agreement, DHS shall have no further obligation to pay County or District Attorney under this Agreement.
- (2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.

b. **Obligations and Liabilities.** Notwithstanding Section 12.a, any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

13. **Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

14. **Insurance.** Parties shall maintain insurance as set forth in Exhibit C, which is attached hereto.

15. **Records Maintenance; Access.** County or District Attorney shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting

principles. In addition, County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." County acknowledges and agrees that DHS and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

16. **Information Privacy/Security/Access.** If the Work performed under this Agreement requires County or its subcontractor(s) to have access to or use of any DHS computer system or other DHS Information Asset for which DHS imposes security requirements, and DHS grants County or its subcontractor(s) access to such DHS Information Assets or Network and Information Systems, County shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
17. **Force Majeure.** DHS, County and District Attorney shall not be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of DHS or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. DHS may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.
18. **Assignment of Agreement, Successors in Interest.**
 - a. County and District Attorney shall not assign or transfer its interest in this Agreement without prior written approval of DHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions as DHS may deem necessary. No approval by DHS of any assignment or transfer of interest shall be deemed to create any obligation of DHS in addition to those set forth in the Agreement.
 - b. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
19. **Alternative Dispute Resolution.** The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level,

- including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
20. **Subcontracts.** County and District Attorney shall not enter into any subcontracts for any of the Work required by this Agreement without DHS' prior written consent. In addition to any other provisions DHS may require, County shall include in any permitted subcontract under this Agreement provisions to require that DHS will receive the benefit of subcontractor performance as if the subcontractor were the County with respect to Sections 1, 2, 3, 4, 8, 15, 16, 18, 21, and 23 of this Exhibit B. DHS' consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.
 21. **No Third Party Beneficiaries.** DHS, County and District Attorney are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that County's performance under this Agreement is solely for the benefit of DHS to assist and enable DHS to accomplish its statutory mission. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
 22. **Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and when required the Department of Justice. Such amendment, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.
 23. **Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
 24. **Survival.** Sections 1, 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24, 25, 26, 28, 29, 30 and 31 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.
 25. **Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County, District Attorney or DHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting

machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day, if transmission was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party at number listed below. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

DHS: Office of Contracts and Procurement
250 Winter Street NE, Room 306
Salem, Oregon 97301
Telephone: 503-945-5818
Facsimile: 503-378-4324

26. **Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
27. **Counterparts.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement and any amendments so executed shall constitute an original.
28. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
29. **Construction.** *[Reserved]*
30. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the County on the other hand in connection with the events which resulted in such expenses,

judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the County on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

31. **Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.
32. **Stop-Work Order.** DHS may, at any time, by written notice to the County or District Attorney, require the County or District Attorney to stop all, or any part of the work required by this Agreement for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, DHS shall either:
 - a. Cancel or modify the stop work order by a supplementary written notice; or
 - b. Terminate the work as permitted by either the Default or the Convenience provisions of Section 11. Termination.

If the Stop Work Order is canceled, DHS may, after receiving and evaluating a request by the County, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

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EXHIBIT C

Insurance Requirements

Agencies shall agree to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.270.

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Attachment A
Example Claim Form

County:		Report Date:	
Mailing Address:		Quarter Ended:	
City, State, Zip:		Amount Claimed:	

Certification:

In accordance with Exhibit A, Part 2, of the 2015-2017, I certify that the District Attorney's office provided services to DHS intended to support the dependency work that my office performs.

The Work performed enlarged or otherwise improved the quality of the juvenile dependency litigation program in comparison to the program as it would have existed in the absence of the requested support.

<u>Signature:</u>		<u>Prepared by:</u>	
Typed Name:		Name:	
Title:	District Attorney	Contact Phone:	
Signature:		Contact Email:	

<u>DHS Validation:</u>							
	<table border="1"> <tr> <td align="center">Sign or Initial</td> <td align="center">Date</td> </tr> <tr> <td>Amount claimed correct:</td> <td></td> </tr> <tr> <td>Date paid to County:</td> <td></td> </tr> </table>	Sign or Initial	Date	Amount claimed correct:		Date paid to County:	
Sign or Initial	Date						
Amount claimed correct:							
Date paid to County:							

B.O. 15-73

1. **Certification.** The District Attorney must sign the certification and submit the form to DHS after the close of each calendar quarter. The first quarter for which a claim can be submitted will be the quarter ending September 30, 2015. Claim forms should be submitted within 30 days of the end of the quarter. Include the name of the person responsible for preparing the report and their contact phone number.

2. **DHS Validation.** For DHS use only.

DHS will verify the county forms, and keep the official documentation from the counties in its files. Upon approval of the claims, DHS will then make the appropriate payments to the participating counties.

Remainder of page left blank intentionally.