

Subject: Agreement – Approved – Job & Family Services

Mr. Hunter moved per the request of Steve Kaifas, Job & family Services Director, to approve the agreement between Madison County Department of Job & Family Services and Buckeye Ranch to perform services in accordance with the agreement below.

MADISON COUNTY
DEPARTMENT OF JOB AND FAMILY SERVICES
AGREEMENT FOR TITLE IFC SERVICES AND PROVIDER FOR THE PROVISION
OF CHILD PLACEMENT SERVICES

This Agreement sets forth the terms and conditions between the parties for placement services for children who are in the care and custody of the Agency named below.

This Agreement is between:

Title IFC Agency Name		
Madison County Department of Job and Family Services		
Street/Highway Address		
229 Yankee St		
City	State	Zip Code
London	OH	43040

and

Provider Name:

Buckeye Ranch, Inc.		
Street/Highway Address		
5555 Hoover Rd		
City	State	Zip Code
Cross City	OH	43022

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RECITALS

WHEREAS, the Agency is authorized under Ohio Revised Code (ORC) Title 15, Chapter 1509 to the provision of public services for dependent, neglected, and abused children; and

WHEREAS, the Agency is authorized under ORC Title 15, Chapter 1509 to provide care and services which shall be in the best interest of any child who needs such care and services; and

WHEREAS, the Provider is an experienced child care provider and is qualified to deliver under the laws of the State of Ohio, and is able to meet the needs of such children and to comply with all the laws, rules and regulations, and to accept to provide placement of child services in accordance with ORC for the state when the placement facility is under a license;

NOW, THEREFORE, it is considered to be in the public interest and in the best interest of the Agency and Provider to agree as follows:

Article I. SCOPE OF PLACEMENT SERVICES

A. In addition to the services described in Exhibit A, the Provider agrees to provide and shall provide the placement and related services specified in Exhibit B (See Attachment 1) to the children in the care and custody of the Ohio State Agency. The CSA shall be considered with current federal, state and local laws, rules and regulations applicable to the Provider's license as a child care provider and services.

Section III. FOR CONTRACTS COMPETITIVELY PROCURED

A. Notwithstanding to the extent that the Provider will provide services pursuant to the Request for Proposal (RFP) and the Provider's proposal submitted in response to the RFP, the Provider agrees to provide and shall provide the placement and related services described in Exhibit A and B.

Section III. FOR CONTRACTS NOT COMPETITIVELY PROCURED

A. The Provider agrees to provide and shall provide the placement and related services described in Exhibit A and B.

Section III. EXHIBITS

A. The following exhibits are deemed to be a part of this Agreement and shall not be subject to:

- (1) EXHIBIT A - Scope of Work;
- (2) EXHIBIT B - Request for Proposal (if applicable);
- (3) EXHIBIT C - Provider's Response to the Request for Proposal (if applicable); and
- (4) EXHIBIT D - Rate Schedule.

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Article II. TERM OF AGREEMENT

This Agreement is in effect from 07/01/2018 through 06/30/2019, unless this Agreement is suspended or terminated pursuant to Article VII prior to the termination date.

In addition to the initial term described above, this Agreement may be extended, at the option of the Agency and upon written agreement of the Provider, for additional _____ year terms not to exceed _____ years. Notion of Agency's intention to extend the Agreement shall be provided in writing to Provider no less than 90 calendar days before the expiration of any Agreement term then in effect. If a previous Request for Proposal (RFP) allows, this Agreement may be extended for a period of time to ensure adequate completion of the Agency's competitive procurement process at the rates existing for the term then in effect.

Article III. ORDER OF PRECEDENCE

This Agreement and all Exhibits are intended to supplement and complement each other and shall, where possible, be so interpreted. However, if any provision of this Agreement irreconcilably conflicts with an Exhibit, this Agreement takes precedence over the Exhibit(s).

In the event there is an inconsistency between the Exhibit(s), the inconsistency shall be resolved in the following order:

- A. Schedule A: Rate Schedule;
- B. Exhibit E: Scope of Work;
- C. Exhibit D: Request for Proposal (Applicable); then
- D. Exhibit B: Provider's Proposals (Applicable).

Article IV. DEFINITIONS GOVERNING THIS AGREEMENT

The following definitions govern this Agreement:

- A. Agreement means this Agreement and the addenda thereto.
- B. Material Breach shall mean an act or omission that violates or contravenes an obligation required under the Agreement and which, by itself or together with one or more other breaches, has a negative effect on, or thwarts the purpose of the Agreement as stated herein. A Material Breach shall not include an act or omission, which has a trivial or negligible effect on the quality, quantity, or delivery of the goods and services to be provided under the Agreement.
- C. All other definitions to be resolved through Federal Regulations, OAC 5101-2-1-01 and any related cross-references.

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AGENCY PROVIDER RESPONSIBILITIES

- A. Provider agrees to participate with Agency in the development and implementation of the case plan including participation in case reviews and other case management activities, and the completion of performance assessment for the child's placement with the Provider.
- B. Provider agrees to submit progress reports as specified by the Agency for each child. The progress report will be based on the Agency's progress report and will include documentation of services provided to the child and the child's response to services. Failure to submit the progress report may result in a delay of payment, and such failure by the Provider complies with the reporting requirements.
- C. Provider agrees that children will not be placed in foster care home or other out-of-home care setting until the Provider's consent of suitable placement services is obtained from the Agency in the event of an emergency, and the Agency will make such information as necessary, safe, secure, and appropriate number of the foster care home or other out-of-home care setting.
- D. Provider agrees to notify the Agency when children are not placed in care or when child placed in foster care or does not meet the conditions of the case plan or if a provider wishes to leave through the procedure established by the Agency.
- E. Notification to the Agency of child's health needs is provided through the procedure established by the Agency. Child's health needs include but are not limited to the following:
 - 1) Emergency situations include but are not limited to the following:
 - a. Assisted Natural Death (AND)
 - b. Ohio Wagon Wheel Social Work Project
 - c. Death of OHN
 - d. Child physical and/or mental health condition
 - e. Sudden injury or illness requiring an immediate medical treatment or visit to the hospital
 - f. Respiratory or other medical condition (e.g., asthma, diabetes, epilepsy, mental health condition)
 - g. Sexual/physical/sexual abuse (e.g., child abuse)
 - h. Self-harm, suicidal ideation, self-harm, suicidal ideation, treatment, hospitalization
 - i. Medication, medical, physical or mental abuse
- F. The Provider also agrees to notify the Agency within twenty-four (24) hours, if any emergency situation, the emergency situation includes but are not limited to the following:
 - 1) The filing of any law enforcement report involving the child
 - 2) When physical restraint is used on the child
- G. When the notification of the emergency and emergency situation shall be provided to the Agency within 24 hours of the child's admission.
- H. The Provider agrees to submit each child's assessment and treatment plan as completed but no later than the 30th day of placement. Provider agrees to provide treatment planning that will include, but is not limited to, education on or of the population for the child's community based school or residential care facility, including community service activities, independent living skills, life skills, and other monitoring and supporting community adjustment.
- I. The Provider agrees to participate in joint planning with the Agency regarding notification to case plan services. Provider agrees that while the Provider may have input into the development of the child's case plan services and the Agency's input into the case plan services, the case plan will be developed through mutual agreement and consultation with the Agency. Provider agrees to the final authority of the Agency.
- J. The Provider agrees to provide within 30 days of receipt of a child by giving a minimum of 30 calendar days' notice, and to submit a discharge plan summary no later than 30 days after the date of discharge to coordinate with the appropriate licensed or certified program (OHIO 133.022-024, OHIO 133.022-025, OHIO 133.022-026, OHIO 133.022-027, OHIO 133.022-028, OHIO 133.022-029, OHIO 133.022-030).
- K. The Provider shall want a cooperation and collaboration with the Agency to provide information for each child. Without and not to comply with the provisions of OHIO 133.022-022 as applicable to the child's placement, the Provider's contribution to the Agency's efforts to provide care shall be the extent of care with the Provider.
- L. The Provider agrees to provide independent living services as set forth in accordance with OHIO 133.022-029 for all children age 16 and above.

- M. When applicable, the Provider agrees to visit with the child face-to-face in the foster home, speak privately with the child and to meet with the caregiver at least monthly in accordance with rule 1301.2-42-65 of the Administrative Code.
- N. The Provider agrees to maintain its licenses and certifications from any source in good standing. The Provider agrees to report in writing any change in license or certification that negatively impacts such standing immediately if the negative action results in a temporary license, suspension of license or termination of license.
- O. The Provider agrees to notify Agency of any changes in its status, such as intent to merge with another business or to close no later than forty five (45) business days prior to the occurrence.
- P. The Provider agrees that the Agency shall have access to foster parent home studies and re-certifications for foster parents caring for Agency children, subject to confidentiality considerations. The Provider shall submit to Agency a copy of the current foster home license at the time of placement and recertification. Provider also agrees to notify Agency within twenty four (24) hours of any change in the status of the foster home license.
- Q. When there is a rule violation of a caregiver, a copy of the corrective action plan, if applicable, must be submitted to the Agency when the investigation is complete.
- R. The Provider agrees to notify the Agency of scheduling no less than fourteen (14) calendar days prior to all formal meetings (e.g. FTHs, Treatment Team Meetings, IEPs, etc.).

ARTICLE VI. AGENCY RESPONSIBILITIES

- A. Agency certifies that it will comply with the Multiethnic Placement Act, 108 STAT. 3518, as amended by Section 1908 of the Small Business Jobs Protection Act of 1996, 110 STAT. 1755, which prohibits any Agency from denying any person the opportunity to become an adoptive or foster parent on the basis of race, color, national origin, or delaying or denying the placement of a child for adoption or into foster care on the basis of race, color, or national origin of the adoptive or foster parent or of the child involved.
- B. The Agency shall provide a copy of the case plan to the Provider within thirty (30) calendar days of placement or within a reasonable time thereafter as agreed to by the parties. Agency agrees to also provide a copy of each child's social history, medical history, and Medicaid card once obtained by the Agency for new cases or at placement for existing cases.
- C. Agency agrees to participate in the development of the treatment plan of each child placed with the Provider. The Agency acknowledges that clinical treatment decisions must be recommended by licensed clinical professionals. Agency and Provider acknowledge that disagreement with a treatment decision may be taken through the dispute resolution process contained in Article XIII of this Agreement.
- D. Agency agrees to participate in periodic meetings with each child's treatment team for case treatment plan development, review, and revision. The Agency agrees to participate in the development of the treatment plan of each child placed with the Provider by the Agency.
- E. Agency agrees to arrange for the transfer of each child's school records to the child's new school upon placement but not later than ten (10) business days. The Agency agrees to work with the Provider for the timely enrollment of the child in the receiving school district. The Agency has the final responsibility to obtain the child's school records and to enroll the child in the receiving school district.
- F. The Agency shall provide an opportunity for the Provider to give input in the development, substantive amendment or modification of case plans. The Agency agrees to notify the Provider of scheduling no less than fourteen (14) calendar days prior to all formal meetings (e.g. SARs, court hearings, family team conferences, etc.).
- G. The Agency shall provide a minimum of thirty (30) calendar days' notice for planned removals, to the Provider for each child who is being terminated from placement with the Provider, unless so ordered by a court of competent jurisdiction.
- H. Agency agrees to provide the Provider with an emergency contact on a twenty-four (24) hour, seven (7) day per week basis.
- I. The Agency represents:
 - 1) that it has adequate funds to meet its obligations under this Agreement;
 - 2) that it intends to maintain this Agreement for the full period set forth herein and has no reason to believe that it will not have sufficient funds to enable it to make all payments due hereunder during such period; and
 - 3) that it will make its best effort to obtain the appropriation of any necessary funds during the term of this Agreement.

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Article VI. INVOICING FOR PLACEMENT SERVICES

A. The Provider agrees to submit monthly invoices showing the amount of the month's services rendered provided the Invoice shall be for services rendered in accordance with Article II of this Agreement

- 1) Provider name, address, telephone number, fax number, federal tax identification number, The IFC Provider number, applicable and Medicaid Provider number, if applicable.
- 2) Billing date and the billing period.
- 3) Name of child, date of birth of child, and the child's Statewide Alternative Dispute Resolution System (SADS) person ID number.
- 4) Admission date and discharge date, if applicable.
- 5) Agency upon per diem for maintenance and the agreed upon direct administration.
- 6) Invoicing procedure may substitute for a procedure consistent with the following if applicable and acceptable to the Agency and Provider:
 - a. Case Management, allowable administration cost.
 - b. Transportation, allowable maintenance cost.
 - c. Transportation, allowable administration cost.
 - d. Other Direct Services, allowable maintenance cost.
 - e. Behavioral health, any non-covered cost.
 - f. Other costs - (any other cost the IFC Agency has agreed to participate in) non-allowable non-reimbursable cost.

B. Provider warrants and represents that it will be prepared to provide services for an actual services rendered and to do so at the place stated on the invoice or at the address of public funds for the same service.

Article VII. REIMBURSEMENT FOR PLACEMENT SERVICES

- A. The maximum amount payable pursuant to this contract is \$1,000,000.00.
- B. In accordance with Schedule A of this Agreement, the per diem for maintenance and the per diem for administration will be paid for each day the child was in placement. The first day of placement will be paid regardless of the time the child was placed. The last day of placement will not be paid regardless of the time the child left the placement.
- C. In accordance with Schedule A of this Agreement with relation to Maintenance and Administration, the Agency may agree to pay per diem for Case Management, Other Direct Services, Transportation Administration, Transportation Maintenance, Behavioral Health Care and IFC. All other services may be paid for shall be outlined in the Memorandum of this Agreement.
- D. It is the intent that the Provider provides a foster care network, the agreed upon per diem for maintenance shall be the amount paid directly to the foster parent. Maintenance includes the provision of food, clothing, shelter, daily transportation, recreation expenses, a child's personal belongings, and liability insurance with respect to the child, reasonable cost of travel to the child's home for admission and reasonable cost of travel for the child to remain in the school for children enrolled in at the time of placement. Payment by private Agency shall encompass a child to receive direct care of the child in their home school will be paid in accordance with Schedule A (Transportation Maintenance) of this Agreement.
- E. If the plan as determined by the Agency is to return the child to placement with the Provider, the Agency may agree to pay for the days that a child is temporarily absent from the direct care of the Provider, as agreed in by the parties in writing.
- F. The Agency agrees to pay for all physical, optical, dental, and behavioral health care services, not covered by Medicaid or other third party payer, if agreed shall not exceed the Medicaid allowable rate.
- G. The Agency agrees to pay the Provider for all services agreed to on Schedule A and in the Memorandum of this Agreement, where applicable, that have been provided and documented in the child's case file. Agency shall make best efforts to make payment of completed charges within thirty (30) business days of receipt. Failure of the Agency to comply with the agreed payment requirement will be part of the dispute resolution process contained in Article X.
- H. Agency reserves the right to withhold payment for any portion of an invoice in which it asserts that a discrepancy exists. In such instances, the Agency shall withhold payment only for that portion of the statement with which it disagrees. The Agency shall notify the Provider in a timely manner when there is a billing discrepancy. Once discrepancies are resolved, Provider may present an invoice for the disputed charges within the specified requirements set in Article II.
- I. This Agreement is conditional upon the availability of federal, state, or local funds appropriated or allocated for

payment for services provided under the terms and conditions of this Agreement. By sole determination of the Agency, if funds are not sufficiently allocated or available for the provision of the services performed by the Provider hereunder, the Agency reserves the right to exercise one of the following alternatives:

- 1) Reduce the utilization of the services provided under this Agreement, without change to the terms and conditions of the Agreement; or
- 2) Issue a notice of intent to terminate the Agreement.

The Agency will notify the Provider at the earliest possible time of such decision. No penalty shall accrue to the Agency in the event either of these provisions is exercised. The Agency shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.

The Agency may elect to not make payment of any invoice received 60 business days after the timeframe in accordance with Article VI. Reasonable cause for late submission of an invoice will be considered by the Agency on a case by case basis. Any denial of payment for service(s) rendered may be appealed in writing and will be part of the dispute resolution process contained in Article XIII.

Article IX. TERMINATION; BREACH AND DEFAULT

- A. This Agreement may be terminated for convenience prior to the expiration of the term then in effect by either the Agency or the Provider upon written notification given no less than thirty (30) calendar days in advance by certified mail, return receipt requested, to the last known address of the terminated party shown hereinabove or at such other address as may hereinafter be specified in writing.
- B. If Provider fails to provide the Services as provided in this Agreement for any reason other than Force Majeure, or if Provider otherwise materially breaches this Agreement, Agency may consider Provider in default. Agency agrees to give Provider thirty (30) days written notice specifying the nature of the default and its intention to terminate. Provider shall have seven (7) calendar days from receipt of such notice to provide a written plan of action to Agency to cure such default. Agency is required to approve or disapprove such plan within five (5) calendar days of receipt. In the event Provider fails to submit such plan or Agency disapproves such plan, Agency has the option to immediately terminate this Agreement upon written notice to Provider. If Provider fails to cure the default in accordance with an approved plan, then Agency may terminate this Agreement at the end of the thirty (30) day notice period.
- C. Upon the effective date of the termination the Provider agrees that it shall cease work on the terminated activities under this Agreement, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report as of the date of discharge describing the status of all work under this Agreement, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as the Agency may require. The Agency agrees to remove all children in placement immediately with the Provider, consistent with the effective termination date. In all instances of termination, the Provider and Agency agree that they shall work in the best interests of children placed with the Provider to secure alternative placements for all children affected by the termination.
- D. In the event of termination, the Provider shall be entitled to reimbursement, upon submission of an invoice, for the agreed upon per diem incurred prior to the effective termination date. The reimbursement will be calculated by the Agency based on the per diem set forth in Article VI. The Agency shall receive credit for reimbursement already made when determining the amount owed to the Provider. The Agency is not liable for costs incurred by the Provider after the effective termination date.
- E. Notwithstanding the above, in cases of confirmed allegations of: i) improper or inappropriate activities; ii) loss of required licenses; iii) actions, inactions or behaviors that may result in harm, injury or neglect of a child; iv) unethical business practices or procedures; and v) any other event that Agency deems harmful to the well-being of a child; or vi) loss of funding as set forth in Article V, Agency may immediately terminate this Agreement upon delivery of a written notice of termination to the Provider.
- F. If the Agreement is terminated by Agency due to breach or default of any of the provisions, obligations, or duties embodied contained therein by the Provider, Agency may exercise any administrative, agreement, equitable, or legal remedies available, without limitation. Any extension of the time periods set forth above shall not be construed as a waiver of any rights or remedies the Agency may have under this Agreement.
- G. In the event of termination under this ARTICLE, both the Provider and the placing Agency shall make good faith efforts to minimize adverse effect on children resulting from the termination of the Agreement.

Article X. RECORDS RETENTION AND CREDENTIALITY REQUIREMENTS

A. The Provider agrees that all records, documents, writings or other information, including but not limited to, financial records, census records, client records and documentation of legal compliance with Ohio Administrative Code rules promulgated by the Provider under this Agreement, and all records, documents, writings or other information, including but not limited to financial, census and client records by the Provider in the performance of this Agreement as stated according to the following items:

- 1) All records relating to costs, and personnel and supporting documentation in invoices submitted to the Agency by the Provider along with copies of all invoices submitted to the Agency pursuant to this Agreement will be retained for a minimum of three (3) years after reimbursement for services rendered under this Agreement.
- 2) Financial records, or other action or financial history for the period of the Agreement, the Provider shall retain such records and the same be controlled and all items retained for five (5) years have expired, whichever is later.
- 3) All records related to this Section A of the Article that are available for inspection and audit by the Agency or other relevant agencies of the State of Ohio (including but not limited to, the County Treasurer, the Ohio Department of Job and Family Services (ODJFS), the Auditor of State of Ohio, the Inspector General of Ohio, or any duly authorized law enforcement officials), and the United States Department of Health and Human Services within a reasonable period of time.

B. The Provider agrees to keep all financial records in a secure condition with Generally Accepted Accounting Principles.

C. The Provider agrees to comply with all federal and state laws applicable to the Agency and the confidentiality of the Agency's data and records. Provider understands access to the Provider's data and records shall only be necessary for the purpose of performing its responsibilities under this Agreement. No identifying information or data may not be released for research or other publications without the express written consent of the Agency. Provider agrees that the use or disclosure of information concerning the Agency's data in any purpose not directly related to the administration of this Agreement is prohibited. Provider shall ensure all of the Agency's data and records are protected and maintained in a secure and safe manner.

D. The Provider agrees to comply with all applicable state and federal laws related to the confidentiality and transmission of medical records, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

E. Although information about an operational matter this Agreement may fall within the public domain, the Provider shall not release information about or related to this Agreement to the general public or media, including in writing, or by any electronic means without prior approval from the Agency unless the Provider is required to release requested information by law. Agency reserves the right to announce to the general public and make use of the Agreement, Agreement terms and conditions, scope of work under the Agreement, deliverables and results obtained under the Agreement, types of Agreement activities, and assessment of the Provider's performance under the Agreement. Except where Agency approval has been provided in advance, the Provider shall not seek to publicize and will not respond to unsolicited media queries regarding any agreement of Agreement, award, Agreement terms and conditions, Agreement scope of work, deliverables required under the Agreement may provide to the Provider to fulfill the Agreement scope of work, deliverables required under the Agreement, results obtained under the Agreement, and report of Agreement activities.

F. It is understood by the parties to this Agreement that the Provider agrees to notify the Agency in a timely manner regarding any changes to the Provider's information and results to a particular business project.

Article XI. PROVIDER ASSURANCES AND CERTIFICATIONS

A. As applicable to the Provider's license under certification, the Provider certifies compliance with Ohio Sections 4733.01, 4733.02, 4733.03, and applicable Ohio Sections as defined in Article IV of the Agreement concerning criminal record checks, assets, conditions and quality of services relative to labor compliance, employee, contractors who are involved in the care for a child and others.

B. To the extent that the Provider maintains a residential center or group home, the Provider agrees to comply with the provisions of that housing Agency that relate to the operation, safety and maintenance of residential facilities. Specifically, Provider agrees that to ensure a clear pathway way and no obstruction for such purposes will be kept on the premises.

C. Provider certifies compliance with Ohio Public Health Requirements as defined in 45 C.F.R. Part 93, Subpart 7.

D. Provider certifies compliance with 45 C.F.R. Part 93, Non-Discrimination under programs receiving federal assistance through the Department of Health and Human Services, including the Title VI of the Civil Rights Act of

1964.

E. Provider certifies compliance with 45 C.F.R. Part 94, Non-Discrimination on the Basis of Handicap in Programs or Activities Receiving Federal Assistance.

F. Provider certifies compliance 45 C.F.R. Part 90, Non-Discrimination on the Basis of Age in Programs or Activities Receiving Federal Assistance.

G. Provider certifies compliance with the American with Disabilities Act, Public Law 101-338.

H. Provider certifies that it will:

- 1) Provide a copy of its license(s), certification, accreditation or a letter extending an expiring license, certification, or accreditation from the issuer to the Agency prior to the signing of the Agreement.
- 2) Maintain its license(s), certification, accreditation and that upon receipt of the renewal of its license, certification, and/or accreditation or upon receipt of a letter extending an expiring license, certification, and/or accreditation from the issuer, a copy of the license, certification and/or accreditation will be provided to the Agency within the (5) business days.
- 3) Provider shall immediately notify the Agency of any action, modification or issue relating to said license, accreditation or certification.

I. Provider certifies that it will not deny or delay services to eligible persons because of the person's race, color, religion, national origin, gender, orientation, disability, or age.

J. The Provider shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11376, and as well as comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11376, and as supplemented in Department of Labor regulation 41 CFR part 60. The parties will comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11376, and as supplemented in Department of Labor regulation 41 CFR part 60.

K. Provider further agrees to comply with OAC 5101:9-2.01 and OAC 5101:9-2.05(4), as applicable, which require that assure that persons with limited English proficiency (LEP) can meaningfully access services. To the extent Provider provides assistance to LEP children through the use of an oral or written translator or interpretation services in compliance with this requirement, children shall not be required to pay for such assistance.

L. To the extent applicable, the Provider certifies compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)) Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 C.F.R. Part 15).

M. The Provider certifies compliance, where applicable, with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 88 Stat. 871).

N. The Provider certifies that all approvals, licenses, or other qualifications necessary to conduct business in Ohio have been obtained and are current.

O. Provider shall comply with the Small Business Job Protection Act (Public Law ("P.L.") 104-188), the Howard M. Metzenbaum Placement Act of 1984 (P.L. 103-382), Titles IV-B (42 U.S.C. 620 et seq.) and IV-E (42 U.S.C. 670 et seq.) of the Social Security Act ("the Act"), the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), Section 471(a) of Title IV-E of the Act (42 U.S.C. 671(a)), and 45 C.F.R. 1356, including all rules, regulations and guidelines issued by federal and state authorities, OAC 5101:9-4-07 and OAC 5101:2-47-23.1.

Article XII. INDEPENDENT CONTRACTOR

A. The Provider and the Agency agree that no employment, joint venture, or partnership has been or will be created between the parties hereto pursuant to the terms and conditions of this Agreement.

B. The Provider and the Agency agree that the Provider is an independent contractor and assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers' compensation, unemployment compensation, and insurance premiums which may accrue as a result of compensation received for services or deliverables rendered hereunder.

Article XX. INSURANCE

The Provider shall purchase and maintain for the term of this Agreement insurance of the types and amounts specified herein. Maintenance of the proper insurance for the duration of the Agreement is a material element of the Agreement.

Provider agrees to procure and maintain for the term of this Agreement the insurance set forth herein. The cost of all insurance shall be borne by Provider. Insurance shall be purchased from a company licensed to provide insurance in Ohio. Insurance to be placed with an insurance provider on A.M. Best rating of no less than A-. Provider shall purchase the following coverage and minimum limits:

A. Commercial general liability insurance policy with coverage not less than the most current Insurance Services Office Coverage Form CG 00 10 or equivalent with limits of at least One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) in the aggregate and at least One Hundred Thousand Dollars (\$100,000) coverage in legal liability for damage. Coverage will include:

- 1) Additional insured endorsements;
- 2) Product liability;
- 3) Blanket contract liability;
- 4) Broad form property damage;
- 5) Sewerage and drains;
- 6) Personal injury; and
- 7) Intentional or negligent (if applicable).

Endorsements for physical abuse claims and for sexual molestation claims must be a minimum of Three Hundred Thousand Dollars (\$300,000) per occurrence and Three Hundred Thousand Dollars (\$300,000) in the aggregate.

B. Business auto liability insurance of at least One Million Dollars (\$1,000,000) cover of single limit, or all owned, non-owned, leased and hired automobiles. If the Agreement or describes the transportation of the cases of County services (such as but not limited to Agency conveyance) "Conveyance" and Provider provides this service through the use of its employees (whether or not within "P.O.V." limit the Provider's Business Auto Liability insurance shall at least cover the employees "P.O.V." insurance and provide coverage above the employee's "P.O.V." coverage. Provider agrees the business auto liability policy will be endorsed to provide this coverage.

C. Professional liability (errors and omissions) insurance of at least One Million Dollars (\$1,000,000) per claim and in the aggregate.

D. Umbrella and excess liability insurance policy with limits of at least One Million Dollars (\$1,000,000) per occurrence and in the aggregate, above the commercial general and business auto liability policies and contain the following coverage:

- 1) Additional insured endorsements;
- 2) Pay on behalf of working;
- 3) Coverage of defective acts with primary;
- 4) Blanket contract liability;
- 5) Public damage coverage (when not prohibited by law);
- 6) Aggregates apply where applicable by contract;
- 7) Care, custody and control - liability from primary; and
- 8) Drop down feature.

The amounts of insurance specified in this section for General Liability, Business Auto Liability and Umbrella/Excess Liability may be satisfied by Provider purchasing coverage for the limits specified by any combination of underlying and umbrella limits, so long as the total amount of insurance is not less than the limits specified in General Liability, Business Auto Liability and Umbrella/Excess Liability when added together.

E. Workers' Compensation insurance of the statutory limits required by Ohio Revised Code.

F. The Provider further agrees with the following provisions:

- 1) All policies, except workers' compensation and professional liability, will endorse as additional insured the Board of County Commissioners, and Agency and their respective officials, employees, agents, and volunteers, including their Board of Trustees if applicable. The additional insured endorsement shall be on an ACOB or ISO form.
- 2) The insurance endorsements and the certificate of insurance forms will be sent to the Agency Director or Designee. The forms must state the following: Board of County Commissioners, and Agency and their respective officials, employees, agents, and volunteers are endorsed as additional insured on compliance agreement on the commercial general, business auto and umbrella excess liability policies.
- 3) Each policy required by this clause shall be endorsed to state that coverage shall not be cancelled or materially changed except after 60 (60) calendar days prior written notice given to the Agency Director.

or Designee.

- 4) Provider shall furnish the Agency with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received by the Agency before the Agreement commences. The Agency reserves the right at any time to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.
- 5) Failure of the Agency to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Agency to identify a deficiency from evidence provided shall not be construed as a waiver of Provider's obligation to maintain such insurance.
- 6) Provider shall declare any self-insured retention to the Agency pertaining to liability insurance. Provider shall provide a financial guarantee satisfactory to the Agency guaranteeing payment of losses and related investigations, claims administration and defense expenses for any self-insured retention.
- 7) If Provider provides insurance coverage under a "claims-made" basis, Provider shall provide evidence of either of the following for each type of insurance which is provided on a claims-made basis: unlimited extended reporting period coverage which allows for an unlimited period of time to report claims from incidents that occurred after the policy's retroactive date and before the end of the policy period (tail coverage); or continuous coverage from the original retroactive date of coverage. The original retroactive date of coverage means original effective date of the first claim-made policy issued for a similar coverage while Provider was under Agreement with the County on behalf of the Agency.
- 8) Provider will require all insurance policies in any way related to the work and secured and maintained by Provider to include endorsements stating each underwriter will waive all rights of recovery, under subrogation or otherwise, against the County and the Agency. Provider will require of subcontractors, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section.
- 9) Provider, the County, and the Agency agree to fully cooperate, participate, and comply with all reasonable requirements and recommendations of the insurers and insurance brokers issuing or arranging for issuance of the policies required here, in all areas of safety, insurance program administration, claim reporting and investigating and audit procedures.
- 10) Provider's insurance coverage shall be primary insurance with respect to the County, the Agency, their respective officials, employees, agents, and volunteers. Any insurance maintained by the County or the Agency shall be excess of Provider's insurance and shall not contribute to it.
- 11) If any of the work or Services contemplated by this Agreement is subcontracted, Provider will ensure that any subcontractors comply with all insurance requirements contained herein.

Article XXI. INDEMNIFICATION & HOLD HARMLESS

To the fullest extent permitted by and in compliance with applicable law, Provider agrees to protect, defend, indemnify and hold harmless the Agency and the Board of County Commissioners, their respective members, officials, employees, agents, and volunteers (the "Indemnified Parties") from and against all damages, liability, losses, claims, suits, actions, administrative proceedings, regulatory proceedings/hearings, judgments and expenses, subrogation (of any party involved in the subject of this Agreement), attorneys' fees, court costs, defense costs or other injury or damage (collectively "Damages"), whether actual, alleged or threatened, resulting from injury or damages of any kind whatsoever to any business, entity or person (including death), or damage to property (including destruction, loss of, loss of use of resulting without injury damage or destruction) of whatsoever nature, arising out of or incident to in any way, the performance of the terms of this Agreement including, without limitation, by Provider, its subcontractor(s), Provider's or its subcontractor(s) employees, agents, assigns, and those designated by Provider to perform the work or services encompassed by the Agreement. Provider agrees to pay all damages, costs and expenses of the Indemnified Parties in defending any action arising out of the aforementioned acts or omissions.

Article XXII. SCREENING AND SELECTION

A. Criminal Record Check

- 1) Provider warrants and represents it will comply with Article X as it relates to criminal record checks. Provider shall insure that every individual subject to a DCJL check will sign a release of information to allow inspection and audit of the above criminal records transcripts or reports by the Agency or a private vendor hired by the Agency to conduct compliance reviews on their behalf.
- 2) Provider shall not assign any individual to work with or transport children until a DCJL report and a criminal record transcript has been obtained.
- 3) Except as provided in Section C below, Provider shall not utilize any individual who has been convicted or pled guilty to any violation contained in ORC 5153.111(B)(1), ORC 2819.24, and OAC Chapters 51012-5, 51012-7, 51012-48.

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R. Requirements of OH:

- 1) Any individual requiring Ohio's list of names for following qualifications:
 - a. Prior to allowing an individual to transport OHV on a vehicle, the individual must be licensed under the State of Ohio for the side of the Provisional License to be issued in other motorist's name upon documentation and, if applicable, from the individual's side of licensure must be obtained.
 - b. The amount of individual's OHV license must be obtained from the State of Ohio for the side of the Provisional License to be issued in other motorist's name and, if applicable, from the individual's side of licensure, and
 - c. A current valid driver's license and other licensure must be maintained.
- 2) In addition to the requirements set forth above, Provider shall require any individual to transport a OHV if:
 - a. the individual has a conviction with regard to an offense of a motor vehicle;
 - b. the individual has an OHV or any other OHV license; or
 - c. the individual has been convicted of, or pleaded guilty to, a violation of section 4911.01 (F) operating while under the influence of alcohol or drugs - OHV or OHSV of the Revised Code if the individual previously was convicted of or pleaded guilty to be or more violations within the three-year period preceding the current violation.

C. Prohibition

- 1) Notwithstanding the above, Provider may make a request to the Agency to allow an individual of Provider unless the individual has met the minimum standards of OAC Section 119.22(A)(2) as follows:
 - a. The Provider is seeking an additional license category, a license category or other matter of the individual's license; Provider must provide written notification that the individual's minimum standards of OAC Section 119.22(A)(2) have been met.
 - b. If the Provider is seeking an additional license category, Provider must provide written notification that the individual's minimum standards of licensure with OAC Section 119.22(A)(2) have been met.
- 2) The Agency shall review the individual's request to work with, volunteer with or transport OHV's on a case-by-case basis. If the Agency's sole discretion is granted a prohibited individual to work with, volunteer with or transport OHV's.

D. Intellectual Property Rights Protection

Provider shall protect and document each applicant's personal and employment references, general work history, relevant experience, and training information. Provider further agrees it will not employ an individual in violation of this Agreement unless the individual's employment references, work history, relevant experience, and training information.

Article XXII. PROHIBITION OF CORPORAL & DEGRADING PUNISHMENT

Agency prohibits the use of corporal or degrading punishment against child served by Agency.

Article XXIII. EXCLUDED PARTIES LIST

The Excluded Parties List prohibits public agencies from awarding an Agreement by grants, services, or work order, paid for in whole or in part from federal, state and local funds, to an entity identified on the list. By entering into this Agreement, Provider warrants and represents that they are not currently on the Excluded Parties List. Provider shall notify the Agency within ten (10) business days of the notification should the Provider be placed on the Excluded Parties List during any term of the Agreement.

Article XXIV. PUBLIC RECORDS

This Agreement is a matter of public record under the Ohio public records law. By entering into this Agreement, Provider acknowledges and understands that records maintained by Provider pursuant to this Agreement may also be deemed public records and subject to disclosure under the law. Upon request and pursuant to Ohio law, the Agency shall make available the Agreement and all public records generated as a result of this Agreement.

Article XXV. CHILD SUPPORT ENFORCEMENT

Provider agrees to cooperate with ODFES and any Ohio Child Support Enforcement Agency (CSSE) in ensuring Provider and Provider's employees meet all support obligations established under state or federal law. Further, by executing this Agreement, Provider certifies present and future compliance with any court or child administrative order for the withholding of support which is based on a court or administrative order in OAC Chapters 118, 120B, 122B, and 124A.

Article XXVII. DECLARATION OF PROPERTY TAX DELINQUENCY

After award of a contract, and prior to the time a contract is entered into, the successful bidder shall submit a statement in accordance with OAC Section 5718.042. Such statement shall affirm under oath that the person with whom the contract is to be made was not charged at the time the bid was submitted with any delinquent personal property taxes on the general tax list of personal property of any county in which the taxing district has territory or that such person was charged with delinquent personal property taxes on any such tax list, in which case the statement shall also set forth the amount of such due and unpaid delinquent taxes any due and unpaid penalties and interest thereon. If the statement indicates that the taxpayer was charged with any such taxes, a copy of the statement shall be transmitted by the fiscal officer to the county treasurer within thirty days of the date it is submitted.

A copy of the statement shall also be incorporated into the contract, and no payment shall be made with respect to any contract to which this section applies unless such statement has been so incorporated as a part thereof.

Article XXVIII. SUBCONTRACTING AND DELEGATION

The performance of any duty, responsibility or function which is the obligation of the Provider under this Agreement may be delegated or subcontracted to any agent or subcontractor of Provider if Provider has obtained the prior written consent of the Agency for that delegation or subcontract. Provider is responsible for ensuring that the duties, responsibilities or functions so delegated or subcontracted are performed in accordance with the provisions and standards of this Agreement, and the actions and omissions of any such agent or subcontractor shall be deemed to be the actions and omissions of Provider for purposes of this Agreement.

Article XXIX. PROPERTY OF AGENCY

The deliverable(s) and any item(s) provided or produced pursuant to this Agreement (collectively called "Deliverables") will be considered "works made for hire" within the meaning of copyright laws of the United States of America and the State of Ohio. The Agency is the sole author of the Deliverables and the sole owner of all rights therein. If any portion of the Deliverables are deemed not to be a "work made for hire," or if there are any rights in the Deliverables not so conveyed to the Agency, then Provider agrees to and by executing this Agreement hereby does assign to the Agency all worldwide rights, title, and interest in and to the Deliverables. The Agency acknowledges that its sole ownership of the Deliverables under this Agreement does not affect Provider's right to use general concepts, algorithms, programming techniques, methodologies, or technology that have been developed by Provider prior to or as a result of this Agreement or that are generally known and available. Any Deliverable provided or produced by Provider under this Agreement or with funds hereunder, including any documents, data, photographs and negatives, electronic records, reports, or other media, are the property of the Agency, which has an unrestricted right to reproduce, distribute, modify, maintain, and use the Deliverables. Provider shall not obtain copyright, patent, or other proprietary protection for the Deliverables. Provider shall not include in any Deliverable any copyrighted material, unless the copyright owner gives prior written approval for the Agency and Provider to use such copyrighted material. Provider agrees that all Deliverables will be made freely available to the general public unless the Agency determines that, pursuant to state or federal law, such materials are confidential or otherwise exempt from disclosure.

Article XXX. WAIVER

Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provision or condition of this Agreement, nor a waiver of a subsequent breach of the same provision or condition.

Article XXXI. NO ADDITIONAL WAIVER IMPLIED

If the Agency or Provider fails to perform any obligations under this Agreement and thereafter such failure is waived by the other party, such waiver shall be limited to the particular matter waived and shall not be deemed to waive any other failure hereunder. Waivers shall not be effective unless in writing.

Article XXXII. APPLICABLE LAW AND VENUE

This Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced under the laws of Ohio. Any legal action brought pursuant to the Agreement will be filed in the courts located in Madison County, Ohio.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of the signature of the parties.

