

**AGREEMENT BETWEEN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA AND THE COUNTY OF SANTA CLARA
OFFICE OF THE DISTRICT ATTORNEY
RELATING TO PROVISION OF JUVENILE DEPENDENCY SERVICES**

RECITALS

WHEREAS, the SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA ("COURT") does currently, and intends to continue to, appoint the SANTA CLARA COUNTY DISTRICT ATTORNEY ("DA") in those dependency matters in which the COURT deems appointment of counsel for minors pursuant to Welfare & Institutions Code §317(c) to be appropriate; and

WHEREAS, the DA and COUNTY OF SANTA CLARA ("COUNTY") desire to continue providing COURT-appointed legal representation of minors in dependency matters; and

WHEREAS, as of July 1, 1997, under the Trial Court Funding Act of 1997 [Ch. 850, Stats. 1997--see Gov. Code §77009.1(h)] (the "Act"), the State of California assumed responsibility for funding local trial court "court operations" as defined in the Act and in Rule 810 of the California Rules of Court as in effect on July 1, 1996 ("Court Operations"); and

WHEREAS, the Act provides that the State will fund such Court Operations through the Judicial Council of California, which will allocate State funds among the local trial courts and deposit the share of such funds allocated to each county trial court system into the local trial court operations fund established in each county; and

WHEREAS, under the Act the presiding judge or designee of each local court may authorize and direct expenditures from the local trial court operations fund, consistent with budget management rules adopted by the Judicial Council, in order to pay for Court Operations; and,

WHEREAS, Government Code §77212(d) mandates that commencing in fiscal year 1999-2000 and thereafter, the COUNTY and COURT enter into a contractual relationship regarding the provision of services provided by the COUNTY and received by the COURT; and

THEREFORE, the parties hereto agree as follows:

AGREEMENT

1. **Services.** In any matter in which the DA is appointed by the COURT to represent a minor in a dependency proceeding pursuant to California Welfare and Institutions Code §317(c), the DA shall provide those services necessary to represent the interests of the minor for compensation described in section 5.

2. **Attorney and Support Staff Requirements.**

A. **Basic Services.** The COUNTY, through the DA, shall provide the attorneys and support staff described in Exhibit 1 to represent the minor parties in three dependency departments of the Juvenile Court of the County of Santa Clara, and related appearances in such other departments of the COURT to which matters are assigned because of length of trial or other reason (for example, Drug Treatment Court and Unified Family Court). Exhibit 1 is attached hereto and incorporated herein. Where a conflict of interest arises, the representation will be referred to the Santa Clara Juvenile Defenders as presently arranged or otherwise handled by the Court.

Each attorney providing services must be qualified to practice before the Juvenile Court by reason of experience and training, as determined by the DA. A current listing of all attorneys providing services, together with a resume and a description of each attorney's qualifications, shall be provided to the COURT prior to signing this Agreement; and shall be maintained by the DA throughout the term of this Agreement, with updates provided to the COURT when staffing changes occur.

B. **Additional Services.** In the event the COURT determines that services from the DA beyond the level of Basic Services described above are required, the DA and COUNTY will provide such Additional Services to COURT upon satisfactory agreement as to the scope of such services and the compensation to be paid therefor.

3. **Maintenance of Records.**

The DA shall provide statistical data, consistent with its computer system capabilities, as may reasonably be requested by COURT, or required by the State Judicial Council, and/or the Administrative Office of the Courts. The DA will also provide periodic reports as requested by COURT, the State Judicial Council, and/or the Administrative Office of the Courts.

The DA agrees to maintain the confidentiality of its records pursuant to all applicable provisions of the Welfare and Institutions Code and all other laws relating to privacy and confidentiality with respect to Juvenile Court records.

In the event of termination of this Agreement, the DA agrees to turn over client records to duly appointed successor counsel. The DA will cooperate in the orderly transition of assigned cases to newly appointed counsel.

4. Relationship of Parties. The COURT and the DA acknowledge that this Agreement does not create a relationship of attorney and client, employee and employer, or principal and agent as between them.

In the performance of services under this Agreement, the DA and COUNTY and their respective officers, agents and/or employees shall be deemed independent contractors and not agents or employees of COURT. All such personnel provided by DA under this Agreement are under the direct and exclusive supervision, daily direction, and control of the DA, and the DA assumes full responsibility for the actions of such personnel in the performance of services hereunder. The DA agrees that the COURT does not provide workers' compensation insurance to, or on behalf of, the DA for the services to be performed, and that the COURT will not withhold federal or state income taxes from the DA for services performed, but that said taxes are the sole responsibility of the DA. Nothing in this Agreement alters the status of DA staff as County employees.

The DA shall not delegate or assign duties, rights or obligations hereunder, either in whole or in part, without the prior written consent of the Presiding Judge of the COURT.

5. Payment for Services

- * Annual payment for the provision of basic services with the staff described in Exhibit 1 for the first contract year, FY 07 will be \$2,770,694. Payment will be made in twelve (12) equal monthly payments of \$230,891. District Attorney will invoice the Court monthly commencing July 30, 2006 and the Court will pay the District Attorney and County within 30 days of invoice.

- Fy08
- * Annual payment for the provision of basic services with the staff described in Exhibit 1 for the second year of the contract will be \$2,922,583. Payment will be made in twelve (12) equal monthly payments of \$243,549. District Attorney will invoice the Court monthly commencing July 30, 2007 and the Court will pay the District Attorney and County within 30 days of invoice.

- F109
- * Annual payment for the provision of basic services with the staff described in Exhibit 1 for the third year of the contract will be \$3,082,799. Payment will be made in twelve (12) equal monthly payments of \$256,900. District Attorney will invoice the Court monthly commencing July 30, 2008 and the Court will pay the District Attorney and County within 30 days of invoice.

6. Indemnification and Insurance.

A. **Indemnification.** In lieu of and notwithstanding the pro rata risk allocation that might otherwise be imposed between the parties pursuant to Government Code Section 895.6, to the maximum extent permitted by law, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the DA and COURT agree that pursuant to Government Code Section 985.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Agreement.

B. **Insurance.** The DA and COURT shall each maintain their own liability insurance coverage, through self-insurance or otherwise, against any claim of civil liability arising out of the performance of this Agreement and provide appropriate evidence of such coverage to the other party upon request.

7. **Rights and Obligations.** Attorneys assigned to the DA's Juvenile Dependency Unit shall not be prohibited from engaging in other areas of law, including the prosecution of those charged with crimes or any and all proceedings in Juvenile Court, providing that no other case shall be assigned which may cause a conflict of interest to arise.

Further, the DA attorneys shall not be assigned any cases that might impact their ability to fully discharge their obligation to handle the DA's appointments under this Agreement to Juvenile Dependency Court matters.

In no event shall the DA accept anything of value as consideration for services rendered to any minor referred to the DA by Juvenile Court, except from the COURT. The DA shall not charge any parent or guardian or other person for services rendered pursuant to this Agreement.

8. Training Obligations. Any training requirements of DA staff assigned to juvenile dependency legal services shall be the responsibility of the DA and COUNTY as part of the Basic Services provided hereunder. Furthermore, the parties recognize that from time to time attendance at staff meetings and training seminars for social workers, CASA workers and public outreach may be requested of the DA. The DA will provide attorneys and staff for all such reasonable requests, at the level of service provided as of July 1, 2006, at no additional cost to the COURT throughout the term of this Agreement.

9. Employment of Experts. The employment of clinical experts by the Social Services Agency in juvenile dependency matters, as ordered by the COURT pursuant to Welfare & Institutions Code Section 370 shall be at the expense of the COUNTY (DA). In instances where the DA finds the need to retain an independent expert in order to represent the interests of a minor, the costs of such expert are the responsibility of the COURT.

10. Term of Agreement. Subject to the provisions of Section 12, this Agreement shall remain in full force and effect for a period of 36 months, beginning July 1, 2006, and ending on June 30, 2009.

11. Reassignments. No provision of this Agreement shall be construed as to impair in any manner the power or authority of the COURT to vacate its appointment of the DA in a particular matter and appoint other counsel.

12. Termination / Renewal.

The parties recognize the ninety day minimum termination period provided by Government Code section 77212 is inadequate to permit COURT to obtain alternative arrangements for the representation of minors in dependency cases. Accordingly, either party may terminate this Agreement upon written notice to the other party given no later than January 1 of any year, to be effective on the July 1 of the same year. If the DA is required to provide services after such

termination takes effect, the DA shall be compensated for such services in accord with the last paragraph of this section of the Agreement.

No later than November 1, 2008, the COURT shall notify COUNTY and DA of its intended procedure for selecting the provider of juvenile dependency legal service for minors for the period beginning July 1, 2009.

The parties acknowledge that the COURT may select another provider to represent children in dependency matters after termination of this Agreement. Should that occur, the parties agree that the DA will assist in every way to make an efficient and prompt transition of cases as soon as reasonably possible consistent with the best interest of the children as determined by the COURT.

The parties recognize that the DA may be required to continue to provide legal representation in certain cases beyond the term of the Agreement. In that event, the parties agree that the DA shall be compensated for legal services provided in an amount that is the lesser of (1) the cost of work actually performed based on the hourly rate determined by the salary and benefits paid by the Court in the third year of this Agreement or (2) the percentage of the COURT's dependency caseload the DA handles based on the funding level of the third year of the Agreement. If the DA provides legal services under this provision for more than one year, the amount paid to the DA shall be adjusted in subsequent years by the percentage increase in the COURT's funding from the Administrative Office of the Courts for representation for minors in dependency matters. The amount of compensation shall be determined on a monthly basis.

13. Notices. Any notices required or permitted hereunder shall be in writing and may be personally delivered or given as of the date of mailing by depositing such notice in the United States mail, first-class postage prepaid and addressed as follows; or to such other place as each party may designate by subsequent written notice to each other:

To COURT:

Chief Executive Officer
Superior Court of California,
County of Santa Clara
191 North First Street
San Jose, CA 95110

AND

Presiding Judge
Superior Court of California,
County of Santa Clara
191 North First Street
San Jose, CA 95110

To DA:

Clerk of the Board of Supervisors
County of Santa Clara
County Government Center
70 W. Hedding Street,
East Wing, 10th Floor
San Jose, CA 95110

AND County of Santa Clara
Office of the District Attorney
County Government Center
70 W. Hedding, West Wing
San Jose, CA 95110

A notice shall be effective on the date of personal delivery if personally delivered before 5:00 p.m. on a business day or otherwise on the first business day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or on the first business day following delivery to the applicable overnight courier, if sent by overnight courier for next business day delivery and otherwise when actually received.

14. Time of the Essence. Time is of the essence in this Agreement. Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days. If the final date for payment of any amount or performance of any act hereunder falls on a Saturday, Sunday or holiday, such payment may be made or act performed on the next succeeding business day.

15. Amendment; Assignment; Sideletters. This Agreement may be modified or amended only by a written document executed by the parties. No party shall assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party.

16. Entire Agreement. This Agreement, including all Exhibits hereto, constitutes the complete and exclusive statement of the Agreement between the parties with respect to the subject matter hereof. As such, all prior written and oral understandings are superseded in total by this Agreement.

17. Authority to Enter Agreement. The DA and COURT each represent that it has all requisite power and authority to conduct its respective business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

18. Construction. This Agreement shall be construed as if prepared by all parties, and shall be construed, interpreted and governed by the laws of the State of California. The headings

and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand, or limit the terms of the Agreement. Each of the Exhibits attached to this Agreement is hereby incorporated into this Agreement by this reference.

19. Waiver. A waiver by any party of a breach of any of the covenants to be performed by any other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, or conditions of this Agreement.

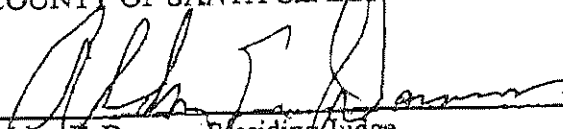
20. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

21. Legislative or Budgetary Changes. If any changes are made to the Act or regulations or Rules of Court adopted pursuant thereto, or to any successor legislation or regulations, or if the State imposes any budget requirements or limitations applicable to this Agreement and the services to be provided hereunder, then (1) to the extent any of the changes are of mandatory application, such change(s) shall apply to the parties and this Agreement, and this Agreement shall be deemed to be amended to be consistent with such changes(s); except to the extent that such change(s) alter(s) a material provision of this Agreement, in which case such material provision shall be voidable and the parties will negotiate in good faith to amend the Agreement as necessary, and (2) to the extent any of the changes are not of mandatory application, such change(s) shall not affect this Agreement or the right or obligations of the parties under this Agreement unless the parties mutually agree to subject themselves to such change(s).


22. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on
April, 5/23/2006.

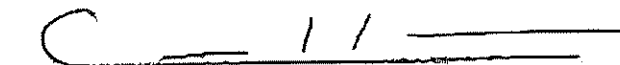
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA


Alden E. Danner, Presiding Judge


COUNTY OF SANTA CLARA


James T. Beall, Jr., Chair
Board of Supervisors

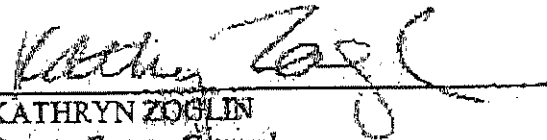
OFFICE OF THE DISTRICT ATTORNEY


George Kennedy
District Attorney

ATTEST:


PHYLLIS PEREZ, Clerk
Board of Supervisors, County of Santa Clara

APPROVED AS TO FORM AND LEGALITY:


KATHRYN ZOEGLIN
Deputy County Counsel

END OF AGREEMENT

Expenditure and Reimbursement

FTE	Description	Current Contract	Proposal		
		FY08 Cost	FY07 Cost	FY08 Cost	FY09 Cost
11.0	Attorney IV	2,619,540	2,774,893	2,927,013	3,087,471
1.0	Social Work Supervisor	119,127	122,562	129,281	138,368
2.0	Social Worker III	213,040	219,084	231,094	243,763
6.0	Investigator Assistants	526,788	562,014	592,824	625,322
1.0	Supervising Legal Clerk	98,730	101,518	107,083	112,954
2.0	Office Specialist III	136,676	140,040	147,717	155,815
1.0	Legal Secretary II	88,619	90,876	95,858	101,113
24.00	Total DA Personnel Expense	\$3,802,520	\$4,010,987	\$4,230,869	\$4,462,806
	Court Annual Fee	(\$2,626,698)	(\$2,770,694)	(\$2,922,583)	(\$3,082,799)
	County Contribution	\$1,175,822	\$1,240,293	\$1,308,286	\$1,380,007