# INDIGENT DEFENSE
# CONTRACT FOR LEGAL SERVICES
# PACIFIC COUNTY, WASHINGTON
**(Nancy McAllister)**

THIS CONTRACT is entered into by the Superior Court Judge of Pacific County, hereinafter referred to as "JUDGE"; Nancy McAllister, P O Box 430, Naselle, Washington 98638, hereinafter referred to as "CONTRACTOR". According to the terms of this contract and the Rules of Professional Conduct, the parties agree that the CONTRACTOR shall provide legal representation for persons who by law are entitled to legal representation at public expense.

## SCOPE OF SERVICES

### JUVENILE OFFENDER

Each CONTRACTOR shall be responsible for representing juveniles in providing advice on juvenile offender cases, juvenile diversion agreements in Pacific County, Washington when ordered to do so by the court or at the request of an arrested respondent prior to his/her appearance in court. Services also shall include preparation of post-judgment paperwork (modification of judgment, motion for furloughs, motion for special examinations, etc.) and preparation of a notice of appeal in cases where an appeal is requested by a respondent.

### DUTIES OF CONTRACTOR

The CONTRACTOR agrees to represent, advise, defend in court, and otherwise provide legal assistance to minors in accordance with the Rules of Professional Conduct and in keeping with the standards and requirements established in Pacific County Ordinance No. 159. The CONTRACTOR agrees to comply with the SCOPE OF SERVICES listed above.

The CONTRACTOR agrees to have a business telephone line(s) and an answering machine accessible without long distance charges. The CONTRACTOR agrees to accept collect telephone calls from clients. The CONTRACTOR does not have to accept collect telephone calls from clients who are abusive or who make repeated collect calls that are unnecessary. The CONTRACTOR agrees to maintain reasonable contact with clients and respond to indigent client requests in a timely fashion. The CONTRACTOR agrees to provide legal services for indigent defense unless a conflict exists. For the purpose of this contract, a "conflict" means an ethical

conflict under the Rules of Professional Conduct not arising from the CONTRACTOR'S contemporaneous "outside" employment. Scheduling difficulties, vacation periods, and illness shall not constitute a "conflict". The following coverage shall be provided within the terms of this contract.

The CONTRACTOR must record in writing all contacts with indigent clients so that the court can be apprised of the degree to which contact is being maintained with every indigent client.

The CONTRACTOR is responsible for making appropriate arrangements during any periods when he is unavailable due to medical reasons or when he is on vacation.

## ASSIGNMENT OF CASES

In general, cases will be assigned to the CONTRACTOR by the court at the Court's discretion. The JUDGE agrees to give strong consideration to the CONTRACTOR'S preferences regarding appointments.

Notice of appointment shall be provided to appointed counsel as follows: a copy of the Order Appointing Counsel will be placed in the appointed CONTRACTOR'S box located in the Juvenile office, unless otherwise arranged by the CONTRACTOR and approved by the JUDGE. The CONTRACTOR shall secure one or more active e-mail addresses and shall provide the Court Administrator and the Clerk of the Court his/her e-mail address(es) for notification purposes. Counsel or their designee shall check for appointments daily, Monday through Friday.

The CONTRACTOR shall document the number of hours spent on public defense cases and provide such information as requested and required by the County and Office of Public Defense Grant requirements.

## PAYMENT

In consideration of such services, the CONTRACTOR shall be paid by Pacific County, on a monthly basis for the year 2016:

Nancy McAllister $1,492.83 / per month

The total contract for the Calendar Year 2017 and 2018 will be increased by the same percent cost of living increase, if any, that is provided to non-represented Pacific County management employees effective January 1, 2017 and January 1, 2018.

The JUDGE will provide no additional compensation, benefits, or any other remuneration beyond the contract amount set forth immediately hereinabove.

The CONTRACTOR also agrees to pay any local, state or federal taxes applicable to compensation or income received by the CONTRACTOR pursuant to this contract.

The CONTRACTOR shall not charge a fee to any client who is assigned to him for work performed under this contract.

The CONTRACTOR'S ordinary business expenses are deemed included in the above rate. The CONTRACTOR'S ordinary business expenses are those expenses related to the normal operation of a legal office such as support staff, copies, telephones, office rent, office supplies, etc. Expenses for investigation, expert witnesses, evaluations, etc. are not included in CONTRACTOR'S ordinary business expenses. In the event expenses for investigation, expert witnesses, evaluations, etc. are appropriate, a CONTRACTOR must petition a Court for authorization to incur those expenses.

## EMPLOYMENT RELATIONSHIPS

The CONTRACTOR, its employees or agents performing under this contract are not deemed to be employees of the COUNTY nor agents of the COUNTY in any manner whatsoever. No officer, employee or agent of the CONTRACTOR will hold themselves out as, or claim to be, an officer, employee or agent of the COUNTY by reason hereof, nor will they make any claim, demand or application to or for any right or privilege applicable to an officer, employee or agent of the COUNTY.

## INDEMNIFICATION/HOLD HARMLESS

Indemnification by CONTRACTOR. To the fullest extent permitted by law, the CONTRACTOR agrees to indemnify, defend and hold the COUNTY and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any action or omission, negligent or otherwise, of the CONTRACTOR , its employees, agents or volunteers or CONTRACTOR 's subcontractor s and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Contract; or 3) are based upon the CONTRACTOR'S or its subcontractors' use of, presence upon or proximity to the property of the COUNTY. This indemnification obligation of the CONTRACTOR shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the COUNTY. The foregoing indemnification obligations of the CONTRACTOR are a material inducement

to COUNTY to enter into the Contract, are reflected in the CONTRACTOR's compensation, and have been mutually negotiated by the parties.

Participation County – No Waiver. The COUNTY reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of CONTRACTOR's indemnity obligations under the Contract.

Survival of CONTRACTOR's Indemnity Obligations. The CONTRACTOR agrees all CONTRACTOR S's indemnity obligations shall survive the completion, expiration or termination of this Contract.

## INSURANCE

Without limiting the CONTRACTOR'S indemnification of COUNTY, and prior to commencement of this contract, CONTRACTOR shall obtain, provide and maintain during the term of this contract, policies or insurance of the type and amounts described below and in a form satisfactory to the COUNTY.

The CONTRACTOR shall maintain, and upon request of the COUNTY, provide proof of occurrence based general business professional liability insurance in the amount of $1,000,000 or greater per occurrence and $2,000,000 aggregate for the term of this CONTRACT. The CONTRACTOR agrees that its liability insurance shall be primary to the COUNTY's. The CONTRACTOR shall be responsible at its own expense to provide any and all employment insurance coverage, including but not limited to, unemployment insurance, worker's compensation insurance, etc. for any and all of its employees as might apply.

The CONTRACTOR must name the COUNTY as an additional insured. The CONTRACTOR agrees that its liability insurance shall be primary and non-contributory to the COUNTY's and that CONTRACTOR'S liability insurance policy shall so state.

## MONITORING, EVALUATION, AND CLIENT COMPLAINTS

The Judge may periodically monitor, evaluate and review the performance of the CONTRACTOR as pertains to their performance under this contract in keeping with the term of and standards within Pacific County Ordinance No. 159. The Judge may also investigate client complaints as per the procedures outlined in Pacific County Ordinance No. 159.

## NONASSIGNABILITY

The CONTRACTOR'S duties shall not be delegated or assigned without court permission. Occasional coverage of court duties by other attorneys at the request of the Contractor shall not constitute a "delegation".

## SUBCONTRACTING

The CONTRACTOR may not subcontract all or a portion of the services under this contract, without express prior written approval of the presiding JUDGE for whom services are to be provided.

## TERMS AND TERMINATION

1) This contract shall be deemed to have commenced on January 1, 2016 and shall continue through December 31, 2018.

2) Either party may terminate this agreement upon one hundred twenty (120) days written notice.

3) Termination of the contract with less than one-hundred twenty (120) days written notice must be for "good cause". "Good cause" includes, but is not limited to, suspension from practice of law.

## CONFLICT WITH LAW

To the extent that this contract might conflict with any law or court rules pertaining to the responsibility of the court to provide indigent defendants with adequate legal representation, the law and the court rules shall control.

## QUALIFICATIONS AND TRAINING

The CONTRACTOR shall be qualified to practice law in the State of Washington during the entire period of this contract. If this provision is breached, the JUDGE shall have the authority to terminate this agreement immediately by providing written notice to the CONTRACTOR. The CONTRACTOR shall complete a minimum of seven (7) hours of continuing education per year relevant to the provisions of indigent legal defense as specified in Pacific County Ordinance No. 159.

The CONTRACTOR(s) acknowledges that he is subject to the Standards for Indigent Defense promulgated by the Washington State Supreme Court and incorporated in criminal court rules.

## NON-DISCRIMINATION IN SERVICES

The CONTRACTOR agrees to provide equal opportunity in regard to the services to be provided. The CONTRACTOR agrees that no person who works for the CONTRACTOR or seeks employment with the CONTRACTOR or otherwise falls under the ambit of this contract shall be denied employment or benefits or be discriminated against on the grounds of race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained guide dog by a disabled person.

## SAVINGS AND SEVERABILITY

If any provision, or any portion thereof, contained in this contract is held to be unconstitutional, invalid or unenforceable, said provision(s) thereof shall be deemed severed, and the remainder of this contract shall not be affected and shall remain in full force and effect. Furthermore, if such an event occurs, the parties agree to negotiate a modification to replace the unacceptable provision(s) as soon as possible.

## VENUE

In the event that any party to this contract or any subcontractor shall bring a suit or action on or arising out of this contract, it is mutually agreed that such suit or action shall be brought only in Pacific County, Washington.

## NOTICE

Notice shall be given in writing. It may be delivered in person, or it may be mailed. Any notice delivered in person is effective upon delivery. If the notice is mailed, it shall be effective upon the third day after mailing.

## PUBLIC RECORDS ACT

This Agreement and all public records associated with this Agreement shall be available from the COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act").

The CONTRACTOR shall comply with all Washington State Supreme Court Rules regarding confidentiality of client communications.

## ENTIRE CONTRACT

The parties agree that this contract is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this contract shall be in writing and signed by all parties.

Dated this 22nd day of December, 2015.

SUPERIOR COURT JUDGE:

Michael J. Sullivan — Date

CONTRACTOR:

Nancy McAllister — 12-22-15 Date

CONFIRMED BY:
Board of Commissioners
Pacific County, Washington

Steve Rogers — 12/22/2015 Date
Chairman

ATTESTED:

Marie Guernsey — 12/22/2015 Date
Clerk of the Board