

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

DESCHUTES COUNTY

AND

DESCHUTES COUNTY

DISTRICT ATTORNEYS' ASSOCIATION

Effective through June 30, 2015





**Collective Bargaining Agreement Between Deschutes County
and Deschutes County District Attorneys' Association**

January 1, 2011 through June 30, 2015

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1. PREAMBLE AND SCOPE

- A. This Agreement is entered into by and between DESCHUTES COUNTY, a political subdivision of the State of Oregon, hereinafter referred to as “County” and the DESCHUTES COUNTY DISTRICT ATTORNEYS’ ASSOCIATION, hereinafter referred to as “Association,” and shall be in effect through June 30, 2015.
- B. This Agreement shall apply only to regular full-time deputy district attorneys employed in the Deschutes County District Attorney’s Office, excluding elected officials, supervisors, volunteers, and temporary employees, hereinafter referred to as “Members.”

2. RECOGNITION

The County recognizes the Association as the sole and exclusive representative with respect to wages, hours and specified conditions of employment for Members.

3. ASSOCIATION DUES

- A. As a condition of employment, every employee within the bargaining unit must, commencing with employment, either (1) become a Member of the Association and sign and deliver to the County an authorization allowing the deduction of the Association’s monthly dues from their pay; or (2) sign and deliver to the County an authorization allowing the County to deduct from their pay a fair share fee in lieu of dues.
- B. Notwithstanding the above, the Association expressly agrees it will safeguard the rights of non-Members based upon bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employees shall pay the fair share fee referred to above to a non-religious charity mutually agreed upon by the employee making such payment and the Association, or in lieu thereof, the employee shall request that such fair share fee payments not be deducted and shall make such payment to a charity as heretofore stated and shall furnish written proof to the Association and the County, when requested, that this has been done.

- C. The amounts to be deducted pursuant to this Section shall be certified to the County by the Treasurer of the Association, and the aggregate deductions of all Members and non-Members shall be remitted to the Treasurer of the Association by the County not later than the 10th day of the following month after such deductions are made. The amounts to be deducted by the County shall be determined in accordance with the provisions of the Association's bylaws.
- D. The County agrees to furnish the Association a listing of all bargaining unit employees covered by this Agreement upon request of the Association.
- E. The Association agrees that it will indemnify, defend and hold the County harmless from all suits, actions, proceedings or claims against the County or persons acting on behalf of the County, whether for damages, compensation, reinstatement, or any combination thereof, involving the application of this Section. In the event any forum decides that any part of this Section is invalid and/or that reimbursement of the fair share fee to non-Members must be made to employees affected, the Association and its Members shall be solely, jointly and severally responsible for such reimbursement.

4. REPRESENTED EMPLOYEE RIGHTS

- A. Members shall have the right to form and join the Association, as well as the right to participate in Association activities which relate to matters of "employment relations" as defined in ORS 243.650(7). Members shall also have the right to refuse to join or participate in the activities of the Association. No Member shall be interfered with, intimidated, restrained, coerced, or discriminated against by either the County or the Association because of the exercise of these rights.
- B. The provisions of this Agreement shall be applied equally to all employees without discrimination as to age, marital status, race, color, sex, creed, religion, national origin, disability, sexual orientation, Association affiliation, or any other classification protected by Oregon or Federal law, except for bona fide job requirements.

5. MANAGEMENT RIGHTS

- A. The District Attorney and the County each retain all the customary, usual and exclusive rights, decision-making prerogatives, functions, and authority connected with, or in any way incident to their responsibility to manage the affairs of the District Attorney's Office. The County and the District Attorney shall have no obligation to bargain with the Association with respect to any such subjects or the exercise of it's or the District Attorney's discretion and decision-making with regard thereto. The express provisions of this Agreement constitute the only limitations on the rights of the County and District Attorney to manage the business and affairs of the District Attorney's Office. The rights of Members are limited to those specifically limited by the terms of this Agreement. Any subjects covered by the terms of this Agreement are closed to further bargaining for the term hereof, and any subject which was or might have been raised in the course of collective bargaining, except as provided in ORS 243.698, with section (4) of the statute modified by changing the 90-day period to 30 days.
- B. Without limitation, but by way of illustration, the exclusive prerogatives, functions, and rights of the District Attorney shall include the following:
1. To determine the services to be rendered by the District Attorney's Office and its employees to the citizens of the County and State of Oregon.
 2. To direct and supervise all operations, functions and policies of the District Attorney's Office in which Members are employed.
 3. To close or liquidate an office, branch, operation or facility, or combination of facilities, or to relocate, reorganize or combine the work of divisions, branches, operations or facilities for budgetary or other reasons.
 4. To determine the need for a reduction or an increase in the work force.
 5. To determine the method and manner under which a reduction in work force will be performed.

6. To implement new, and to revise or discard, wholly or in part, old methods and procedures.
7. To assign and distribute work.
8. To assign shifts, workdays, hours of work and work locations.
9. To designate and to assign all work duties.
10. To introduce new duties and to revise job descriptions and duties.
11. To determine the need for new employees, transfers and promotions.
12. To determine the qualifications for employees, as well as for transfers and promotions.
13. To discipline, suspend, demote or discharge an employee with just cause as defined in Section 13 of this Agreement.
14. To determine the need for additional educational courses, training programs, on-the-job training and cross-training, and to assign employees to such courses or training for periods to be determined by the District Attorney.

C. Without limitation, but by way of illustration, the exclusive prerogatives, functions, and rights of the County shall include the following:

1. To fix the budget of the District Attorney's Office and the number of positions and full-time equivalent employees budgeted in the District Attorney's Office.
2. To implement the District Attorney's decisions with regard to a reduction in force.
3. To establish, revise and implement standards for hiring, classification and promotion.
4. To establish, revise and implement levels, grades and standards for monetary and non-monetary compensation and employee benefits.

5. To establish, revise and implement programs concerning paid and unpaid leave, holidays, and other types of employee leave.
 6. To provide as the County determines necessary, and in its sole discretion any furnishings, fixtures and equipment to be used and any matters concerning limitations or conditions for their use.
 7. To maintain order and efficiency in its work sites, facilities and operations.
 8. To make such reasonable rules and regulations, not in conflict with this Agreement, as the County may from time to time deem best for the purposes of maintaining order, safety, and/or effective operation of County facilities, and after advance notice thereof to the Association and Members, and to require compliance therewith by Members.
- D. Any of the rights, powers, authority and function the County and the District Attorney had prior to the negotiation of this Agreement are retained by the County and the District Attorney and the expressed provisions of this Agreement constitute the only limitations on the rights of the County and the District Attorney to manage the business of the District Attorney's Office. Should the County or the District Attorney not exercise the rights, powers, authority and functions reserved to them, or should they exercise them in a particular way, such conduct shall not be deemed a waiver of said rights, powers, authority and functions by the County or the District Attorney, nor shall such conduct be deemed or considered a waiver of their right to exercise them in some other way not in conflict with a specific provision of this Agreement.

6. NO STRIKES AND NO LOCKOUTS

- A. The Association and Members are prohibited from striking or recognizing the picket line of a labor organization pursuant to ORS 243.736. The Association and Members, as individuals or a group, will not initiate, cause, promote, permit, participate in or join in any strike, work stoppage, or slow-down, picketing, or any other restrictions or work at any location. Members, while acting in the course of their employment, shall not honor any picket line, except that such picket line may be honored if crossing the picket line would be unreasonably dangerous or hazardous.
- B. The County and the District Attorney each agree there will be no lockouts of Members during the term of this Agreement.
- C. In the event of strike, work stoppage, slow-down, picketing, observance of a picket line, or other restriction of work in any form, either on the basis of individual choice or collective employee conduct, the Association will immediately use every good faith effort to secure an orderly return to work. This obligation and the obligation set forth above shall not be affected or limited by the subject matter involved in the dispute giving rise to the stoppage, or by whether such subject matter is or is not subject to the provisions of the Agreement.

7. ASSOCIATION BUSINESS

- A. Members elected to serve as authorized representatives of the Association shall perform their duties as representatives of the Association on their own time, except as provided in subsection B of this Section. The Association negotiation team shall be comprised of no more than three (3) Members, who shall be deemed to be negotiating on their own time.
- B. The County shall allow not more than a combined total of fifty (50) hours per fiscal year to the authorized representatives of the Association for the purpose of conducting Association business. Scheduling of time for the Association business shall be by mutual agreement with the Association representative's supervisor and shall be documented on payroll records the same as any other time-off request.
- C. The County shall allow the use of the phones, copier, tape recorders and fax machine located in the District Attorney's Office for

Association business. The Association shall reimburse the County for all expenses. The Association will keep track of all expenses incurred on the County's equipment and will submit an accounting, along with full reimbursement for such expenses, within thirty days of incurring the expense.

- D. The Association shall notify the County in writing of its staff representative and its officers. The Association representative may be granted reasonable access to the County's physical work premises during working hours to conduct Association business, but shall observe any and all security regulations of the County and shall not interfere with the normal flow of work.

8. BULLETIN BOARD

The County agrees to maintain a bulletin board to be used by the Association.

9. WAGES, COMPENSATION AND BENEFITS

- A. Effective at execution of this Agreement all Members shall remain in their current pay grade. In the event non-represented County management employees receive a cost of living increase, the same shall be provided to Members.
- B. The County agrees to provide salary step increases within the applicable pay grade and paid leave to Members in equal measure to that provided to County non-represented management employees.

10. INSURANCE

- A. Members shall be entitled to County health, life and LTD insurance. The health insurance, which includes medical, dental, orthodontia, vision, and prescription coverage, is currently provided through the self-funded Deschutes County Employee Health Plan.
- B. The Member health insurance premium contribution will be no greater than \$95.00 per month for the 10/11 contract year, no greater than \$110.00 per month for the 11/12 contract year, no greater than \$125 per month for the 12/13 contract year, no greater

than \$140 per month for the 13/14 contract year and no greater than \$155 per month for the 14/15 contract year. If the Board of County Commissioners establishes a monthly premium contribution for non-represented management employees that is less than the above stated maximums, Members will pay the lower rate.

- C. Throughout the duration of the contract, the Association will have one (1) Member on the County Employee Benefit Advisory Committee.
- D. Insurance benefits will be provided to Members under the same conditions and/or restrictions as provided to all non-represented County management employees. If coverage is adjusted and/or modified for non-represented County management employees, the same will apply to Members.
- E. In addition to health insurance and other insurance, the County will make available to Members a qualified IRS 125 Plan.

11. REDUCTION IN WORKFORCE

- A. In the event a reduction in workforce becomes necessary, the manner and method of the reduction shall be determined by the District Attorney, in his or her sole discretion.
- B. In the event of a reduction in workforce pursuant to this Section 11, the District Attorney and the County agree to make a good faith effort, and when it is feasible to do so, to provide thirty (30) days' advance notice to Members, and the Association of their intent to permanently or temporarily reduce the attorney workforce of the District Attorney's Office as a result of inadequate funding or for operational reasons. The County and the District Attorney will attempt to provide sixty (60) days' advance notice of any such layoff; but the Association, the County, and the District Attorney each recognize that such sixty (60) day advance notice may not be possible.

12. GRIEVANCE PROCEDURE

- A. A grievance is defined as an allegation that a specific provision of this Agreement has been violated.
- B. A day is defined as a calendar day.
- C. In an effort to provide for resolution of disputes, the parties agree to the following procedures:

Step I: Any Member claiming a breach of any specific provision of this Agreement (“grievant”) may refer the matter, in writing, to their immediate supervisor outside the bargaining unit within fourteen (14) days from the occurrence of the alleged breach. A grievant shall also provide a copy of the written grievance to the Association. The grievance shall, at minimum, specify the article and section of the Agreement alleged to have been violated, provide a recitation of facts the grievant believes demonstrate such violation, and specify the requested remedy. References such as “any other provision of the Agreement” shall not be considered specific and shall be deemed inadequate to invoke the provisions of this Section. A Member may submit a grievance only on behalf of him/herself and not on behalf of any other Member or group of Members. The Association may file a grievance on behalf of any Member or group of Members. The supervisor shall respond to the grievance in writing as quickly as possible, but no later than fourteen (14) days after the grievance is received by the supervisor.

Step II: If, after fourteen (14) days from the date of the delivering of the grievance to the supervisor, the grievance remains unadjusted, the grievance may be submitted within fourteen (14) days to the District Attorney, along with a written statement as to why the supervisor’s Step I response does not adequately resolve the grievance. The District Attorney shall meet with the grievant, who may request an Association representative at the meeting. The meeting between the District Attorney and the grievant shall be within fourteen (14) days of the District Attorney’s receipt of the written grievance. The District Attorney shall respond to the grievance in writing within fourteen (14) days of such meeting. The Step II grievance shall be

limited to facts and evidence provided at Step I, except that evidence that was not discoverable at Step I may be introduced if discovered after the Step I response. If the grievant or the Association intends to introduce such evidence after Step I, the grievant or the Association shall have the burden to establish such evidence was not discoverable at Step I. Any allegation of a breach of this Agreement introduced at Step II that was not presented at Step I shall be considered untimely filed and shall be dismissed without any further recourse for the grievant. Any evidence submitted at Step II in support of an allegation deemed untimely under the preceding sentence shall not be admissible and will not be considered by the District Attorney at Step II.

Step III: If the grievance is not resolved within twenty (20) days from the submission of the grievance to the District Attorney, the Association alone will have fourteen (14) days to serve written notice to the District Attorney and the County of its intent to submit the grievance to final and binding arbitration. The arbitrator's decision shall be in writing and shall set forth findings of fact, reasoning, and conclusions of the issues submitted. The arbitrator's review shall be limited to determining if the specific provision(s) of the Agreement which was the basis for the grievance has been violated. The arbitrator shall have no authority to alter, modify, vacate or amend any of the terms of the Agreement. Arbitrations shall be conducted in the following manner:

- a. The arbitrator shall be selected by mutual agreement of the parties. If the parties cannot agree on an arbitrator within fourteen (14) days of submitting the grievance to arbitration, the parties will request the list of the Reference Judges from the Deschutes County Circuit Court. Within five (5) days of receipt of this list, the parties shall mutually agree on one of the listed Reference Judges to act as arbitrator. If the parties cannot agree on an arbitrator, the parties shall alternately strike names from the list until one name remains. The party striking the first name shall be determined by a coin flip. If for some reason one of the parties has a good faith belief that the Reference Judge selected from the Deschutes County Circuit Court list of Reference Judges is not suitable to act as

an arbitrator, the party shall notify the other of that belief. If this occurs, the parties will request from the State Court Administrator a list of ten (10) Reference Judges from any or all of the following Counties: Jefferson, Crook, Linn, Lane, Douglas and Marion. Within five (5) days of the receipt of this list by each party, the parties shall alternately strike names from the list until one name remains. The party striking the first name shall be determined by a coin flip.

- b. The arbitrator shall hold a hearing promptly in accordance with the procedures outlined in ORS 3.300 to 3.321, except that a civil action need not be filed under ORS 3.305(1), and the decision shall not be subject to appeal under ORS 3.321(7).
 - c. The Step III grievance shall be limited to facts and evidence provided at Step I, except that the evidence that was not discoverable at Step I may be introduced if discovered after the Step I response. If the grievant or the Association intends to introduce such evidence after Step I, the grievant or the Association shall have the burden to establish such evidence was not discoverable at Step I. Any allegation of a breach of an article or section of this agreement introduced at Step III that was not presented at Step I shall be deemed untimely filed and shall be dismissed without any further recourse for the grievant. Any evidence offered at Step III in support of an allegation deemed untimely under the preceding sentence shall not be admissible and will not be considered by the arbitrators at Step III.
 - d. The costs of the arbitrator shall be shared equally by the parties. Each party shall be responsible for costs of presenting its own case to arbitration.
- D. Each party shall be responsible for compensating its own representatives and witnesses at any step of this procedure.
- E. Any time limits specified in the grievance procedure may be waived by express, mutual consent of the parties. Failure to submit the grievance in accordance with these time limits without such a waiver shall constitute abandonment of the grievance. Failure by

the County to submit a reply after knowledge of the grievance within the specified time will move the grievance to the next step in the grievance procedure. A grievance may be terminated at any time upon receipt of a signed statement from the Association.

- F. A grievant exercising their rights to pursue a grievance through this procedure may do so without discrimination and without loss of pay if meetings or conferences as called for herein occur during the employee's regularly assigned duty time.
- G. To the extent allowable by law, all information relative to a grievance and resolution accomplished via the grievance procedure shall be considered exempt from public disclosure in an effort to assure confidentiality to the employee.
- H. If the parties agree in writing, Steps I, and II, may be waived.
- I. Oral reprimands are not subject to the grievance procedure.
- J. Written reprimands and performance evaluations which do not result in the denial of a step increase may not be grieved past Step II.
- K. The extension of a probationary period shall not be grievable.

13. DISCIPLINE AND DISCHARGE

- A. Formal Disciplinary actions include the following:
 - 1. Oral reprimand;
 - 2. Written reprimand;
 - 3. Suspension;
 - 4. Demotion or Reduction in pay, and;
 - 5. Discharge.
- B. The County or the District Attorney may formally discipline, discharge, suspend, demote or reduce the pay of a Member for just cause. For purposes of this Agreement, "just cause" includes, but is not limited to:

1. Violation of state or federal law, or the Deschutes County Code;
2. Commission of acts of misfeasance or malfeasance, or of acts that are tantamount to unlawful conduct;
3. Violation of Deschutes County Administrative Policy or District Attorney's Office Departmental Policy;
4. Violation of the Oregon Rules of Professional Conduct, or willful disregard of the ethical, moral or professional standards of the District Attorney's Office;
5. Failure to meet the job performance standards set by the District Attorney;
6. Willful disregard of the District Attorney's philosophies and objectives with respect to prosecution of criminal offenses;
7. Violation of confidentiality agreements or release of confidential materials contrary to County or Office policy;
8. Insubordination;
9. The willful giving of false information, or the withholding of information when such information is reasonably requested by the County or the District Attorney in any investigation;
10. Conduct reflecting poor judgment, meaning indifference to, or a failure to recognize the consequences of an act or series of actions, or a failure to act or a series of failures to act, where the employee is conscious of his or her conduct and knew or should have known such conduct would likely result in a violation of the law or County or Office policy, standards, or procedures;
11. Conduct reflecting a discredit upon the County or the District Attorney's Office, which is a hindrance to the effective performance of the functions of the Office, or which causes an irreparable breach in trust in the employment relationship or otherwise makes a continued employment relationship impossible; or

12. Willful failure to comply with the lawful and ethical directives of the District Attorney or the Chief Deputy District Attorney within thirty (30) days of receiving such a directive.
- C. Formal Discipline need not be progressive, but shall be appropriate for the nature and severity of the conduct at issue and given the totality of circumstances involved.
- D. Disciplinary suspension of a Member shall not exceed two weeks.
- E. The District Attorney shall regularly assess Members based upon their job performance, compliance with the District Attorney's policies, and willingness to follow the professional and philosophical directives of the District Attorney as they relate to Members' job performance. Members shall be given written notice of policies, mission statements, objectives and philosophies, as well as any changes made thereto.
- F. Forms of performance management that are not disciplinary include, but are not limited to counseling, verbal coaching, letters of instruction, work improvement plans and regular performance evaluations that do not result in denial of a step increase. These forms of performance management may serve as evidence for future formal discipline. Except for performance evaluations and work plans that will be placed in the Member's personnel file, information regarding performance management shall be kept in the working file of the District Attorney or Chief Deputy District Attorney. Performance management is not subject to the grievance process.
- G. Except for oral reprimands, Members of the bargaining unit have the right to Association representation or Association counsel in any meeting with management regarding formal disciplinary action.
- H. If the District Attorney determines there is just cause for suspension, demotion, reduction in salary or discharge of a Member of the bargaining unit, the District Attorney shall deliver to the Member a written notice of such discipline. Such notice shall specify the principal reason for the action. Upon receipt of such written notice, the Member shall be given an opportunity to meet with the District Attorney and respond to the allegations at a pre-disciplinary hearing. Disciplinary action shall not be effective until an opportunity for such a meeting has been given to the Member.

- I. If an investigative report is produced as part of an investigation into the conduct of a Member which the County or the District Attorney believe warrants discipline, the Member will be furnished upon request a complete copy of the investigative report prior to any pre-disciplinary hearing, unless prohibited by law.
- J. Reasonable efforts should be made to impose discipline in a manner that will not embarrass or humiliate the employee before other employees or the public.
- K. Probationary Members serve at the discretion of the District Attorney and, as such, are strictly “at-will.” For this reason, disciplinary action for probationary Members, including discharge from employment, is not subject to the grievance procedure. A probationary Member is a newly hired or newly promoted deputy district attorney hired to a period-of-trial service during which the Member’s work performance and standing to become a regular employee is evaluated by the District Attorney and the County. Probationary Members shall remain on probationary status until they complete at least twelve (12) full months of continuous employment with the Deschutes County District Attorney’s Office, measured from the date of hire or promotion, and they have received from the District Attorney a written one-year performance evaluation for which the probationary Member is given an overall rating of meets or exceeds standards.

14. BAR DUES AND CONTINUING LEGAL EDUCATION EXPENSES

- A. Annual Oregon State Bar dues for Members shall be paid by the County.
- B. The County will pay the reasonable costs of continuing legal education classes, programs or seminars. Such payment is subject to the prior approval of the District Attorney, which approval may be denied at the District Attorney’s sole discretion, based on funding availability, relevance to essential job functions, and the business need of the District Attorney’s Office.

15. SAVINGS CLAUSE

Should any section, paragraph or portion thereof of this Agreement be held unlawful and unenforceable by a court of competent jurisdiction, or any administrative agency having jurisdiction over the subject matter, such decision shall apply only to the specific section, paragraph or portion thereof directly specified in the decision and shall not affect any of the other provisions of this agreement which shall remain in full force and effect. Upon the issuance of any such decision, the parties agree immediately to enter into negotiations for a substitute, if possible, for the invalidated section, paragraph or portion thereof, in accordance with ORS 243.698 with the exception that the time limit under subsection (4) of that section shall be 30 days and not 90 days.

16. COMPLETE AGREEMENT

The Agreement expressed in this written document is the complete agreement between the parties and, except as provided in Sections 5(D) and 17 of this Agreement, the relations between the parties shall be governed solely by its terms. Any issue not covered by this written Agreement is not a subject of the Agreement, regardless of whether such a subject was a proposal or demand of either party. This Agreement supersedes all previous oral and written agreements either between the County and the Members or the District Attorney and the Members. Except as provided in Sections 5(D) and 17 of this Agreement, no prior agreements, understandings, past practices, existing conditions, or prior benefits shall be controlling or in any way affect the relations between the parties, or the wages, hours, and working conditions of the Members, unless and until such agreements, past practices, existing conditions, or prior benefits shall be reduced to writing and duly executed by all parties to this Agreement.

17. MATTERS OUTSIDE OF THE AGREEMENT

For all matters not covered by this Agreement, the parties will follow County Policies, County Personnel Rules, and the Policies and Rules of the District Attorney's Office, as the County and District Attorney in their sole discretion may amend from time to time and to the

extent they are not inconsistent with the terms and conditions of this Agreement. Should the County choose to amend County Policies or Personnel Rules or should the District Attorney choose to amend the Policies and Rules of the District Attorney's Office, the County and District Attorney agree they will bargain any such changes concerning mandatory subjects of bargaining.

18. DURATION

A. This Agreement shall remain in full force and effect through June 30, 2015, when it expires at Midnight on that date. After June 30, 2015, this Agreement shall be automatically renewed from year to year, unless either the County or the Association gives written notice to the other not later than May 1 prior to the aforesaid expiration date of this Agreement of its desire to modify the Agreement.

B. This Agreement will remain in full force and effect during all periods of negotiations.

FOR THE COUNTY

FOR THE ASSOCIATION

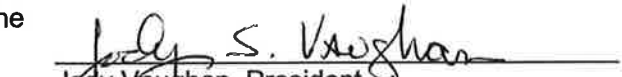
DATED this 19 day of January 2011 for the Deschutes County Board of Commissioners.


TAMMY BANEY, Chair

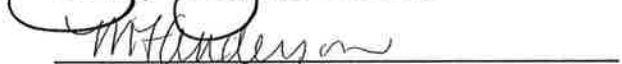

ANTHONY DEBONE, Vice Chair


ALAN UNGER, Commissioner

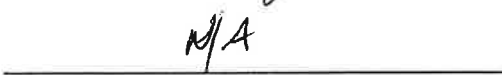

Dave Kanner,
Deschutes County Administrator


Jody Vaughan, President


Brentley Foster, Vice President


Mary Anderson, Treasurer


Kandy Gies, Sergeant at Arms


Deschutes County District Attorney

ATTEST:


Bonnie Baker
Recording Secretary