INDIGENT DEFENSE
CONTRACT FOR LEGAL SERVICES
PACIFIC COUNTY, WASHINGTON
(Edward Penoyar)

THIS CONTRACT is entered into by the Superior Court Judge of Pacific County, hereinafter referred to as "JUDGE"; Edward Penoyar, [redacted] South Bend, Washington 98586, 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

The CONTRACTOR shall be responsible for representing juveniles in providing advice on juvenile offender cases, juvenile diversion agreements, and truancies 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.

SOUTH DISTRICT COURT

The CONTRACTOR shall be responsible for representing persons who are or have been arrested or charged with any criminal offense or violation of probation before the South District Court in Pacific County, Washington, when ordered to do so by the court or at the request of an arrested defendant prior to his/her first appearance in court. The services provided by the CONTRACTOR also shall include, but not be limited to, the preparation of post-judgment paperwork (modification of judgment, motion for furlough, motion for special examinations, etc.) and preparation of a notice of appeal in cases where an appeal is requested by respondent.

CIVIL CONTEMPT HEARINGS

The CONTRACTOR shall be responsible for representing persons entitled to legal representation at public expense at Civil Contempt Hearings including but not limited to, At-Risk-Youth, CHINS, and other Civil Contempt Hearings.

DUTIES OF CONTRACTOR

The CONTRACTOR agrees to represent, advise, defend in court, and otherwise provide legal assistance 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; however, the CONTRACTOR will not be appointed under this contract to represent a defendant/respondent who is charged with murder in the first degree, or for exceptional cases which require abnormal time and effort to reach resolution. The CONTRACTOR reserves the right to petition the court for additional compensation in such exceptional cases. The court shall reserve the right to make such determinations.

The CONTRACTOR agrees to have a business telephone line(s), a fax machine, and an answering machine accessible without long distance charges. The CONTRACTOR agrees that he will accept collect telephone calls from his clients. The CONTRACTOR does not have to accept collect telephone calls from clients who are abusive toward him or who make repeated collect calls that are unnecessary. The CONTRACTOR agrees that he will maintain reasonable contact with his clients and respond to indigent client requests in a timely fashion. The CONTRACTOR agrees that he will 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:

- Juvenile Offenders: Serves as One Conflict (one CONTRACTOR)
- South District Court: Serves as One Conflict (one CONTRACTOR)
- Juvenile and Other Civil Contempt Hearings

The CONTRACTOR must record in writing all contacts with indigent clients so that
a 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/she is unavailable due to medical reasons or when he/she is on vacation.

ASSIGNMENT OF CASES

In general, cases will be assigned to the CONTRACTOR by the court at the Court's discretion. The CONTRACTOR shall keep the court apprised of his desire in this regard.

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 agrees to be responsible for active indigent cases that previously had been assigned to the Pacific County Public Defender's Office or other CONTRACTORs, in keeping with his third (3rd) position for Juvenile Offenders, South District Court and Juvenile and first position (1st) for Civil Contempt Cases.

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 years 2013 follows:

Edward Penoyar	$696.83/per month	South District Court 3rd Juvenile Offenders 3rd Juvenile and Other Civil Contempt Hearings 1st

The total contract for the Calendar Year 2014 and 2015 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, 2014 and January 1, 2015.

The parties agree that in providing services in his capacity under this contract the CONTRACTOR IS AN INDEPENDENT CONTRACTOR AND NOT AN EMPLOYEE OF PACIFIC COUNTY. The CONTRACTOR hereby agrees not to make any representation to any third party, nor to allow such third party to remain under the misimpression that the CONTRACTOR is an employee of PACIFIC COUNTY as it pertains to providing services under this contract.

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, an CONTRACTOR must petition a Court for authorization to incur those expenses.

INDEMNIFICATION

In accepting this Agreement, the CONTRACTOR, including its successors and assigns, does hereby covenant and agree to indemnify and protect and save harmless the COUNTY and its officers and employees from all claims, actions, or damages of every kind and description which may accrue to or be suffered by any person, partnership, corporation, or other entity of any kind that arise in whole or in part from intentional tort(s), or negligent act(s) or omission(s), or strict liability of the CONTRACTOR or its employees, agents, successors, or assigns. If the above sentence applies and any suit or action is brought against the COUNTY, its officers, its employees, or any combination thereof, the CONTRACTOR, including its successors or assigns, shall defend the suit or action at his or her or their sole cost and expense and shall fully satisfy any judgment that is rendered against the COUNTY, its officers, its employees, or any combination thereof.

INSURANCE

The CONTRACTOR shall maintain, and upon request of the COUNTY, provide proof of occurrence based general business professional liability insurance in the amount of $100,000,000 or greater per occurrence and $200,000,000 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.

MONITORING, EVALUATION, AND CLIENT COMPLAINTS

The Superior Court and District Court Judges may periodically monitor, evaluate and review the performance of the CONTRACTOR as pertains to his performance under this contract in keeping with the term of and standards within Pacific County Ordinance No. 159. The Superior Court and District Court Judges 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.

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, 2013 and shall continue through December 31, 2015.
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".

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.

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, 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.

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 27th day of November, 20 12.

SUPERIOR COURT JUDGE:

[redacted] 12/4/12

Michael J. Sullivan Date

CONTRACTOR:

[redacted] 11/21/12

Edward Penoyar Date

SOUTH DISTRICT COURT JUDGE:

Douglas Goelz Date

CONFIRMED BY:
Board of Commissioners
Pacific County, Washington

Lisa Ayers

Lisa Ayers Date
Chairman

ATTESTED:

Marie Guernsey 11/27/12

Clerk of the Board Date
Deputy