

**COUNTY OF CUYAHOGA  
AGREEMENT  
Between  
CUYAHOGA COUNTY, OHIO  
On behalf of  
THE DIVISION OF CHILDREN AND FAMILY SERVICES  
And  
CUYAHOGA COUNTY PROSECUTOR'S OFFICE**

THIS Agreement is made and entered into this 1st day of January 2012 by and between Cuyahoga County, Ohio on behalf of the Cuyahoga County Division of Children and Family Services, a governmental agency (hereinafter referred to as the "County" or "CCDCFS"), 3955 Euclid Avenue, Cleveland OH 44115 and the Cuyahoga County Prosecutor's Office (hereinafter "CCPO" or "Provider"), governmental entity, doing business at 1200 Ontario Street, Cleveland, Ohio 44113, a provider of legal services.

WITNESSETH

WHEREAS, CCDCFS is charged under Ohio Revised Code Chapter 5153 with the responsibility of the administration of child welfare, subject to the rules and standards of the Ohio Department of Job and Family Services (ODJFS); and

WHEREAS, CCDCFS is charged under Ohio Revised Code Chapter 5153 with entering into agreements, within or outside the county or state, to provide care which CCDCFS determines is in the best interest of any child determined to be in need of public care service; and

WHEREAS, the CCPO is engaged in furnishing legal services as defined under Chapter 309 of the Revised Code in matters related to the adjudication and disposition of children within the jurisdiction of Chapter 2151 of the Revised Code, and to perform such other duties that may be required of it as counsel for CCDCFS; and

WHEREAS, CCDCFS wishes to purchase such services from the CCPO.

NOW, THEREFORE, in consideration of the mutual undertakings and agreement hereinafter set forth, CCDCFS and the CCPO agree as follows:

**1. PURCHASE OF SERVICES**

The CCPO will serve as legal counsel for CCDCFS, the county agency empowered pursuant to Chapter 5153 of the Revised Code to function as the Public Children Services Agency (PCSA) serving Cuyahoga County, Ohio.

A. Custody and Protective Supervision Representation

Functions for which the CCPO will be compensated under this Agreement includes: representation of CCDCFS in all court proceedings, including Juvenile courts, Domestic Relations courts and courts of appeal; preparation, including legal research, drafting pleadings, motions, briefs, affidavits, subpoenas, and other legal documents for court proceedings involving CCDCFS; interview of witnesses; legal advice and counsel; and attendance at organized and formal training activities, the purpose of which is to improve the capacity of attendees to provide legal services to CCDCFS.

B. General Civil Representation

The CCPO will also include the provision of legal advice and representation in the following areas: subpoena for CCDCFS records in state and federal courts; litigation involving the child welfare functions, litigation in which the County is named as a party in state or federal courts; administrative hearings or reviews involving adoption subsidies, foster care license issues, including revocation; special investigations unit, appeals of report dispositions or other review conferences, Inter-State Compacts, representation and advice regarding employment issues involving County personnel, review and preparation of policies and procedures for CCDCFS, contract preparation, negotiation, drafting, and related issues, as well as other duties supporting the mission of CCDCFS.

C. Appeals Representation

The CCPO will also provide legal advice and representation involving the appeal of any final appealable custody orders in which CCDCFS did not prevail at the trial court level and CCDCFS has elected to seek redress in a higher court, in cases in which CCDCFS is either the appellant, appellee or participates as amicus curiae, in matters involving Writs of Habeas Corpus, Writs of Mandamus, Writs of Prohibition and Writs of Procedendo, and in obtaining any other extraordinary relief sought by CCDCFS to carry out its mandate to protect and ensure timely permanency for abused, neglected and dependent children.

2. AGREEMENT PERIOD

This Agreement will be effective for the period January 1, 2012 through December 31, 2012, both inclusive, unless otherwise terminated, at an amount not to exceed \$2,074,053.00.

CCDCFS and CCPO agree that the Agreement dollar amount may be renegotiated and amended due to the under utilization or over utilization of services. Any change to the dollar amount of the Agreement requires approval by Cuyahoga County, Ohio.

### 3. DESCRIPTION OF COSTS

#### A. COSTS WHICH MAY BE REPORTED FOR COMPENSATION

1 Under this Agreement, the CCPO may seek compensation for any of the following costs incurred in the performance of the activities stated in Paragraph (1) above:

- A. Actual wages, fringe benefits, travel costs, per diem, and other related expenses of staff engaged in performing such activities;
- B. Actual wages, fringe benefits, travel costs, per diem, tuition or registration fees, and other related costs for staff attending organized and formal training activities to improve the capacity of attendees to provide competent legal services to the county child welfare agency;
- C. Telephone, postage costs, and duplication or printing separately metered or otherwise discretely identified as supporting such activities;
- D. Equipment and consumable supplies for staff solely and exclusively assigned to performing such activities;
- E. Books, journals, newsletters, subscriptions, research services and aids;
- F. A proportional share of administrative salaries and operating costs allocated to the operation of the CCPO pursuant to this Agreement.

2. The CCPO shall be responsible for the identification and assignment of costs to the activities enumerated in this paragraph. Such costs shall represent actual costs paid by the CCPO with funds appropriated to it or otherwise used to support the operation of the CCPO. The CCPO agrees to devise and implement accounting practices and procedures which allow for auditing of such costs, which conform to generally accepted accounting principles, and which treat both costs and activities consistently.

3. The CCPO may not seek compensation for costs which have been paid utilizing other federal funding sources.

#### B. COSTS TO BE PAID DIRECTLY BY CCDCFS

Unless specifically agreed otherwise, CCDCFS will be financially responsible and pay directly the following items:

- 1. The CCDCFS will pay fees, and costs in connection with court reporter services including attendance fees and the costs for recording and transcription of court proceedings involving CCDCFS case, directly to the provider of services and such payments will not be considered part of the Agreement dollar amount.

2. CCDCFS will pay costs and fees of outside counsel approved to represent the interests of CCDCFS directly to the provider of services and such payments will not be considered part of the Agreement dollar amount.

3. CCDCFS will pay costs and fees, including travel, per diem and other related expenses for investigators, consultants, or expert witnesses involving CCDCFS cases directly to the provider of services and such payments will not be considered part of the Agreement dollar amount.

#### 4. PAYMENT FOR PURCHASED SERVICES

The CCPO will submit a monthly invoice to CCDCFS, which will review such invoices for completeness/correctness and any information necessary before payment within thirty (30) days after receipt of an accurate invoice. Invoices are to be forwarded to: Payment Processing, Division of Children & Family Services, Room 347-E, 3955 Euclid Avenue, Cleveland, Ohio 44115.

#### 5. ACTIVITIES FOR WHICH THE CCPO WILL NOT RECEIVE COMPENSATION

Under this Agreement, the CCPO will not be compensated for any of the following activities:

- A. All matters related to the adjudication and disposition of juvenile traffic offenders;
- B. All matters related to the delinquent or criminal prosecution of any child or adult;
- C. All matters related to the determination of paternity of any child pursuant to Section 3111.01 to 3111.19 of the Revised Code;
- D. All matters related to the Uniform Reciprocal Enforcement of Support Act as codified in Chapter 3115. of the Revised Code;
- E. All matters related to the CCPO acting as legal counsel for any unit of government other than the CCDCFS;
- F. Matters for which the CCPO already receives reimbursement from ODJFS or any other State agency; and
- G. The salary and benefits cost of any elected official.

#### 6. COMPLIANCE WITH FEDERAL AND STATE LAWS, RULES AND REGULATIONS

##### A. Records Retention

All records relating to costs and supporting documentation for invoices submitted to CCDCFS by the CCPO shall be retained and made available for audit by the State of Ohio (including, but not limited to ODJFS, the Auditor of the State of Ohio, Inspector

General or duly authorized law enforcement officials) and agencies of the United States government for a minimum of three (3) years after payment under this Agreement, or as permitted by the CCPO record retention schedule. If an audit is initiated during this period, the CCPO shall retain such records until the audit is concluded and all issues resolved.

#### B. Duties Relating to Audit

CCDCFS shall be responsible for receiving, replying to, and arranging compliance with any audit exception found by any state or federal audit of this Agreement. CCDCFS shall timely notify the CCPO of any adverse findings which allegedly are the fault of the CCPO. Upon receipt of notification from CCDCFS, the CCPO shall cooperate with CCDCFS and timely prepare and send to CCDCFS, its written response to the audit exception. Failure of the CCPO to timely respond to audit exceptions shall result in liability for any repayment necessitated by the audit exceptions.

#### C. Audit Exceptions

The CCPO shall be liable for any audit exceptions that result solely from its acts or omissions in the performance of this Agreement. CCDCFS shall be liable for any audit exceptions that result solely from its acts or omissions in the performance of this Agreement. In the event that an audit exception results from acts or omissions of both CCDCFS and the CCPO, then the financial liability for the audit exception shall be shared by the parties in proportion to their relative fault.

### 7. GENERAL PROVISIONS

#### A. BREACH AND DEFAULT

Upon breach or default of any of the provisions, obligations, or duties embodied in this Agreement, the parties may exercise any administrative, contractual, equitable, or legal remedies available, without limitation. The waiver or any occurrence of breach or default is not waiver of such subsequent occurrences, and the parties retain the right to exercise all remedies mentioned herein.

#### B. AMENDMENT

This Agreement may be modified or amended provided that any such modification or amendment is in writing and is signed by all the parties. It is agreed, however, that any amendments to laws, rules, or regulations cited herein will result in the correlative modification of this Agreement, without the necessity for executing a written amendment.

C. EQUAL EMPLOYMENT OPPORTUNITY

The parties agree that in the performance of this Agreement or in the hiring of any employees for the performance of work under this Agreement, the parties shall not by reason of race, color, religion, sex, sexual preference, age, handicap, national origin, Vietnam-era veteran's status, or ancestry, discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Agreement relates.

D. CONFIDENTIALITY OF INFORMATION; COMPLIANCE WITH LAW

The parties agree that they shall not use any information, systems, or records made available to either party for any purpose other than to fulfill the obligations specified herein. The parties agree to be bound by the same standards of confidentiality that apply to the employees of either party as defined by Ohio law. The terms of this Paragraph shall be included in any subcontracts executed by either party for work under this Agreement.

The parties specifically agree to comply with state and federal confidentiality law and regulation, as well as all other laws and regulations applicable to the programs which provide funding for this Agreement.

E. SUBCONTRACTING SERVICES

As deemed necessary by the CCPO, the CCPO may subcontract to deliver the services provided herein, if provisions for such contracting are included in the Agreement's allowable activities. No subcontracts shall in any case release the CCPO of its liability under this Agreement. The CCPO shall be responsible for making direct payments to the subcontractors for the services provided by the subcontractor.

F. INDEPENDENT CONTRACTOR

Assistant Prosecuting Attorneys and all agents and employees of the CCPO shall act in the performance of this Agreement in the capacity of an employee or agent of the CCPO. The CCPO, its agents and employees, will not be considered as officers, employees, or agents of CCDCFS. The CCPO's relationship with CCDCFS shall be considered that of an independent contractor.

G. PARTIAL INVALIDITY

A judicial or administrative finding, order, or decision that any part of this Agreement is illegal or invalid shall not invalidate the remainder of the Agreement.

8. ENTIRE AGREEMENT

All terms and conditions of this Agreement are embodied herein. No other terms and conditions will be considered a part of this Agreement unless expressly agreed upon in writing and signed by both parties.

9. TERMINATION:

Either party may terminate this Agreement by providing a 30 day written notice to the other Party.

10. ELECTRONIC SIGNATURE

BY ENTERING INTO THIS AGREEMENT, ALL ENTITIES AGREE ON BEHALF OF THE CONTRACTING OR SUBMITTING ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUBGRANTEES, AGENTS OR ASSIGNS, TO CONDUCT THIS TRANSACTION BY ELECTRONIC MEANS BY AGREEING THAT ALL DOCUMENTS REQUIRING COUNTY SIGNATURES MAY BE EXECUTED BY ELECTRONIC MEANS, AND THAT THE ELECTRONIC SIGNATURES AFFIXED BY THE COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECT AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. THE ENTITIES ALSO AGREE ON BEHALF OF THE AFOREMENTIONED ENTITIES AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

IN WITNESS WHEREOF, the County and the CCPO have entered into this Agreement.

CUYAHOGA COUNTY  
PROSECUTOR'S OFFICE



Bill Mason  
Cuyahoga County Prosecuting Attorney

12-9-11  
Date

CUYAHOGA COUNTY, OHIO  
Edward FitzGerald, County Executive



2012-03-06 18:01:21

Edward FitzGerald  
County Executive

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Date