

Agenda Summary Report (ASR)

Franklin County Board of Commissioners

DATE SUBMITTED: 12/20/2021	PREPARED BY: Whitney Conner
Meeting Date Requested: 12/28/2021	PRESENTED BY: Office of Public Defense
ITEM: (Select One) <input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Brought Before the Board Time needed:	
SUBJECT: Juvenile Dependency Public Defense Contract with Diana Anderson	
FISCAL IMPACT: Decrease of \$1,268.64 from 2021	
BACKGROUND: Each year Benton and Franklin Counties reevaluate the ratio that each County will pay by the years previous case filings. With the procedure for the yearly calculations already established it has been formulated that 2022 Benton County will provide 67%, and Franklin County will provide 33% towards the total salaries. The numbers were calculated for 2022 which also included a 5% increase in compensation, however due to the decrease in the cost share responsibility for Franklin County, we still have a decrease in fiscal impact.	
RECOMMENDATION: Approve Contract with Diana Anderson for Juvenile Dependency Services	
COORDINATION: Eric Hsu, BCOPD Denise Gerry, BCOPD Larry Zeigler, FCOPD	
ATTACHMENTS: (Documents you are submitting to the Board) Resolution Contract Exhibit A	
HANDLING / ROUTING: (Once document is fully executed it will be imported into Document Manager. Please list <u>name(s)</u> of parties that will need a pdf) None	

I certify the above information is accurate and complete.


Whitney Conner
Admin Assistant, FCOPD

FRANKLIN COUNTY RESOLUTION _____

BEFORE THE BOARD OF COMMISSIONERS
OF FRANKLIN COUNTY, WASHINGTON

EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH ATTORNEY DIANA ANDERSON TO REPRESENT INDIGENT PERSONS FOR DEPENDENCY MATTERS IN FRANKLIN COUNTY JUVENILE COURT

WHEREAS, Franklin County is obligated by law to provide indigent defense services in Franklin County Juvenile Court; and

WHEREAS, attorney Diana Anderson has been providing such services by way of a contract for dependency cases in Juvenile Court and has significant experience; and

WHEREAS, Franklin County wishes to continue to contract with Attorney Anderson for a period from January 1, 2022 to December 31, 2023 to represent indigent persons assigned to the juvenile dependency panel; and

NOW THEREFORE, BE IT RESOLVED THAT the professional services agreement with Diana Anderson be executed as presented.

DATED this day of , 2021.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON

Chair

Chair Pro Tem

Member

ATTEST:

Clerk of the Board

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO JUVENILES IN FRANKLIN COUNTY JUVENILE COURT (DEPENDENCY CASELOAD)

CONTRACT SUMMARY			
Contract Type	Juvenile – Dependency		
Contract Number	ANDE12312023JC	Contract Holder	Diana Anderson
WSBA #	18297	Effective Dates	01/01/22-12/31/23
Caseload Cap	30	Compensation	\$39,764.21/annual

THIS AGREEMENT is entered into by and between **Diana Anderson**, attorney at law, Washington State Bar Association # **18297** ("Attorney"), and **FRANKLIN COUNTY, WASHINGTON**, a state of Washington political subdivisions ("County"), for and on behalf of the Benton-Franklin County Superior Court.

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

- A.** The County has the legal responsibility to provide legal services to children who are parties to dependency proceedings (RCW Chapter 13.34/26.44, as now existing or as may be amended/recodified) and/or termination proceedings (RCW Chapter 13.34, as now existing or as may be amended/recodified) (collectively "Civil Proceedings") in the Juvenile Division of the Benton-Franklin Counties Superior Court (the "Juvenile Court Division" or "Juvenile Court").
- B.** Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons in Civil Proceedings and contested family law matters, and desires to contract with the County to provide legal services to indigent children subject to Civil Proceedings in the Juvenile Court Division.
- C.** While Benton & Franklin Counties do not jointly provide public defense services, the two Counties have entered into an agreement for the provision of public defense services on Civil Proceedings using the same group of attorneys. This group of attorneys will each be offered separate public defense contracts for each county pursuant to a joint resolution (attached as Exhibit A) that will provide for a specific way that compensation will be paid by each county and that will further provide that the caseloads of each contract attorney will be a mixed caseload with cases from each county, with a total, as listed in Section 7 below, representing the grand total of the combined cases from each county.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Attorney hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2022**, and shall continue thereafter through and including **December 31, 2023**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains (or has access to) an office adequate and appropriate for the practice of law at **P.O. Box 6082, Kennewick, WA 99336**; Attorney's current local office telephone and fax numbers are **509-783-3748 and 509-783-8754**, respectively; and Attorney's current office/work e-mail address is **andersonlaw@fastmail.com**

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain (or have access to) such office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the greater Tri-Cities, Washington, area and/or Attorney may change Attorney's telephone/fax number to another greater Tri-Cities local telephone/fax number, and/or Attorney may change Attorney's e-mail address, provided that Attorney must provide immediate written notice of such change(s) to the Public Defense Manager, the Benton County Prosecuting Attorney, and the Benton-Franklin County Juvenile Court Administrator ("JCA").

c. Regardless of the location or manner in which Attorney decides to maintain an office, throughout the entire term of this Agreement the office facility must comply with any and all applicable public defense standards adopted by the Washington Supreme Court ("Supreme Court").

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the County have an obligation to provide competent and effective legal counsel to juveniles subject to proceedings in Juvenile Court. Attorney shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by attorneys engaged in the defense of persons accused of crimes in the state of Washington and generally exercised by members of the Washington State Bar Association ("WSBA"). Without limitation in that regard, Attorney acknowledges and agrees that Attorney has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Attorney is appointed to represent under this Agreement.

a. As of the date of this Agreement, Attorney represents and warrants that Attorney is unconditionally licensed to practice law within the state of Washington; has had at least one (1) year of direct trial experience in criminal defense or criminal prosecution matters; meets the minimum standards for Superior Court juvenile public defense for Class B and Class C felonies as adopted by the Supreme Court; has not been a party to a previous personal services agreement with any governmental entity or any other entity for the provision of public indigent defense services that was terminated due to Attorney's breach or other contractual non-compliance; has not been previously employed by any governmental entity or any other entity to provide indigent defense services and had such employment terminated due to any reason relating to Attorney's job performance; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to

effectively and competently render legal services hereunder; has not been suspended or disbarred from the practice of law in any state or other jurisdiction at any time in the past; and does not have any bar association complaints filed and pending against him/her.

(i) This Agreement may be subject to review and potential termination pursuant to paragraph 19 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censured, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on Attorney's duty and ability to effectively and competently render legal services hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the County within five (5) business days if any event specified in paragraph 3.a.(i) occurs or if any bar association complaint is filed against Attorney. Failure to do so shall constitute a substantial and incurable breach of this Agreement and shall subject this Agreement, at the election of the County, to immediate termination.

(iii) Attorney acknowledges and agrees that the County may conduct criminal history background check(s) on Attorney including any such recurring check as the County may deem appropriate, in their sole discretion, even at times after execution of this Agreement. Attorney acknowledges and agrees that this Agreement shall be deemed immediately and automatically terminated upon the County receiving a non-complying or otherwise unsatisfactory criminal history background check report.

(iv) Attorney represents, warrants, and certifies that Attorney has read and fully understands the requirements of RCW 13.40.570 (sexual misconduct by state employees, contractors) and all sex offense crimes included in RCW Chapter 9A.44. Attorney shall comply with any and all applicable legal and/or administrative requirements relating to the documenting and reporting of sexual misconduct.

(v) Upon Attorney pleading guilty or being convicted of any of the following-described offenses, Attorney shall notify the PDMs of such plea/conviction within seven (7) calendar days thereafter, and Attorney's failure to timely report within such timeframe shall constitute a substantial and incurable breach of this Agreement and result in the immediate and automatic termination of this Agreement. Even if the County is timely notified by Attorney, the County may elect, at its sole discretion, to terminate this Agreement and, if they elect to do so, may do so with ten (10) days written notice to Attorney:

(a) Any felony offense as defined in RCW 9A.04.030 and RCW 9A.44.130 or misdemeanor sex offense under the laws of the State of Washington, any other state, or federal law;

- (b) Any crime specified in RCW Chapter 9A.44 when the victim was a juvenile in the custody of, or under the jurisdiction of, the Juvenile Rehabilitation Administration, Washington Department of Social and Health Services;
- (c) Any violent offense as defined in RCW 9.94A.030 or its equivalent in any other state or federal statute; and/or
- (d) Any crime of dishonesty or deception.

b. During each calendar year of the term of this Agreement, Attorney shall obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education ("CLE") credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the PDMs with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington Office of Public Defense ("OPD"), and any CLE credit earned by Attorney by attending such training seminar(s) may be applied towards the above-mentioned minimum seven (7) hours. The County may provide Attorney's name and address to the OPD for purposes of the OPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the PDMs with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

c. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload; Attorney's schedule; and Attorney's office resources, equipment, and support staff will allow Attorney to competently undertake and effectively perform all services required under this Agreement. Attorney represents and warrants that Attorney's private law practice and schedule will not interfere with Attorney's ability to timely and effectively perform such services including, without limitation, Attorney's ability to prepare for and attend regularly scheduled trials and dockets or Attorney's ability to schedule and conduct face-to-face meetings with the persons Attorney is appointed to represent under this Agreement for purposes of discussing, preparing, and pursuing the most viable defense(s) and/or resolution available and keeping such persons reasonably apprised as to the status of their case.

d. Pursuant to RCW 10.101.050, no later than 15 calendar days after the end of each calendar year during the term of this Agreement, Attorney shall provide the PDMs with a written report showing the total number and specific types of private practice cases (which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other professional/personal services agreement) in which Attorney provided legal services during the preceding year and the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding year. Additionally, in the event that the public defense attorney caseload activity reporting requirements under RCW

10.101.050 are later amended/modified, Attorney shall correspondingly comply with any such amended/modified reporting requirements without added compensation upon written notice from the County to do so.

e. Attorney recognizes and acknowledges that Attorney is required by Supreme Court Order to meet certain Supreme Court-adopted Standards for Indigent Defense ("Defense Standards") to provide quality representation to juveniles, and to periodically file certain certifications attesting to Attorney's compliance with such Defense Standards. Attorney understands and acknowledges that Attorney's compliance with such Defense Standards and periodic certification filing requirements is a direct professional and ethical obligation between Attorney and any court in which Attorney appears while performing services under this Agreement. Attorney further acknowledges and understands that, though Attorney's compliance with such Defense Standards and such periodic certification filing requirements is not an express term of this Agreement and therefore not subject to the County's monitoring or control, Attorney's noncompliance with such Defense Standards and/or such filing requirements would directly impair Attorney's ability to perform and fulfill Attorney's basic obligations under this Agreement. Accordingly, if the County is notified by any court in which Attorney appears to perform services under this Agreement that Attorney has failed to comply with such Defense Standards or such periodic certification filing requirements, Attorney shall then be considered to be in substantive breach of this Agreement and this Agreement shall then become subject to potential termination under the provisions of paragraph 19.b. below.

f. Attorney understands and acknowledges that Attorney is solely and personally responsible to obtain and maintain all necessary state and local government business licenses and/or other approvals necessary to operate Attorney's private legal services business.

4. **OTHER INDIGENT DEFENSE ATTORNEYS.**

In addition to entering into this Agreement with Attorney, the County has entered into, or contemplate entering into, separate and independent professional services agreements with other licensed attorneys to primarily provide defense services to persons subject to Civil Proceedings in Juvenile Court. Attorney agrees to fully cooperate and coordinate with such other independent contractor attorneys, the JCA, the PDMs, and any attorneys hired and employed by the County ("Staff Defenders") to provide criminal defense services to persons accused of crimes in Juvenile Court, to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney, said other independent contractor attorneys, and said Staff Defenders (collectively the "Juvenile Court Criminal Defense Panel"). The JCA and/or the PDMs shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

5. **CASE APPOINTMENTS.** During the term of this Agreement, Attorney agrees to and shall accept appointments to represent juveniles (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in Juvenile Court in which publicly-provided counsel is furnished or required by law. More specifically, Attorney shall accept court appointments to represent juveniles on any of the following types of matters:

- All Civil Proceedings under the jurisdiction of the Juvenile Court.
- Any other type of Juvenile Court Division case or matter (regardless of whether criminal based or civil based) in which another Juvenile Court Civil Defense Panel Member and/or a Juvenile Court Criminal Defense Panel Member and/or any other attorney who is under a professional services agreement to provide legal representation in Juvenile Court is unable to handle due to a conflict of interest.
- In any case where Attorney is appointed to represent a Child and a) the Child is the person who initially filed the petition for dependency; and b) the Child is regarded as the Petitioner for purposes of Attorney's representation and the proceedings in the case ("Qualifying Case"), Attorney shall be paid an additional case premium of \$850 given the particular complexities of serving in that role. *This case premium for Qualifying Cases is payable directly by Franklin County for Qualifying Cases filed and pending in Franklin County Juvenile Court, and this case premium shall not be included in the compensation to be split between Benton & Franklin Counties.*

6. **CONTINUED REPRESENTATION.**

Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. "Timely and fully complete" means, for each case, continuing to represent the defendant up to and including the time of final disposition of their case whether by way of adjudication, dismissal of all charges, or a change of plea and entering of a disposition. Provided, however, that if a case is re-tried for any reason, Attorney shall only be entitled to the trial per diem, if applicable, for the re-trial, and not for any additional case credit. Provided further, however, if restitution is not agreed upon at time of dispositions and a separate restitution hearing is necessary, then Attorney shall represent the defendant at such restitution hearing in order to have "timely and fully completed" the case. In cases where a defendant is placed on a deferred prosecution or stipulated order of continuance program, then Attorney shall be responsible for providing legal representation to such a defendant in the event the defendant is accused of a violation of the terms of such program and is ordered to show cause why their participation in such program should not be terminated. The determination of case credit entitlement at such subsequent representation shall be governed by the provisions of Article 8 below.

In the event that Attorney desires to terminate this Agreement, or decides, upon natural expiration of this Agreement, not to renew, then Attorney shall provide ninety (90) days written notice of such intent. In the case of termination by such notice, or if County terminates the agreement by providing notice to Attorney, Attorney shall have no further responsibilities to appointed clients pursuant to this Agreement past the effective date of the termination. In the case of natural expiration of this Agreement, if Attorney fails to provide written notice of desire not to renew at least ninety (90) days prior to the actual expiration date, then Attorney shall nevertheless continue to represent appointed clients until 90 days has elapsed from the date when the written notice of nonrenewal is provided even if a portion of the 90 day period extends past the effective date of the expiration. If a portion of this 90 day period extends past the effective

date of the expiration, then Attorney shall be entitled to a pro-rated compensation for the period of continued representation that extends past the effective date of expiration.

7. **NUMBER OF APPOINTMENTS.** During each calendar year of the term of this Agreement, Attorney agrees to and shall accept appointments to represent children in Civil Proceedings to a floating caseload maximum of **30** open cases pending at any given time (representing a grand total of the mixed Civil Proceedings caseload from both Benton and Franklin Counties) and shall additionally accept up to 10 Juvenile Court criminal conflict cases (from Benton County only). The date of court appointment shall determine the calendar year in which each individual Juvenile Court criminal conflict case is to be counted.

Throughout the term of this Agreement, the Legal Process Unit of the Juvenile Justice Center shall keep and maintain records consistent with the provisions of this Agreement in a format adequate to accurately track and monitor the number of Attorney's appointments and total case equivalents hereunder. The Legal Process Unit shall provide copies of such records to the PDMs and Attorney on a monthly basis. Upon receipt of such records on a monthly basis, Attorney shall certify the accuracy of such records and return them to the Legal Process Unit within ten (10) business days or shall, if necessary, dispute the accuracy of the records. In the event that Attorney disputes the accuracy of such records, Attorney shall bear the burden of providing evidence of such inaccuracy and of the appropriate count(s). The obligation to review and sign off on the accuracy of records on a monthly basis is an affirmative and express obligation of Attorney under this Agreement and, pursuant to Section 12g. below, Attorney's compensation may be withheld until Attorney comes into compliance with this obligation.

8. **CASE EQUIVALENTS.**

This paragraph is not applicable to this Agreement, but has been retained for internal referencing and formatting consistency.

9. **CLIENT ELIGIBILITY.** The Juvenile Court (or its designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for representation by Attorney under this Agreement. Attorney is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly provided representation. However, if Attorney is appointed to represent a person and subsequently discovers that such person may not be eligible to receive publicly-provided representation under applicable laws, rules and standards, Attorney, if able to do so within the bounds of applicable ethical rules and professional standards, shall promptly notify the Juvenile Court of such possibility for purposes of the Court (or its designee) taking action at its discretion to re-determine whether such person is/remains eligible to receive publicly-provided representation. If the Juvenile Court (or its designee) then determines that such person is not eligible for publicly-provided representation, the appointment of Attorney to represent such person shall be rescinded and such person shall be required to retain his/her own legal counsel. Attorney shall not thereafter represent such person in such matter on a retained-fee basis unless such person applies for and receives the Juvenile Court's permission allowing such representation. Nothing contained herein shall prevent Attorney from representing a person on a retained-fee basis in an action in which Attorney has not been appointed by the Juvenile Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Juvenile Court to represent provided

that the matter(s) involving the retained representation are wholly independent and unrelated to the matter for which Attorney was appointed.

10. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Attorney shall not be required to accept, and Attorney shall decline to accept, an appointment under this Agreement if the particular appointment would create a true and bona fide conflict of interest for Attorney or would otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and applicable to attorneys in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Attorney receiving an appointment under this Agreement (or in the event Attorney's continued involvement in a pending case would cause or constitute an actual violation of any such ethical or professional standards), Attorney shall immediately make the Juvenile Court aware of such development for purposes of the Court taking action to appoint another attorney to assume and undertake legal representation in such case.

11. **SCOPE OF REPRESENTATION AND FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a private and/or retained-fee basis. Without limitation in that regard, such representation should include the investigation of the underlying facts, the research of all relevant law, interviewing of potential witnesses, retention and use of investigators and/or experts when warranted and necessary, appropriate communication with the client, review of potential plea alternatives, review of potential collateral consequences associated with a plea/adjudication (e.g., potential immigration or civil commitment consequences), and the preparation for and appearance on behalf of the client in all stages of Juvenile Court proceedings including, without limitation, arraignments, pre-trial hearings, motions, trials, disposition proceedings, contempt proceedings, appeals (limited to the preparation and filing of any and all pleadings necessary and appropriate to perfect any appeal or statutory writ to a higher court, including the appointment of publicly-provided counsel, if and when applicable), and post-adjudication reviews.

a. Without limiting Attorney's obligation to initially meet with a juvenile client to discuss his/her case as soon as reasonably possible following Attorney's appointment to the case, when Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/incarcerated), Attorney should use best efforts to meet face-to-face with such person within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make earlier initial contact with the person) or otherwise as soon thereafter as reasonably possible.

b. Additionally, throughout Attorney's representation of any person under this Agreement, Attorney shall maintain reasonably appropriate contact/communications with the person so as to keep him/her fully apprised as to the status of his/her case (with the specific manner and frequency of such contact/communications left entirely to Attorney's professional judgment); and Attorney should use best efforts to apprise the person of any new development in his/her case within three (3) business days of Attorney learning of such development (unless the circumstances of a particular case reasonably require that Attorney make earlier contact with the person) or otherwise as soon thereafter as reasonably possible. Without limiting any of the foregoing provisions of this paragraph, with regard to any court hearing involving a represented person, Attorney should contact

such person (preferably in person or at least via telephone) to discuss his/her case and the purpose of the hearing no later than one (1) business day prior to the hearing date.

c. Attorney shall compile and maintain appropriate case records for each person whom Attorney is appointed to represent hereunder. Attorney shall retain such case records in their entirety (or a complete and legible paper/electronic copy thereof) for a period of no less than seven (7) years from the date on which the case or matter is fully and finally concluded or for any other time period specified under applicable court rule or statute, whichever date/event occurs last.

12. **MONTHLY COMPENSATION.**

a. Benton and Franklin Counties have entered into an agreement, memorialized in the bi-county resolution attached as Exhibit A ("Cost-Sharing Resolution"), designating the allocation of responsibility for paying monthly compensation for the services contemplated by this agreement. Each month, County shall pay Attorney its share of the total monthly compensation using the calculation formula set out in the Cost Sharing Resolution, with Franklin County being responsible for the remainder. Compensation shall be payable on the last Tuesday of each month for services rendered during that month.

b. The total monthly compensation will be \$3,313.68 for the remainder of the term of this Agreement.

c. The above-stated payments to Attorney will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. If the termination date falls mid-way through a given month, then the Attorney shall be compensated on a pro-rated basis for the days of the month up to and including the effective date of termination.

d. Attorney acknowledges and agrees that the above-stated compensation to Attorney (exclusive of the below-described additional compensation Attorney would be entitled to receive for homicide cases) shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney under this Agreement up to the above-stated annual maximum.

e. Attorney shall also receive additional compensation for trials actually held in the amount of \$300 per full day and \$150 per partial day with trials extending past noon being regarded as a full day and those that are completed before noon considered a partial day.

f. The compensation to be paid is specifically contingent upon Attorney's compliance with reporting requirements stated in Section 7 above and if Attorney fails to certify caseload reports as required on a monthly basis, then compensation may be withheld and delayed until such time as Attorney comes into compliance with the obligations therein.

13. **HOMICIDE CASE COMPENSATION.** Homicide cases are appointed to the qualified Juvenile Court Criminal Defense Panel members on a rotational basis. If Attorney

accepts a homicide case appointment, Attorney shall receive additional compensation at the rate of **\$65.00 per hour** up to a maximum aggregate amount of \$5,000.00 per case (or such greater maximum aggregated amount as may be specifically approved and ordered by the court in a particular case as being reasonable and necessary due to its extraordinary facts, nature, and complexity).

a. Payment of any such additional compensation is based on time expended on the case by Attorney only. Time expended by other persons (including, without limitation, Attorney's support staff, law partners, or associate attorneys) on such cases at Attorney's request or direction shall be part of Attorney's office overhead and shall not be billable to the County.

b. As a precondition to Attorney being paid the above-mentioned additional compensation for a homicide case, Attorney shall be required to submit a vendor warrant payment voucher to the PDMs that descriptively sets forth and details the total number of hours (documented and stated in one-tenth (1/10th) hour intervals) expended by Attorney on such case and that further describes and details the particular actions taken by Attorney on such case that correspond to such expended and billed hours (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process vouchers shall not be billable to the County. All payment vouchers and requests for additional compensation under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers within sixty (60) days of the date on which Attorney expended time for which additional compensation is sought under this paragraph, and the County shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

14. **COSTS AND EXPENSES.**

a. Attorney acknowledges and agrees that Attorney shall not be entitled to claim or receive any reimbursement/payment from the County for any law practice-related overhead costs or expenses incurred by Attorney during the course of rendering legal services under this Agreement (including, without limitation, costs and expenses associated with Attorney's office, office staff, office equipment/facilities, and/or other office or law practice-related resources).

b. The County recognizes, however, that in certain circumstances the need may arise for Attorney to incur certain types of out-of-pocket expenses directly related to a juvenile client's case such as private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of out-of-area travel, meals and lodging.

(i) Attorney shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures or may arrange with the PDMs for the service provider (e.g., private investigator, psychologist/psychiatrist, interpreter, testing lab, or expert witness) to be compensated directly by the County provided that, however, Attorney shall not incur any such expense (and shall not direct a service provider to incur any expenses), nor shall Attorney be entitled to be

reimbursed or the service provider compensated for any such expense, unless such expense has been pre-approved by the PDMs in writing pursuant to pre-approval process established by the PDMs and promulgated by written policy. Such pre-authorization will state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such pre-authorization may nevertheless provide authorization for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Attorney for any PDM-approved expenditures and costs pertaining to case-related travel, meals, and lodging, any reimbursement to Attorney for such expenditures and costs shall not exceed the locally adjusted amounts that are established and published by the Federal General Services Administration.

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being eligible to be reimbursed or a service provider being eligible to be compensated for an expenditure under paragraph 14.b., either Attorney or the service provider shall be required to submit a claim for reimbursement/compensation to the appropriate PDM that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such claims are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the PDM's pre-authorization that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process claims shall not be billable to the County. All payment vouchers and claims for reimbursement/compensation under this paragraph shall be subject to the PDM's review and final approval for payment. Attorney shall submit claims for reimbursement to the appropriate PDM within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the County shall have the right to deny payment of any claim that is not timely submitted within said requisite sixty (60) day period.

15. **ADDITIONAL ASSISTANCE.** Attorney may from time-to-time be appointed to handle certain Class A felony matters hereunder in Juvenile Court that may require an extraordinarily excessive amount of Attorney's time and/or responsibility. If Attorney is appointed to handle such a matter, Attorney may request that the Juvenile Court appoint one of the other Juvenile Court Criminal Defense Panel attorneys to assist Attorney in such matter, with the other attorney (unless prevented by a conflict of interest) being appointed to assist Attorney in the same manner as any other appointment. The parties intend that the provisions of this paragraph may be pursued and utilized only under extraordinary and exceptional circumstances when the appointment of another attorney is actually necessary to prevent Attorney from performing an inordinately greater amount of work or accepting an inordinately greater amount of responsibility than the other members of the Juvenile Court Criminal Defense Panel. Notwithstanding the foregoing provisions of this paragraph, however, if the Juvenile Court determines in any particular

matter within the scope of this paragraph that the appointment of another attorney to assist Attorney requires the appointment of a non-panel member attorney because of the nature and complexity of the particular matter, the Juvenile Court (or designee) would have the ultimate and inherent discretion and power to do so.

16. **INDEMNIFICATION AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify and hold fully harmless the County and its elected/appointed representatives, officers, employees, and agents from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, employee, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this Agreement. In the event any suit or any other type of legal proceeding is brought against the County or any of its elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of their elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings; provided that, however, the County shall, at all times, retain the full and exclusive right to control the terms and conditions of any type of settlement or other resolution of any such suit or legal proceeding. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Attorney waives, with respect to the County only, any immunity that would otherwise be available to Attorney under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

17. **INSURANCE.**

a. Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of professional liability insurance in an amount of not less than \$1,000,000.00 per claim nor less than \$1,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than \$10,000.00.

(i) Said policy shall include coverage as an additional insured for any other person(s) or attorney(s) acting for or on behalf of Attorney in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Attorney (and/or such additional insureds) during the course of performing legal services under this Agreement; shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(ii) Attorney shall continuously maintain the professional liability insurance coverage required by this paragraph 17.a. throughout the entire term of

this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

b. Attorney shall also obtain and maintain, at Attorney's sole cost and expense, a policy of Commercial General Liability insurance (including Endorsement Form CG2011 or direct equivalent insurance industry additional insured endorsement form and including Contractual Liability coverage) in the amount of not less than \$1,000,000.00 per occurrence nor less than \$2,000,000.00 in the aggregate during the policy term. Additionally, if Attorney is an employer, Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than \$1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Juvenile Court, and their elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 17.b shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 17.b. throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 17, and Attorney shall annually provide the County with the same type of documented proof and confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

18. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that the JCA (or another employee/representative of the County's Juvenile Justice Center), either PDM (or another employee/representative of the County's Office of Public Defense), or the Juvenile Court receives an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts an unresolved complaint about the legal services rendered to such person by Attorney and is not readily subject to resolution simply by facilitating communication between Attorney and client, a written, dated, and signed statement shall be obtained from the complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall be provided to the PDs and JCA.

a. Upon receiving such complaint, the JCA/PDM, without limitation to any other action the County may deem necessary/appropriate to pursue under this Agreement, shall promptly forward a copy of the complaint to Attorney and request Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the PDM and JCA within five (5) business days). The JCA/PDM shall then review the complaint and Attorney's response thereto and take any action deemed necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The JCA will then follow-up with the Presiding Juvenile Court Judge to confirm or advise that the complaint has been, or is in the process of being, addressed and resolved. The foregoing procedure does not interfere with or otherwise impair the Juvenile Courts/Office of Public Defense's ability and/or duty to monitor the performance of attorneys appearing before the Court.

b. Additionally, during the term of this Agreement, in order to help ensure that juvenile clients are consistently provided effective legal representation, and without limitation to any other means or methods of performance monitoring/evaluation the County may deem necessary/appropriate, Attorney acknowledges that the County and/or the JCA/PDM have the right to periodically ask, without limitation, the Juvenile Court and/or other attorneys and/or persons previously represented by Attorney to provide an evaluation/assessment of the quality and effectiveness of Attorney's performance of legal services and related duties and obligations under this Agreement, provided that such inquiry shall not be made of any person represented, absent a complaint from such person, during the course of representation.

19. **TERMINATION.**

a. In addition to any other automatic or discretionary termination provisions set forth in this Agreement, this Agreement shall automatically terminate in the event that Attorney is suspended/disbarred from the practice of law in Washington, effective without notice as of the date of suspension/disbarment. In such event, Attorney shall be liable up to \$5,000.00 for any additional costs or expenses incurred by the County and/or the Juvenile Court relating to the appointment of substitute legal counsel for any person(s) whom Attorney was appointed to represent hereunder; and the County shall be entitled and authorized to setoff and deduct any such additional costs or expenses from any unpaid compensation owing to Attorney hereunder.

Further, in the event that the Juvenile Court enters an order that prohibits or disqualifies Attorney from receiving any further appointments hereunder for any reason whatsoever, this Agreement shall automatically terminate without further notice as of the date such order is entered by the court. In the event that the court enters such an order because of unethical/unprofessional conduct by Attorney and/or because of Attorney's breach of this Agreement and the court determines at that time that the circumstances justify or require a substitution of appointed counsel for any person(s) whom Attorney was appointed to represent hereunder, Attorney shall be liable up to \$5,000.00 for any additional costs or expenses incurred by the County and/or the Juvenile Court relating to such substitute appointment(s); and the County shall be entitled and authorized to setoff and deduct any such additional costs or expenses from any unpaid compensation owing to Attorney hereunder.

b. In addition to the above-referenced automatic termination provisions, the County may elect to terminate this Agreement in the event Attorney fails for whatever reason to comply with any provision of this Agreement after giving Attorney ten (10) business days advance written notice to cure, which notice shall specify the reason(s) for the notice, the act(s) necessary to cure Attorney's failure(s), and the consequence if the failure(s) is/are not cured within said ten (10) day period (e.g., termination without further notice or potential termination upon further notice). The County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

c. In addition to the foregoing provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election. Attorney shall continue to receive case appointments during the first sixty (60) days of the notice period and shall have continued responsibility for those appointed cases pursuant to paragraph 6 above. A ninety (90) day notice of termination given by either party under this paragraph 19.c. shall be fully and immediately effective when received by the recipient party pursuant to the provisions of below paragraph 32 (notwithstanding the inclusion of any contrary terms or language in the notice) without any need for formal or informal acceptance or any other response by the recipient party, and such notice may not thereafter be rescinded/revoked by the party giving such notice unless such rescission/revocation is expressly acknowledged and agreed to by the recipient party in writing in the recipient party's sole discretion.

d. In any event, regardless of the manner in which this Agreement is terminated, Attorney acknowledges and agrees that Attorney shall not be entitled to receive any further compensation from the County in the event this Agreement is terminated; provided that, Attorney shall be entitled to be paid for any unpaid compensation duly earned by Attorney under this Agreement up to the date of termination. Additionally, as required by paragraph 6 above, the termination of this Agreement, regardless of the manner of termination, shall not relieve Attorney from the obligation and duty to continue representing all persons whom Attorney was appointed to represent prior to the termination unless Attorney is expressly barred or prohibited from doing so by court order and/or the suspension/disbarment of Attorney from the practice of law in Washington.

e. If the County decides in its discretion to provide public defense representation in Juvenile Court through a public agency (such as an Office of Public Defense or similar entity) that would reduce or fully eliminate the need for continuing this Agreement with Attorney, the County will notify Attorney of such decision as soon as reasonably practicable so that Attorney and the County can coordinate and pursue an appropriate transition.

20. **INDEPENDENT CONTRACTOR.** Attorney fully understands, acknowledges, and agrees that Attorney shall not be an agent, representative, or employee of the County or the Juvenile Court for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Attorney, as of the date of this Agreement and throughout its entire

term, is and will always be acting and operating as a fully independent contractor. In that regard, subject to Attorney's duties, responsibilities and obligations imposed under this Agreement, Attorney shall have sole and absolute discretion using Attorney's best professional legal judgment to determine the manner and means of providing the legal representation services required under this Agreement; and neither the County, the JCA, the PDMs, nor the Juvenile Court shall have any authority or duty to directly control the actual performance of Attorney's professional services hereunder.

21. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise expressly provided in paragraphs 21.a. and 21.b. below, Attorney shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Attorney assign, subcontract out, or otherwise delegate any of Attorney's rights, responsibilities, or obligations under this Agreement.

a. Attorney and any of the other Juvenile Court Defense Panel members may mutually agree to make temporary, substitute appearances for each other on routine docket matters and routine court hearings on an as-needed basis as approved by the court and by the person being represented (if that person has previously discussed the case with his/her appointed attorney). Any compensation or consideration (if any) to be paid or given by Attorney to the other Defense Panel members for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and said other panel members, and said other members shall not be entitled to receive any additional compensation from the County for such substitution(s).

b. In the event Attorney needs or desires to take up to a maximum of four (4) consecutive weeks (or such longer requested period of time as may be expressly pre-approved in writing by the respective PDMs on a case-by-case basis, in his sole and absolute discretion) leave of absence from the practice of law and/or the requirements of representation under this Agreement during the term of this Agreement and is unable to obtain the assistance of the other Juvenile Court Defense Panel members during such temporary absence, Attorney may seek and obtain the assistance of another Washington-licensed attorney (subject to pre-approval of such attorney by the PDMs which shall not be unreasonably withheld) to make temporary, substitute appearances for Attorney during such absence on routine docket matters and routine court hearings on an as-needed basis provided that Attorney and such other attorney jointly prepare, sign and file a written certification with the court (with a copy to be provided to the PDMs) in all such matters and hearings that expressly certifies that such other attorney has reviewed this Agreement and fully meets all criteria, qualifications, and requirements under this Agreement to render legal services and provided further that such temporary substitution is expressly authorized on the court record by the court and the particular person(s) being represented by Attorney who is/are affected by such substitution of legal counsel.

(i) Any compensation or consideration (if any) to be paid or given by Attorney to such other attorney for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and such other attorney, and such other attorney shall not be entitled to receive any compensation from the County for such substitution(s).

(ii) Unless called to active military duty, Attorney shall be responsible to ensure that such other attorney fully complies with all terms and conditions of this Agreement during such temporary absence period (including, without limitation, the requirement to maintain the insurance coverage specified in paragraph 17 above), and Attorney shall be strictly liable for any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

c. In the event Attorney is called up for active military duty or for direct civilian support of active military operations, Attorney shall provide the PDMs and JCA with written notice of such event within five (5) business days of Attorney being called up so that the PDMs, JCA and Attorney can coordinate and arrange for an appropriate substitute attorney to handle Attorney's duties under this Agreement while Attorney is on military leave and any reasonable back-to-civilian-life transition time requested by Attorney upon return. The selection of a substitute attorney shall be subject to the PDMs' approval and such approval shall not be unreasonably withheld. Conditioned upon Attorney complying with said notice and cooperation requirements, Attorney shall be entitled to resume Attorney's contract duties hereunder upon written request to the JCA/PDM within a reasonable time after Attorney's return from active service, but Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

22. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the expiration date specified in paragraph 1 above, the County may initiate, implement and pursue any actions or process deemed appropriate/necessary to seek, select, and contract with another qualified attorney to replace and succeed Attorney in representing persons in Juvenile Court.

23. **OTHER APPOINTMENTS.** Attorney shall not enter into any contract/arrangement to perform criminal prosecution services in any court or jurisdiction. Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may enter into a part-time contract/arrangement to receive public defense appointments in another court or jurisdiction, provided that, and on the indispensable condition that, Attorney's duties and obligations under said part-time contract/arrangement will not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement.

24. **TEMPORARY JUDICIAL SERVICE.** Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may temporarily serve as a judge pro tem in any capacity and under any circumstances except on any criminal cases pending before the Juvenile Court, provided that, and on the indispensable condition that, it would not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement. Any potential exceptions to the foregoing limitation on Attorney serving as a judge pro tem would be strictly on a case-by-case basis and would be strictly subject to Attorney obtaining the PDMs' prior express approval and authorization, which decision shall be decided on a case-by-case basis in the PDMs' sole and absolute discretion.

25. **ENTIRE AGREEMENT.** This Agreement constitutes the entire integrated agreement and understanding of the undersigned parties. No amendment, modification or other

type of change to this Agreement shall be valid or enforceable unless reduced to writing and signed by the parties.

26. **CAPTIONS; TIME COMPUTATION.**

a. The captions and headings herein are for convenience only and shall not be relied upon or used to interpret or construe this Agreement or any portion thereof.

b. Unless otherwise expressly specified herein, any period of time specified in this Agreement shall expire at 5:00 p.m. (PTZ) of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday, or a legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. (PTZ) of the next business day. Unless otherwise expressly specified herein as being business days only, any period of time specified in this Agreement shall mean and be calculated to include calendar days.

27. **GOVERNING LAW.** This Agreement shall be exclusively construed under and interpreted consistent with the laws of the state of Washington.

28. **BINDING EFFECT.** Strictly subject to the above restrictions against assignment, subcontracting, or delegation, this Agreement shall be binding upon Attorney's heirs, legal/personal representatives, successors, and assigns.

29. **SEVERABILITY.** In the event that any one or more provisions contained in this Agreement are, for whatever reason, determined by arbitration to be invalid, illegal or unenforceable in any respect, such invalid, illegal or unenforceable provision(s) shall not affect any other provision hereof, and this Agreement shall nevertheless be construed and enforced as if such invalid, illegal or unenforceable provision(s) were not contained herein.

30. **NON-WAIVER.** A party's express or implied consent to or waiver of any breach or default by the other party in the performance of such other party's obligations hereunder shall not be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other party of the same obligations or any other obligation(s) of such other party hereunder.

31. **DISPUTE RESOLUTION.**

a. The parties hereby specifically waive, release, and irrevocably relinquish any and all right to file a court lawsuit of any type to address any claims or dispute between the parties involving the performance or interpretation of this Agreement or that in any other way relate to, or arise from, this Agreement, and regardless of whether money damages, equitable relief, or any other type of relief is being sought. Provided, however, if necessary due to a party's disregard of and failure to abide by the non-judicial Dispute Resolution provisions contained in this paragraph 31, the other party may pursue court action to seek and obtain an order compelling and enforcing such Dispute Resolution provisions, and as part of such action and court order, the court shall order the party not complying with the requirements of such Dispute Resolution provisions to pay the other party's incurred attorney fees and costs.

b. Accordingly, in furtherance of the parties' above-stated agreement to submit any and all claims and disputes to non-judicial resolution, in the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, or that in any other way relates to, or arises from, this Agreement, either party may then make written demand on the other party to submit the dispute to mediation through the assistance of an experienced mediator chosen by mutual agreement of the parties who must be a Washington-licensed attorney experienced in contract disputes. The mediation shall occur within thirty (30) days of the mediation demand, unless the parties mutually agree otherwise. The County shall pay one-half of the mediator's fees and expenses, and Attorney shall pay the other one-half of such fees and expenses.

c. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration pursuant to RCW Chapter 7.04A. A single arbitrator (who must be a Washington-licensed attorney experienced in contract disputes) shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator (who must be a Washington-licensed attorney experienced in contract disputes) and those two (2) so selected arbitrators shall mutually select a third arbitrator (who must be a Washington-licensed attorney experienced in contract disputes). The County shall pay one-half of the fees and expenses of the arbitrator(s), and Attorney shall pay the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Benton-Franklin Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days after the unsuccessful mediation session, the arbitrator(s) shall be selected and designated, and the hearing shall be held within thirty (30) business days after designation of the arbitrator(s), unless the parties mutually agree otherwise. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Benton or Franklin County Superior Court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Benton or Franklin County Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

32. NOTICES.

a. Any notices required or permitted to be given by Attorney to the County under this Agreement shall be in writing and shall be either personally delivered to the County's PDM and the JCA at their respective below-stated office addresses; mailed to the PDM and the JCA at their respective below-stated office addresses via certified U.S. mail, postage prepaid; or emailed to the PDM and the JCA at their respective below-stated official email addresses for notices:

Larry Zeigler, Public Defense Manager
Franklin County Office of Public Defense
1016 N. 4th Ave, Pasco, WA 99301

OPD@co.franklin.wa.us

Darryl Banks, Juvenile Justice Center Administrator
Benton-Franklin County Juvenile Justice Center
5606 W. Canal Place, Suite 106
Kennewick, WA 99336

jicnotices@co.benton.wa.us

b. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be either personally delivered to Attorney at his/her below-stated business address; mailed to Attorney at his/her business address set forth in paragraph 2.a above, via certified U.S. mail, postage prepaid; or emailed to Attorney at his/her business email address set forth in paragraph 2.a.

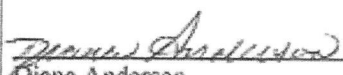
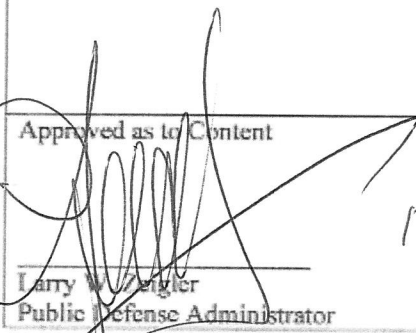
c. Any such notices under this Agreement shall be deemed to have been duly given, made, and received when either personally delivered to the notice recipient in the manner described above; when duly deposited in the U.S. mail addressed to the recipient in the manner described above; or when emailed to the recipient in the manner described above. A party may change the address(es) to which notices are to be sent by giving notice of such change of address(es) in conformity with the above provisions of this paragraph for the giving of notice.

33. **LEGAL COMPLIANCE.** Attorney agrees to and shall strictly follow and comply with any and all federal, state, local, and administrative laws, rules, and regulations applicable to Attorney's pursuit and performance of activities under this Agreement. Without limitation in that regard, Attorney shall timely and fully pay all applicable taxes, fees, licenses, and other payments required by law; and Attorney shall fully comply with any and all anti-discrimination laws and policies including, without limitation, the County's policy that no person will be subjected to discrimination by the County or their contractors based on race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation.

34. **PUBLIC DEFENSE MANAGERS** Attorney acknowledges that the County has employed a Public Defense Manager ("PDM") to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public defense agreements with the County. Attorney further acknowledges that the County have the right and discretion to direct the PDMs to assume and fulfill various roles and functions under this Agreement. Though the PDMs will not have or attempt to exercise direct control over the manner and means in which Attorney provides legal services under this Agreement, Attorney agrees to reasonably cooperate with the PDMs (and their designees), and to promptly comply with reasonable requests from the PDMs (and/or his designees), to allow for the effective monitoring and evaluation of Attorney's performance under this Agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

 Diana Anderson WSBA # 18297	<div>Chair</div> <div>Chair Pro Tem</div> <div>Member</div>
<div>Approved as to Content</div>  Larry W. Ziegler Public Defense Administrator	<div>12/20/21</div> <div>Date</div> <div>Constituting the Board of Commissioners for Franklin County, WA</div>

BI-COUNTY RESOLUTION

BENTON COUNTY RESOLUTION

2021 672

FRANKLIN COUNTY RESOLUTION

2021-172

BEFORE THE BOARDS OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON & FRANKLIN COUNTY, WASHINGTON.

IN THE MATTER OF ESTABLISHING THE PERCENTAGE RATES BY WHICH TO DIVIDE THE COSTS OF JUVENILE DEPENDENCY PUBLIC DEFENSE CONTRACTS BETWEEN BENTON AND FRANKLIN COUNTIES FOR YEAR 2022.

WHEREAS, Benton County and Franklin County ("Counties") are obligated by law to provide indigent defense services ("Services") in Benton and Franklin County Juvenile Court to affected children in dependency cases ("Cases"); and

WHEREAS, the Counties use the same group of attorneys, under contract separately with each County to provide Services on Cases and, by and through Benton County Resolution 2018-730 and Franklin County Resolution 2018-298, have established a formula to establish the percentage rates by which to divide the costs of juvenile dependency public defense contracts for each calendar year; and

WHEREAS, based on the formula established in Benton County Resolution 2018-730 and Franklin County Resolution 2018-298, and as shown in Exhibit A, the correct percentage rates by which to divide the costs of juvenile dependency public defense contracts between Benton and Franklin Counties for the year 2022 is 67% allocated to Benton County and 33% allocated to Franklin County, NOW, THEREFORE

BE IT RESOLVED that pursuant to Benton County Resolution 2018-730 and Franklin County Resolution 2018-298, the percentage rates by which to divide the costs of juvenile dependency public defense contracts between Benton and Franklin Counties for the year 2022 is 67% allocated to Benton County and 33% allocated to Franklin County.

Dated this 14 day of Sept., 2021.

Dated this 10 day of August, 2021.

Chairman of the Board

Chairman of the Board

Chairman Pro-Tem

Chairman Pro-Tem

Member

Member

Constituting the Board of County Commissioners, Benton County Washington

Constituting the Board of County Commissioners, Franklin County Washington

Attest: Clerk of the Board

Attest: Clerk of the Board

Exhibit A
Proportion of Juvenile Dependency and
Termination of Parental Rights Cases by County

Filings	Benton	Franklin
2016	114	54
2017	88	66
2018	78	56
2019	112	40
2020	138	45
TOTAL	530	261
Proportion	0.67	0.33