

## **Exhibit A**

# **Blaine County Public Defense Contract**

Instrument # 603070

HAILEY, BLAINE, IDAHO

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JOLYNN DRAGE

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Ex-Officio Recorder Deputy

Index to: COMMISSIONER CONTRACTS

ORIGINAL

ORIGINAL

PUBLIC DEFENDER CONTRACT

This Agreement made and entered into this 1 day of November, 2012, by and between Blaine County, a political subdivision of the State of Idaho, (herein referred to as the "County"), and The Roark Law Firm (hereinafter "Attorney").

WHEREAS, the Board is desirous of procuring the services of competent counsel to represent indigent persons in criminal actions, Child Protective Act cases, Juvenile Corrections Act cases, civil commitment proceedings, post-conviction relief cases, probation violations and appeals in which an attorney is appointed by the Court; and

WHEREAS, the Attorney is a licensed member of the Idaho State Bar and otherwise competent to represent persons involved in those proceedings detailed in the paragraph above; and

NOW, THEREFORE, pursuant to Idaho Code § 19-859(a)(2), the Board does hereby appoint the Attorney and the Attorney does hereby accept appointment in cases as Public Defender for Blaine County, Idaho, on and between October 1, 2011, and September 30, 2012 (hereinafter "Fiscal Year 2012"), upon the terms and conditions agreed upon as follows:

ARTICLE I.

1.1 Obligations of Attorney. Attorney accepts appointments as court-appointed counsel on and between October 1, 2012, and September 30, 2013, for appointments in cases occurring for 4 month(s) of Fiscal Year 2013, namely the months of December, January, March, July and as otherwise provided herein throughout the trial stage of any such case, provided that attorney may in any such case, with approval of the court, withdraw from any such case after the later of January 1, 2013, or the passage of nine (9) months from the date of appointment. If the court does not allow the attorney to withdraw from a case, the attorney will be compensated by county at the rate of seventy-five dollars (\$75.00) per hour for any work done on that case after said time period has expired. This compensation shall not be in addition to the hourly compensation authorized by Paragraph 2.2, in which case, this provision shall not apply. Appointment for appellate work shall be for the duration of any such appeal in the District Court up until the filing of a Notice of Appeal with the Idaho Court of Appeals/Supreme Court.

A. Criminal Matters. Attorney agrees to act as counsel for all persons charged with crimes in this County who are judged by the District Court or Magistrate Division thereof to be needy persons qualified to receive counsel at County expense pursuant to Idaho Code §§ 19-852 and 19-854 or other applicable legal provisions, except in Capital Murder cases.

B. Juvenile Matters. Attorney agrees to act as counsel for all juveniles named in a petition filed in this County pursuant to the Idaho Child Protective Act or the Juvenile Corrections Act and/or for all persons who qualify for counsel at County expense

pursuant to Idaho Code §§ 16-1618 (1614) and 20-514 and Idaho Juvenile Rule 37. Attorney agrees to act as counsel for the Guardian Ad Litem if appointed by the Court pursuant to Idaho Code §16-1618 (1614) at no additional expense to the County.

C. Involuntary Commitment Proceedings. Attorney agrees to act as counsel in all civil commitment proceedings wherein the person named in a petition filed in Blaine County for involuntary hospitalization qualified for counsel to be provided at County expense pursuant to Idaho Code § 66-329(g).

D. Post-Conviction Relief. Pursuant to Idaho Code § 19-4904, Attorney agrees to act as counsel in any post-conviction relief case that may arise during the Attorney's contract or in any case in which the Attorney is appointed. It is understood that in most post-conviction relief cases the defense attorney in the underlying criminal action is usually not re-appointed to represent the petitioner due to the fact that many times such cases raise claims of ineffective assistance of counsel; new counsel will be appointed hereunder based upon the month in which the appointment of counsel order is filed unless otherwise ordered by the Court.

E. Probation Violation. Attorney agrees to act as counsel for all persons charged with a probation violation who are judged by the District Court or the Magistrate Division thereof to be needy persons qualified to receive counsel at County expense.

F. Appeals. Attorney agrees to act as counsel in any appeal of a case as described in sections A through E of Paragraph 1.1 of this contract, and in all other cases where attorney is appointed as appellate counsel by the Court which is not otherwise the responsibility of the Idaho State Public Defender.

1.2 Multiple Defendant Cases. Attorney and other attorneys who enter into Public Defender Contracts with the Board shall represent all persons who qualify for counsel at County expense in any multiple defendant case involving a number of persons who qualify for counsel at County expense less than or equal to the number of Public Defenders under contract with the County during Fiscal Year 2013.

Blaine County shall be responsible for securing the services of any additional attorneys necessary in cases involving any additional persons who qualify for counsel at County expense. The appointment rotation schedule for multiple defendant cases shall be as follows:

Attorney accepting appointments during October, 2012  
Attorney accepting appointments during November, 2012  
Attorney accepting appointments during December, 2012  
Attorney accepting appointments during January, 2013  
Attorney accepting appointments during February, 2013  
Attorney accepting appointments during March, 2013  
Attorney accepting appointments during April, 2013  
Attorney accepting appointments during May, 2013  
Attorney accepting appointments during June, 2013  
Attorney accepting appointments during July, 2013

Attorney accepting appointments during August, 2013  
Attorney accepting appointments during September, 2013

The rotation shall begin with the attorney whose month the case falls upon, or as agreed upon by the Public Defenders under contract with the County during Fiscal Year 2013.

The Public Defenders under contract with the County during Fiscal Year 2013, shall mutually agree among themselves the assignment of particular months of Fiscal Year 2013 among the attorneys in accordance with the number of months each such attorney is under contract with the County, and shall provide notice thereof to the Board, the District Court and Magistrate Division, and the Blaine County Prosecuting Attorney. If the Public Defenders are unable to reach an agreement concerning assignment of particular months of Fiscal Year 2013, then the assignment shall be made by the District Court.

County agrees that there shall be no fewer than five (5) Public Defenders under contract with the County during Fiscal Year 2013. For purposes of this paragraph 1.3, Public Defenders under contract during Fiscal Year 2013 who are in the same law firm shall collectively be considered as a single Public Defender unless the entire contract is awarded to a single firm who shall then provide the necessary attorneys to provide services under this contract.

1.3 Private Clients. As this appointment is made pursuant to Idaho Code § 19-859(a)(2), it is hereby understood that Attorney shall be entitled to accept any and all private clients regardless of the subject matter, as Attorney so determines, and shall not be restricted to representing only indigent criminal defendants pursuant to this Agreement, provided that any such representation does not create a conflict of interest regarding any previous appointment hereunder.

1.4 Temporary Absence of Attorney. In the event Attorney is temporarily unavailable for any reason to perform his or her duties hereunder with respect to a particular appointment, for a reason such as, but not limited to, illness, vacation, or other prior legal obligation, it is the obligation of Attorney to arrange for and provide competent substitute legal counsel at Attorney's own expense, subject to the approval of the Court.

1.5 Conflicts of Interest. Attorney shall be required to inform the Court of any possible conflicts under the Idaho Rules of Professional Conduct. If the Court decides that a conflict exists, the attorney shall be excused from being appointed. In the event a conflict exists, the case shall be transferred to another Attorney under contract and transfer one conflict case to each attorney on a rotating basis. The rotation shall be one conflict appointment to the October attorney then one to the November attorney, etc., until each month has been appointed a conflict case. The rotation then starts over. Conflicts shall be appointed one per month, not one per attorney. The District Court and Magistrate Court may keep separate lists if they so choose. In the event that all Attorneys under contract have conflicts, the Court shall appoint outside Counsel who shall be appointed to the less serious or less complicated of all the cases.

1.6 Insurance. Attorney agrees to obtain and carry insurance, as set forth in Attachment "A" to this Agreement, in full force and effect for the duration of the contract term.

## ARTICLE II.

2.1 Payment. The Board agrees to pay the Attorney the amount of twenty-six thousand one hundred ninety dollars (\$26,190.00) for each month of Fiscal Year 2013 specified in Paragraph 1.1 during which Attorney agrees to accept appointments as court-appointed counsel. County agrees to pay Attorney on a monthly basis during the week following the second Monday of each and every month beginning October 1, 2012 and ending September 30, 2013, an amount equal to one-twelfth (1/12) of the total amount due to Attorney pursuant to Paragraph 1.1 and the first sentence of this Paragraph 2.1.

2.2 Appointment Process and Compensation in Extraordinary Cases. In First and Second Degree murder cases where the death penalty is not being sought including post-conviction proceedings for such matters, Attorney shall be appointed pursuant to Paragraph 1.1 and paid one hundred dollars (\$100.00) per hour for Attorney's time, including reasonable and necessary travel time, in addition to the base contract price specified in Paragraph 2.1. Attorney shall obtain approval from the Court for attorney time in excess of six hundred (600) hours (\$60,000.00) on the case. Upon determining that adequate representation of the accused will require in excess of six hundred (600) hours (\$60,000.00) of attorney time pursuant to this section, the Court shall set a maximum hour limit and County will agree to pay Attorney one hundred dollars (\$100.00 per hour for each additional hour of attorney time expended up to the maximum set by the court. This hour limit shall be based upon the complexity of legal issues, anticipated length of trial, voluminous evidence, and any other factors that require additional attorney time to provide an adequate defense of the accused.

The parties agree that in almost all cases, other than First or Second Degree murder, Attorney can adequately and effectively defend an accused utilizing less than sixty (60) hours of Attorney's time. When the defense of an accused is expected to require more than sixty (60) hours of Attorney's time, the Attorney may apply to the Court for imposition of a maximum Number of hours to be expended on the case. This hourly limit shall be based upon the complexity of legal issues, anticipated length of trial, voluminous evidence, and any other factors that require additional attorney time to provide an adequate defense of the accused. Upon the setting of a reasonable maximum hour limit, the Attorney shall be compensated at the rate of ninety dollars (\$90.00) per hour for each hour expended on the case in excess of sixty (60) hours.

In cases where Attorney is paid an hourly rate in addition to the contract rate set forth in this Agreement, the parties agree to mutually seek appointment of a separate District Court Judge for the sole purpose of reviewing bills for attorney time and expenses as set forth in this section and Paragraph 2.3 of this Agreement.

Before any payment is made to Attorney for services rendered pursuant to this section, the services must be authorized by the Court. If the services are authorized, the Attorney shall then submit before the last Wednesday of each month a sworn affidavit to the Board verifying the services rendered, the necessity therefore, and the time expended by the Attorney in order to be paid on the date set forth in Paragraph 2.1 above. A copy of the affidavit for payment will be sent by Attorney to the Blaine County Clerk and Board of County Commissioners. In the event

the Board believes the Attorney's sworn affidavit does not list reasonable services rendered and/or reasonable time expended, the Board may make application to the District Court for determination of a reasonable rate of compensation for services and for direct expenses necessary for representation.

Notwithstanding any terms and conditions of this Agreement to the contrary, in cases governed by this Paragraph 2.2, during the initial thirty (30) day period following appointment, Attorney may expend an amount not to exceed five thousand dollars (\$5,000) without prior Court approval for investigator and/or expert witness services provided that Attorney certifies that such expenditures were reasonable and necessary in submitting the claims therefor to the County.

2.3 Additional Services and Expenses. The compensation payable to Attorney under Paragraphs 2.1 and 2.2 above includes all usual and ordinary costs involved in performing services by the Attorney herein and all necessary expenses of representations under Idaho law, excluding without limitation investigator and expert witness fees and expenses. However, the Board shall reimburse Attorney for additional extraordinary services, costs and expenses incurred by Attorney in performing this Agreement provided that Attorney obtains a prior written order of the Court approving such extraordinary services, costs, and expenses at County expense. In cases other than those described in Paragraph 2.2, Attorney will be compensated at the rate of ninety dollars (\$90.00) per hour for necessary travel to and from hearings in other Idaho counties which are required by the Court as a result of a disqualification of the presiding Blaine County judge, a change of venue, or the housing of a public defender client outside of Blaine County, or the representation of the client at a hearing or meeting outside of Blaine County, including but not limited to meetings with probation officers, or Pre Sentence investigators.

The parties hereto recognize that the Court may authorize co-counsel or other attorney services in a particular case, provided the court determines that an adequate showing has been made pursuant Idaho Code ' 19-852 and other applicable law. Nothing herein shall preclude services under terms and conditions, and rates of compensation, deemed reasonable by the court. In calculating whether six hundred (600) hours (\$60,000.00) have been expended on a case pursuant to Paragraph 2.2, the time of Attorney and co-counsel and other attorney services shall be aggregated.

Before payment is made to Attorney for extraordinary services, costs, and expenses the expenditures must be authorized by the Court. If the expenditures are authorized, the Attorney shall then submit before the last Wednesday of each month a sworn affidavit to the Board verifying the expenditures, and the necessity therefore. A copy of the affidavit for payment will be sent by Attorney to the Blaine County Clerk and Board of County Commissioners. In the event the Board believes the Attorney's sworn affidavit does not list reasonable expenditures, the Board may make application to the District Court for determination of reasonable expenditures necessary for representation.

2.4 Monthly Reports. Attorney agrees to provide monthly reports to the County which will be type-written and signed containing the following information:

- A. Name of defendant and case number;
- B. The charges against the defendant;
- C. Identification of any conflict that requires assigning the case to another Public Defender and the nature of the conflict;
- D. Out-of-court lawyer time spent on the case;
- E. In-court time spent on the case;
- F. Clerical time spent on the case; and
- G. Miscellaneous costs not associated with normal office paperwork.

Reports covering a month will be due by the 15<sup>th</sup> of the next month. If a case is not fully disposed of during any one-month period then the succeeding reports will cover the same information until the case is completed. Blaine County reserves the right to terminate this contract if Attorney fails to provide timely reports or is found to have provided inaccurate information.

Attorney also agrees to provide the Court at the sentencing hearing on each case a document listing time spent on the case so that the Court can accurately provide for public defender restitution to Blaine County.

2.5 Appointment Schedule/Felony Assistance. Attorneys shall be appointed on a monthly basis according to his or her proportionate share under Paragraph 1.1 of the twelve (12) months of Fiscal Year 2013. For example, if Attorney agrees under Paragraph 1.1 to accept appointments for two (2) months of Fiscal Year 2013, then Attorney's proportionate share would be 2/12ths or 1/6th.

2.6 Warranty of Fitness to Practice Law. Attorney warrants that he/she is duly licensed to practice law in the State courts of the State of Idaho and is a member in good standing of the Idaho State Bar and that Attorney will immediately notify the Board in writing if a change in that status occurs during the term of this Agreement. Attorney also warrants that he/she is competent and qualified to represent criminal defendants at all levels of proceedings called for in this Agreement. If at any time during the term of this Agreement, Attorney is unable to practice law within the State courts of the State of Idaho, whether on a permanent, temporary or suspended basis, the Board, in its sole and absolute discretion, may terminate this Agreement and have no additional obligations hereunder. The County reserves the right to terminate this contract with Attorney if either the Magistrate Court or the District Court advises the County that Attorney is providing inadequate representation under the contract.

2.7 Approval of Contract Attorneys. Blaine County reserves the right to approve or reject any attorney wishing to provide services under a Public Defender contract. Any attorney not currently holding 2011 public defender contracts with Blaine County wishing to contract for Fiscal Year 2011 must first provide a curriculum vitae (CV) and a resume to the Board for consideration.

2.8 Term. The Board and the Attorney may mutually agree to renew this contract for a one year period under the same terms and conditions as set forth in this agreement.

2.9 Performance Evaluation. Attorney agrees to work cooperatively with the County Administrator to assist him in establishing an effective and efficient system for measuring attorney performance and delivering services in support of Blaine County's strategic objectives.

### ARTICLE III.

3.1 Assignment. Attorney may not assign, sub-contract or delegate his or her rights and duties hereunder to any person or entity without the prior written consent of the Board, which consent will not be unreasonably withheld. Any person seeking assignment shall agree to be bound by the terms of this Agreement.

3.2 Attorney Fees. In the event any party hereto initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, or to declare forfeiture or termination, the prevailing party in any such action or proceeding shall be entitled to recover from the losing party its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

3.3 Independent Contractor. The parties agree that Attorney is the independent contractor of Board and in no way an employee or agent of the Board or Blaine County and is not entitled to worker's compensation or any benefit of employment with Blaine County. The Board and Blaine County shall have no supervisory control over the performance of this Agreement by Attorney or its employees.

3.4 Merger. This Agreement embodies the sole understanding of the parties. There are no other oral or written agreements outside of this Agreement. No modification, amendment or addition to this Agreement shall be effective unless agreed to by the parties in a written instrument duly executed by Attorney and the Board.

3.5 Waiver. The failure of any party to insist upon strict performance of any of the obligations contained herein shall not be deemed a waiver of any rights or remedies that said party may have, and shall not be deemed a waiver of any subsequent breach in the performance of any of the terms and provisions contained herein by the same or any other person.

3.6 Third Party Beneficiary Rights. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

3.7 Captions and Headings. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms and provisions contained herein.

3.8 Construction. No presumptions shall exist in favor of or against any party to this Agreement as a result of the drafting and preparation of this Agreement.



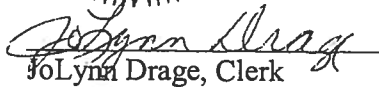
3.9 Venue and Governing Law. In the event an action is brought to enforce or interpret this Agreement, the parties submit to the exclusive jurisdiction of the courts of the State of Idaho, and agree that venue for any such action shall be in Blaine County, Idaho. The validity, performance and construction of this Agreement shall be governed by the laws of the State of Idaho.

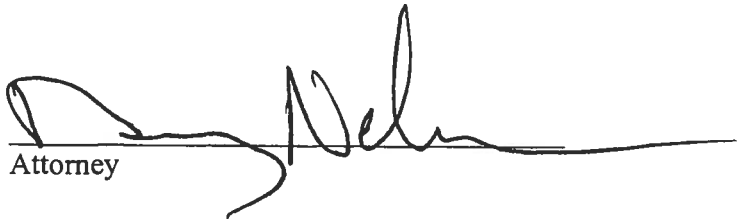
IN WITNESS WHEREOF, the parties have hereunder set their hands as of the day and year first above set forth.

BLAINE COUNTY BOARD OF COUNTY  
COMMISSIONERS

  
Angenie McCleary, Chairman




  
JoLynn Drage, Clerk

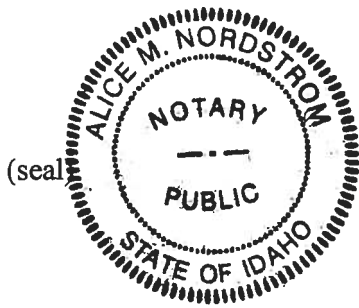
  
Attorney

CERTIFICATES OF VERIFICATION

On this 1 day of NOVEMBER, 2012, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared DOUG NELSON, known to me to be the person whose name is subscribed in the foregoing instrument, and acknowledged that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first written above.

  
Notary Public for Idaho  
Residing at: 409 N Main - Hailey



Comm. Expires: 2/26/15

#### ATTACHMENT "A"

#### Insurance

- A. Attorney, at his/her sole expense, shall procure and maintain in full force and effect insurance written by an insurance company or companies with AM Best rating(s) of A VIII or better. All insurance companies must be authorized to do business in the state of Idaho. By requiring insurance herein, Blaine County does not represent that coverage and limits are necessarily adequate to protect Attorney, and such coverage and limits shall not be deemed as a limitation on Attorney's liability under the indemnities granted to Blaine County in this contract.
- B. Certificates of Insurance evidencing the coverages required herein shall be provided to Blaine County prior to the start date of the project. All certificates must be signed by an authorized representative of Attorney's insurance carrier and must state that the issuing company, its agents, or representatives will provide Blaine County thirty (30) days written notice prior to any policies being canceled. Renewal certificates must be provided to Blaine County within thirty (30) days after the effective date of the renewal.
- C. Certificates shall be mailed to:
  - Blaine County Administrator
  - 206 First Avenue South, Suite 300
  - Hailey, Idaho 83333
- D. Certificates must evidence the following minimum coverages:
  - 1. **Professional Liability** insurance with limits of not less than \$1,000,000 per claim and \$1,000,000 aggregate. If the insurance required by this section is obtained through a "Claims Made" policy, this coverage or its replacement shall have a retroactive date of not later than the inception of this Agreement.

## **Exhibit B**

# **Caribou County Public Defense Contract**

## AGREEMENT FOR APPOINTMENT OF PUBLIC DEFENDER

THIS AGREEMENT made and entered into this 12<sup>th</sup> day of January, 2009, by and between Caribou County, Idaho, 159 South Main Street, Soda Springs, Idaho, a political subdivision of the State of Idaho, hereinafter referred to as "County" and Don T. Marler, Jr., 155 S. Second Ave, P.O. Box 6369, Pocatello, Idaho 83205, hereinafter referred to as "Attorney".

IN CONSIDERATION OF THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE COUNTY AND THE ATTORNEY AGREE AS FOLLOWS:

1. Office of the Public Defender. The County hereby establishes an office of the Public Defender for the County of Caribou, State of Idaho.
2. Appointment of Public Defender. Attorney is hereby appointed as public defender for Caribou County, Idaho. If the Attorney is a member of a firm consisting of other attorneys and employees of the firm, the Attorney may designate other attorneys to serve in the capacity of deputy public defender on behalf of the County. If the Attorney designates other attorneys to act for him in the performance of his duties under this agreement, the Attorney shall be solely responsible for payment of said attorneys.  
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3. Duties of Public Defender. The Attorney shall provide legal services for indigent persons in the following categories or cases:
  - A. Misdemeanor cases
  - B. Felony cases
  - C. Juvenile court proceedings, including:
    1. Proceedings under the Juvenile Justice Act
    2. Proceedings under the Child Protective Act
    3. Involuntary termination proceedings where the State of Idaho or any agency of the State is a moving party.

- D. Extradition proceedings
  - E. All indigent defendants who have filed post-conviction proceedings and/or habeas corpus proceedings.
  - F. Appeals of all categories of cases listed above through appeal to the District Court. This duty shall not include appeals to the Supreme Court, or the Court of Appeals, as such appeals are now handled by the State Appellate Public Defender's Office, Boise, Idaho
  - G. All indigent defendants charged with a probation violation
  - H. All criminal proceedings pursuant to Idaho Criminal Rule 35 and all other related motions and proceedings including jury trials wherein the Attorney is appointed to represent indigent defendants
4. Services Excluded. The following services are excluded from this contract:
- A. Civil contempt proceedings
  - B. Adoption proceedings
  - C. Involuntary termination proceedings except as specified in paragraph 3C 3 above.
  - D. Appeals to the Idaho Court of Appeals, the Idaho Supreme Court, the United States Supreme Court, and Court of Appeals, and all federal court proceedings.
  - E. Parole revocation proceedings, and hearings, or proceedings of any kind before the Idaho Commission for Pardons and Paroles
  - F. Civil Indigent Claims
  - G. Civil claims or defense of civil claims by or against clients of the office of the Attorney, except as otherwise specifically provided in this Agreement.
  - H. Defense of any criminal charges against clients of the Attorney acting in his capacity as public defender, charged or arising outside of Caribou County, except that the Attorney may cooperate and assist proper officials in other jurisdictions in resolving such criminal charges as part of a common agreement regarding joint disposition of such other charges and those matters in which the client is represented by the Attorney as public defender.
  - I. Conflict cases

5. Representation. Representation will be made at all stages of the proceeding until completed. The office of the Attorney shall include necessary representation of each indigent person in matters of investigation, trial preparation, preparation and filing of motions, arguments of motions, and motions, briefing and argument on appeals and any re-trials following an appeal which originate after the date of this contract. This includes preparation of all briefs, documents, letters, research and any and all things regarded as necessary to adequately represent the indigent person. Representation will at all times comply with the standards mandated by the United State Constitution, the Constitution of the State of Idaho, the laws of the State of Idaho, and the ethical standards of the American Bar Association and the Idaho State Bar.

6. Indigent Persons. An indigent person shall include any person determined by a judge within Caribou County to be entitled to legal representation at public expense pursuant to the laws and Constitution of the State of Idaho and the United State Constitution. The County agrees to provide personnel and standards for the screening of persons requesting counsel, with recommendations to go to the judges of Caribou County for final determination.

7. Interview Schedule. For clients who are in custody, the office of the Attorney shall provide initial interviews with clients, personally or by telephone, within ninety-six (96) hours, wherever possible, and in any event within five (5) working days of notification of appointment.

For clients who are not in custody, the office of the Attorney shall make initial contact with clients within ten (10) working days for the purpose of discussing the client's case.

8. Conflict of Interest. If at any time after appointment has been made, the office of the Attorney determines that, because of conflict of interest, assignment of qualified legal counsel outside of the office of the Attorney is necessary to provide adequate and competent representation in a particular matter or matters, the office of the Attorney shall immediately notify the court making the assignment, the county attorney, and the County Commissioners. If the court finds that such conflict requires appointment of counsel outside the office of the Attorney, the case shall be referred to conflict counsel. The court shall appoint counsel outside the office of the Attorney to act in such matters pursuant to Idaho Code Section 19-856 and Section 19-860 and other applicable laws on such terms and conditions as may be determined by the Court.

9. Term of Agreement. The term of this Agreement shall be for a period commencing January 12, 2009, and terminating on September 30, 2014, which agreement may be extended by either party for an additional term of five years, subject to the mutual agreement of the parties as to the rate of compensation of the Attorney, and other terms and conditions of the Agreement. If the Attorney desires to negotiate revisions to this Agreement for the period October 1, 2009 to September 30, 2010, the Attorney shall give written notice to the County by July 31, 2009, of his desire to renegotiate such terms, setting forth in writing the elements of the contract he wishes to renegotiate. Thereafter, the Board of County Commissioners and the Attorney shall enter into negotiations, but if the parties cannot reach an agreement as to the terms within thirty (30) days, either party may terminate this agreement for good cause, and said agreement shall terminate without liability to either party except for payment to the Attorney of compensation which he has earned prior to the termination. The Agreement shall then terminate on September 30, 2009. Notice of the intent to terminate must be given on or before August 31, 2009.

10. Payment for Services. The Attorney shall be paid the sum of Three Thousand Three Hundred Thirty-Three Dollars (\$3,333.00) per month for services rendered, payable on or before the last day of each month during the term of this Agreement. Said compensation will commence January 12, 2009. Payment shall be made for services provided for the previous month.

The Attorney shall not receive additional compensation for services provided pursuant to this Agreement from or on behalf of persons represented under this Agreement.

Compensation for all first degree murder cases shall be in addition to the compensation set forth in this Agreement. The Attorney shall provide services for all first degree murder cases at the rate of \$60.00 per hour.

11. Independent Contractor. The Attorney is an independent contractor and not an employee of the County. The Attorney shall receive no workman's compensation coverage, health insurance, retirement, or other benefits offered to employees of the County. The Attorney shall have sole and exclusive authority and control over the means and methods by which he accomplishes his duties.

12. Costs and Expenses. The office of the Attorney shall pay for all costs, fees, and expenses incurred in providing services pursuant to the Agreement, including, but not limited to, office space, furnishings, equipment, supplies and employees, except for the following which shall be paid by the County:

- A. Witness fees and expenses, including expert witnesses when approved by the court;
- B. Depositions;
- C. Transcripts;
- D. Services of process fees;
- E. Costs of medical and psychiatric evaluations when ordered or approved by the court; and
- F. Cost of investigative services and for evaluation of evidence when ordered or approved by the court.

13. Malpractice Insurance. The Attorney shall carry malpractice insurance, at his own expense, during the entire term of this Agreement, in an amount not less than Five Hundred Thousand Dollars (\$500,000.00). If the Attorney appoints other attorneys within his office to handle cases on his behalf, each attorney shall carry malpractice insurance in said amount. Proof of said insurance shall be provided to the County upon its request.

14. Non-Privileged Information. All clients serviced by this Agreement shall be advised by the appointing judge that information regarding their financial circumstances which would be probative of determining indigence is not privileged information and will be disclosed to any judge, the prosecuting attorney of this District, or the Attorney, upon appropriate request. The Attorney shall have no duty to investigate the financial circumstances of any client served by this Agreement, nor to disclose such information in the absence of a specific request by a judge or prosecuting attorney.

15. Record Keeping and Reporting. The Attorney shall submit an annual report to the Board of County Commissioners showing the number of persons represented, the crimes involved, the outcome of each case, and the expenditures (totaled by kind) made in carrying out the responsibilities imposed by this Agreement. A copy of the report shall also be submitted to the District Court and Magistrate Division of the District Court of Caribou County.



16. Notice of Appointment. All notices of appointment of indigent clients for representation by the Attorney shall be made in writing to the Attorney, 155 S. Second Ave, P.O. Box 6369, Pocatello, Idaho, 83205. Notification of appointment to represent clients who are incarcerated should also be made by telephoning the Attorney at 208-478-7600 or 208-251-7077. All subsequent notices shall be provided directly to the Attorney, or when the Attorney does not appear of record in said case, by notice to the Attorney at the above address.

17. Authorization for Private Practice. The Attorney, or other attorneys of his firm, may undertake representation of persons charged with a crime in this or any other jurisdiction for a fee provided that such representation does not conflict with representation of indigent clients. Private representation of clients for a fee shall not be accepted where any representation is reasonably likely to lead to a conflict of interest with matters arising under this Agreement which would require appointment of counsel outside of the office of the Attorney pursuant to Paragraph 8 of this Agreement.

18. Entire Agreement and Modification. This Agreement constitutes the entire agreement between the parties and any prior agreement, written or oral, pertaining to the matters contained in this contract, is hereby revoked. Any modification of this Agreement shall be in writing and approved by all parties.

19. Resolution of Disputes. Any dispute relating to this Agreement shall be resolved through discussions with the County Commissioners, the County Attorney's Office and the office of the Attorney. If such discussions are unsuccessful in resolving the dispute, the parties shall have the right to submit the dispute to the District Judge residing in Caribou County for resolution, if mutually agreeable to the parties, and if not, to take such other action as may be permitted by the laws of the State of Idaho.

20. Termination of Agreement. Either party may terminate this Agreement immediately for good cause shown at any time. All cases assigned prior to termination for cause shall be completed by the Attorney pursuant to the Agreement unless representation is assumed by its successor attorney

with approval of the appropriate court; provided that all services provided after the date of termination shall be compensated at a rate as may be agreed upon, or in the event of no agreement, then at the rate as may have been established by prior agreement between the County and the Attorney.

Either party may terminate this Agreement at any time, and for any reason, without penalty, provided that the terminating party shall give at least One-Hundred Twenty (120) days written notice to the other party, and provided further that the Attorney will not be allowed to withdraw from any case assigned under the terms of this Agreement in which the rights of interests of clients would be impaired.

21. Time of the Essence. Time is of the essence of this Agreement.

22. Binding Effect. This Agreement shall be binding upon the parties hereto, their successors and assigns.

23. Assignment of Contract. This Agreement, and the rights and duties contained herein, may not be assigned by either party without the express written consent of the other party.

Dated this 12 day of JANUARY, 2009.

CARIBOU COUNTY BOARD OF COMMISSIONERS

By: [Signature]  
Lloyd Rasmussen, Chairman

ATTEST:

[Signature]  
Veda Mascarenas, Clerk

ATTORNEY

[Signature]  
Don T. Marier, Jr.

## **Exhibit C**

# **Latah County Public Defense Contract**



LATAH COUNTY  
**BOARD OF COMMISSIONERS**  
**MOTION AND ORDER**

P.O. Box 8068 ♦ 522 S. Adams ♦ Moscow, ID 83843  
 (208) 883-7208 ♦ Fax: (208) 883-2280  
 bocc@latah.id.us

COMMISSIONER STroschein MOVES THAT THE BOARD:

Approve and sign a Professional Services Contract and Retainer as Counsel for Indigent persons between Latah County and Charles E. Kovis, Attorney at Law for a period of 24 months beginning October 1, 2011 and ending September 30, 2013 in the amount of \$98,536 payable in monthly installments of \$8,211.33 for the first twelve months, and in the amount of \$103,536 payable in monthly installments of \$8,628 for the following twelve months beginning on October 1, 2012.

Jennifer Barrett  
 Jennifer Barrett, Chair  
 District I

YES

NO

ABSTAIN

X

—

—

Tom Stroschein  
 Tom Stroschein, Commissioner  
 District II

X

—

—

David McGraw  
 David McGraw, Commissioner  
 District III

X

—

—

ATTEST:

K. Light  
 Clerk/Deputy Clerk

DATE:

8-24-11

**PROFESSIONAL SERVICES CONTRACT  
AND RETAINER AS COUNSEL FOR INDIGENT PERSONS**

THIS CONTRACT FOR PROFESSIONAL SERVICES, made and entered into on the 24<sup>th</sup> day of August, 2011, and effective the 1<sup>st</sup> day of October, 2011, by and between Latah County, a political subdivision of the State of Idaho, acting through its duly elected Board of Commissioners, hereinafter called "COUNTY," and Charles E. Kavis, Attorney at Law, hereinafter called "COUNSEL;"

**WITNESSETH:**

WHEREAS, COUNTY is required by law to furnish legal counsel to certain needy and incapacitated persons at public expense; and

WHEREAS, COUNTY elects not to establish and maintain an office of public defender under Idaho Code 19-859(1); and

WHEREAS, COUNSEL is an attorney duly licensed to practice law in the State of Idaho, is otherwise competent to counsel and defend a person charged with a crime and maintains an office for the practice of law in the City of Moscow, State of Idaho; and

WHEREAS, COUNTY find that the economic interests of the citizens of Latah County are served by contracting with COUNSEL for a period of 24 months commencing October 1, 2011, and ending September 30, 2013, upon the following terms and conditions;

**THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:**

1. **EMPLOYMENT:** COUNTY hereby employs COUNSEL to perform the services set forth below, and COUNSEL hereby accepts the employment, under the terms and conditions set forth in this Contract;

2. **TERM:** The term of this contract shall be from October 1, 2011, through September 30, 2013.

**3. CONSIDERATION AND COMPENSATION:**

A. COUNTY shall make payment to COUNSEL as follows:

- 1) For the period commencing October 1, 2011, and ending September 30, 2012, the sum of ninety eight thousand five hundred thirty six dollars (\$98,536.00) as compensation for such services, payable in monthly installments as follows: 12 installments of eight thousand two hundred eleven dollars and thirty three cents (\$8,211.33) with each installment to be paid upon the presentation of a voucher to the County each month beginning October, 2011, and each month thereafter for twelve (12) successive months. For the period commencing October 1, 2012, and ending September 30, 2013, the sum of one hundred three thousand five hundred thirty six

dollars (\$103,536.00) as compensation for such services, payable in monthly installments as follows: 12 installments of eight thousand six hundred twenty eight dollars (\$8,628.00) with each installment to be paid upon the presentation of a voucher to the County each month beginning October, 2012 and each month thereafter for twelve (12) successive months. These amounts shall constitute COUNSEL'S entire compensation for services performed hereunder, and in no event shall COUNSEL be entitled to claim as extraordinary expenses under paragraph 3.C, below, any fees of compensation for services performed hereunder additional to the compensation set forth in this paragraph.

- 2) Compensation shall be in the form of a Latah County warrant, made payable to Charles E. Kovis, and shall be mailed to Charles E. Kovis, P.O. Box 9292, Moscow, Idaho, 83843.
- B. The second year of this agreement is conditioned upon and subject to approval of funding for the period of October 1, 2012, through September 30, 2013, by the COUNTY. Further, the parties agree to review the adequacy of COUNSEL'S compensation during the fiscal year 2012 budget process and may make such adjustments as they may mutually agree.
- C. This contract does not include any costs of transcripts, or any expenses of trial, investigation, or appeal for which the Court may approve expenditures. It is understood by COUNSEL that a limited fund (Line number 08-18-488-03) has been created by COUNTY which may be drawn upon by COUNSEL for such expenses, or other expenses, related to the defense of indigent clients, such as investigators, expert witnesses, or necessary travel expenses. COUNSEL may draw on such funds by obtaining advance approval for such expenses from the district judge or magistrate having jurisdiction over the case; provided, however, that in no event shall COUNTY be liable or responsible for any costs or expenses for any appeals or other proceedings that fall within the jurisdiction of the State Appellate Public Defender's Office pursuant to Idaho Code 19-867, et seq., as it may now or hereafter exist.
- D. In order to assist the COUNTY in budgeting and managing the funds available under paragraph C, above, COUNSEL shall keep COUNTY apprised of the need for and use of such funds in a timely manner or at the conclusion of the case.
4. **DESCRIPTION OF SERVICES:** COUNSEL shall furnish full and adequate representation as may be required to be furnished at public expense, and shall expend such time and effort as may be necessary to discharge the obligation of the COUNTY to provide representation at public expense, including the following:
  - A. Full and adequate representation to and through the Supreme Court of the State of Idaho of approximately one-half of such persons as may be determined by the Court to be eligible for such representation at public expense in the following cases:

- 1) persons detained by a law enforcement officer, confined, or who are under a formal charge of having committed, or are being detained under a conviction of, a serious crime, as determined by the Court;
  - 2) persons subject to proceedings under the provisions of the Uniform Rendition of Accused Persons Act, Idaho Code Title 19, Chapter 45;
  - 3) persons party to proceedings under the provisions of the Uniform Post-Conviction Procedure Act, Idaho Code Title 19, Chapter 49;
  - 4) persons who are the subject of hospitalization proceedings pursuant to Idaho Code Sections 18-212 and 18-214; Title 66, Chapters 3 and 4; and Title 16, Chapter 24;
  - 5) persons formally petitioned to be within the purview of the Youth Rehabilitation Act, Idaho Code Title 16, Chapter 18, or the Juvenile Corrections Act, Idaho Code Title 20, Chapter 5;
  - 6) persons subject to proceedings under Idaho Code Title 16, Chapters 16 and 20;
  - 7) persons subject to proceedings under Idaho Code Section 39-6306, Hearing on Petition for Protection Order.
- B. Except as otherwise provided by law or order of the presiding District Court Judge or Magistrate, COUNSEL'S duty to perform the services provided for herein shall extend not only to such persons whom the Court determines, after the commencement of the term of this contract, are entitled to representation at public expense, but also to such persons whom the court has, prior to commencement of the term of this contract, determined are entitled to representation at public expense, regardless of the state of the proceeding involving such latter person as of the date of commencement of the term of this contract unless otherwise ordered by the Court.
- C. Unless otherwise conflicted, COUNSEL shall be available to serve as conflict counsel in any case in which a public defender is appointed, and shall not serve as co-counsel in any such manner as to potentially create a conflict without first obtaining Court approval. COUNSEL shall be excused from representing persons with whom an actual conflict of interest exists between COUNSEL and such person on legal or ethical grounds when the Court having jurisdiction of the case determines that such a conflict exists. In such event, representation shall be provided by court appointment, and the costs of such representation shall not be a charge against the compensation of COUNSEL provided for herein.
- D. COUNSEL shall maintain an office in the City of Moscow, County of Latah, State of Idaho, with regularly scheduled office hours, except on Saturdays, Sundays, and non-judicial days. COUNSEL shall maintain staff and support services adequate to assure prompt and reliable communications between COUNSEL and the court, the Board of

Commissioners, and those persons whom COUNSEL represents under the terms of this contract.

- E. COUNSEL'S services shall be initiated in each case at the time of the appointment of COUNSEL by the court in which such case is pending. A defendant's indigence may be reassessed at each stage of the proceedings and if the defendant is found not indigent, public representation services for such defendant may be terminated by the court.
- F. COUNSEL must provide for the furnishing of all services required hereunder, at the sole expense of COUNSEL, in the event of travel, sickness, vacation, or any other unavailability of COUNSEL, except conflicts set forth in paragraph 4.C, above, or as excused under paragraph 4.M, below.
- G. COUNSEL shall attempt to make personal contact with each incarcerated client within twenty-four (24) hours of receipt of notice of appointment from the court, and shall attempt to make personal contact with all other clients within a reasonable period of time.
- H. To prevent the appearance of conflict of interest, COUNSEL shall not represent any client in any law suit against COUNTY or its employees. COUNTY and COUNSEL agree that the appearance of conflict and remedy under this contract and paragraph are only because of this contract, and any other alleged conflict, real or perceived, will be dealt with separate and apart from this contract on a case-by-case basis.
- I. COUNSEL shall give his best professional efforts and first priority to cases assigned under this contract. However, except as otherwise provided herein, COUNSEL shall not be prohibited from the outside practice of law.
- J. COUNSEL may subcontract cases either on a case-by-case basis or by a class of case. If COUNSEL subcontracts on a case-by-case basis, subcontracting counsel must be approved by the court. If COUNSEL subcontracts on a class basis, subcontracting counsel must be approved by the Board of Commissioners before the subcontract takes effect. Subcontracting counsel must meet all qualifications of COUNSEL relevant to the class or type of case being subcontracted, and COUNSEL shall be solely responsible for all compensation and expenses of any subcontracted counsel.
- K. COUNSEL shall maintain adequate policies of professional liability insurance in the amount of at least Five Hundred Thousand Dollars (\$500,000.00) with any carrier licensed to issue such insurance in Idaho. COUNSEL shall furnish proof of such insurance to COUNTY upon request.
- L. COUNTY is presently participating in the Capital Crimes Defense Fund, pursuant to Idaho Code Section 19-863A, and the State Appellate Public Defender program, pursuant to Idaho Code Section 19-870. However, COUNSEL shall provide representation in any case where the State Appellate Public Defender fails or is otherwise unable to do so, provided that COUNTY shall retain an attorney to work as co-counsel to COUNSEL in any case in which the State is seeking the death penalty.



- M. The parties acknowledge that the Idaho Supreme Court has adopted certain qualifications for public defense counsel in cases where the death penalty may be or has been imposed on a defendant. COUNSEL agrees to make good faith efforts to obtain and maintain such qualifications. However, the parties acknowledge that COUNSEL may be excused from representation if said COUNSEL does not meet the qualifications for either lead trial counsel or co-counsel.
5. **RECORDS AND REPORTS:** COUNSEL shall compile and maintain complete and accurate records of each and every case assigned, and submit reports with his monthly county voucher detailing the total hours (including those of subcontracted attorneys or licensed legal interns) spent on each such case, the expenses charged to COUNTY for each such case. Such report shall accompany the county voucher and be signed by COUNSEL. Case files shall be surrendered to any succeeding counsel upon expiration or termination of this contract.
6. **TERMINATION:** This contract shall terminate upon the expiration of the term hereof or upon the happening of any of the following events, whichever shall first occur:
- A. Upon the death of COUNSEL;
  - B. Upon the inability of COUNSEL to perform any of the professional services provided for hereunder due to physical or mental disability. Physical or mental disability shall be determined by a court of competent jurisdiction or by two licensed physicians.
  - C. Disbarment or suspension from the practice of law, or failure of COUNSEL to maintain his license to practice law in the State of Idaho;
  - D. Material breach of any contract term by either party;
  - E. By mutual agreement of the parties hereto, except that written notice of intent to terminate this contract must be received at least thirty (30) days in advance and the parties must agree in writing regarding the terms of said mutual termination agreement.
  - F. Non-appropriation of funds as contemplated by paragraph 3.B above.
7. **EMPLOYEMENT STATUS:** COUNSEL shall have the status of independent contractor and shall not be an employee of the County of Latah. COUNTY shall not have any right to control the manner or methods of the efforts and services to be performed by COUNSEL. COUNTY shall not be responsible for payroll taxes, workmen's compensation, liability insurance, state or federal withholding or income taxes, or payment of retirement funds with regard to COUNSEL, or any of COUNSEL'S employees or independent contractors. COUNSEL agrees to pay and be responsible for all taxes due from the compensation received under this contract. COUNSEL further shall provide proof of workmen's compensation coverage or that such coverage is not required under the circumstances. COUNSEL may use the designation LATAH COUNTY PUBLIC DEFENDER on letterhead

only for work done pursuant to this contract. COUNTY shall have no responsibility for security or protection of COUNSEL'S records, files, supplies or equipment.

8. **INDEMNIFICATION:** COUNSEL agrees to indemnify and hold COUNTY, its officers, agents, and employees, harmless from any liability, claims or damages arising out of or in anyway connected with COUNSEL'S performance of the work described in this contract.
9. **JOINT AND SEVERAL OBLIGATION:** COUNSEL has no duty or obligation to perform any of the duties of any other public defender(s) who may enter into a contractual relationship with COUNTY except by virtue of paragraph 4.C, above, and, as such, COUNSEL has no joint and several liability with any other public defender(s).
10. **NOTICES:** All notices between COUNSEL AND COUNTY shall be directed by COUNSEL to the Latah County Commissioners, P.O. Box 8068, Moscow, Idaho, 83843, and by COUNTY to Charles E. Kavis, P.O. Box 9292, Moscow, Idaho, 83843, or hand delivered to the location designated by the Latah County Clerk as the mailbox for Charles E. Kavis.
11. **ENTIRE AGREEMENT:** This is the entire agreement of the parties and can only be modified or amended in writing by the parties.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals to duplicate originals hereof, this 24<sup>th</sup> day of August, 2011.

**FOR COUNSEL:**

Charles E. Kavis

Charles E. Kavis, Attorney at Law

**FOR LATAH COUNTY:**

Board of County Commissioners

Jennifer Barrett

Jennifer Barrett, Chair

Tom S. Stroschein

Tom S. Stroschein, Commissioner

David McGraw

David McGraw, Commissioner

**ATTEST:**

Kidoti

Deputy Clerk

## **Exhibit D**

# **Jefferson County Conflict Public Defense Contract**

**AGREEMENT FOR  
PUBLIC DEFENDER LEGAL SERVICES  
(CONFLICT CASES)**

This Agreement for Conflict Public Defender Services (the "Agreement") is entered into effective as of the 1<sup>st</sup> day of October 2012, by and between JASON R. RAMMELL of RAMMELL LAW OFFICE, (the "Conflict Public Defender"), and JEFFERSON COUNTY, a political subdivision of the state of Idaho (the "County").

**Recitals**

WHEREAS, the County is statutorily required to provide for the legal representation of needy persons who, with respect to serious crimes, are subject to proceedings in the County or are detained in the County by law enforcement officers;

WHEREAS, the County has decided to meet its statutory requirements to provide for legal representation of needy persons by contracting with a duly qualified and licensed attorney (the "Public Defender"); and,

WHEREAS, the Public Defender may, from time to time, be unable to represent said needy person(s) due to actual and/or legal conflicts of interest that have arisen or reasonably may arise during the course of representation; and,

WHEREAS, Jason R. Rammell is a duly qualified and licensed attorney who desires to perform such legal services in said cases where the Public Defender experiences a bona fide conflict of interest ("Conflict Cases") and such conflict either pertains and/or extends to Jason R. Rammell of RAMMELL LAW OFFICE;

NOW THEREFORE, the County and Conflict Public Defender enter into this Agreement on the following terms and conditions:

1. **Legal Services:** Conflict Public Defender shall provide legal representation of needy persons who, with respect to serious crimes, are subject to proceedings in the County or are detained in the County by law enforcement officers, pursuant to the requirements of Idaho Code § 19-852, "Right to counsel of needy person," and related provisions.
2. **Other Included Services:** Magistrate and District Court Appeals, Conflict Child Protection Proceedings, Conflict Child Support Contempt Proceedings and shared staffing duties for the Bonneville County Youth Court (aka "YAK Court") shall be included in this contract.
3. **Compensation:** The County shall pay to Conflict Public Defender on or before the 1<sup>st</sup> day of each month the amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00), that being one-twelfth of the total annual contract amount of THIRTY THOUSAND DOLLARS (\$30,000.00).
  - a. Murder cases shall be excluded from this contract.

- b. Cases deemed to be of a serious magnitude by the District Court Judge shall be excluded from this contract.
    - i. If Conflict Public Defender is appointed to represent a defendant in a murder case or a case deemed to be of a serious magnitude by the District Court Judge, then Conflict Public Defender must submit written invoices to the County itemizing services performed and costs incurred by date, description, and hours worked.
    - ii. The County shall compensate Conflict Public Defender on a monthly basis using the judicially accepted hourly rate.
    - iii. The County shall pay Conflict Public Defender's invoices following review of the charges by the Court hearing the case, and a determination by the Board of County Commissioners that such charges satisfy all terms and conditions of this Agreement.
    - iv. All record keeping shall be in accordance with generally accepted accounting standards.
- 4. ***Term and Renewal:*** This Agreement shall commence on October 1<sup>st</sup> 2012, and shall continue for a one year period, expiring on September 30, 2013, unless otherwise renewed pursuant to the following terms and conditions:
  - a. Automatic Renewal: This Agreement shall renew automatically for additional one-year term, unless either of the parties shall give the other written notice of intent to terminate on or before the 1<sup>st</sup> day of August during the year for which the Agreement is then in effect.
  - b. This Agreement may be terminated at any time by mutual written agreement of the parties.
- 5. ***Reporting to Commissioners:*** Conflict Public Defender agrees to inform the Board of County Commissioners, regarding his ongoing legal representation of indigents charged with crimes in Jefferson County, as may be requested by the County.
- 6. ***Amendments:*** This Agreement may not be amended or otherwise modified unless such amendment or modification shall be written and signed by the parties.
- 7. ***Conflicts of Interest:*** In the event any real or apparent conflict of interest arises during the course of Conflict Public Defender's rendering of legal services pursuant to this Agreement, Conflict Public Defender shall promptly disclose the conflict to the District or Magistrate Court Judge who shall determine whether the conflict of interest is cause to appoint a subsequent Conflict Public Defender.
- 8. ***Impossibility of Performance:*** Conflict Public Defender agrees that if it becomes impossible for Conflict Public Defender to render the legal services required by this Agreement for a significant period of time, the County may terminate the Agreement upon sixty (60) days written notice to the Conflict Public Defender.

9. **Bar License:** Conflict Public Defender represents and warrants that he is currently duly licensed to practice law in the courts of the state of Idaho.
10. **Independent Contractor:** Conflict Public Defender legal services rendered pursuant to this Agreement are rendered by Conflict Public Defender as an independent contractor and not as an employee of the County. County assumes no liability for acts or omissions of Conflict Public Defender relating to the terms or conditions of this Agreement.
11. **Governing Law:** This Agreement shall be construed in accordance with the laws of the State of Idaho.

This \_\_\_\_ DAY OF \_\_\_\_\_ 2012.

**JEFFERSON COUNTY, IDAHO**

By: Debbie Karren  
Debbie Karren, Chairman  
Board of County Commissioners

Jeff Raymond

AUG 31 2012

This 31 DAY OF August 2012.

**CONFLICT PUBLIC DEFENDER**

By: Jason K. Rammell  
Jason K. Rammell, Attorney-at-Law  
RAMMELL LAW OFFICE

## **Exhibit E**

### **Latah County Conflict Public Defense Contract**



64372

LATAH COUNTY  
BOARD OF COMMISSIONERS  
MOTION AND ORDER

P.O. Box 8068 ♦ 522 S. Adams ♦ Moscow, ID 83843  
(208) 883-7208 ♦ FAX: (208) 883-2280

COMMISSIONER McGraw MOVES THAT THE BOARD:

Approve and sign the Professional Services Contract for Indigent Persons – Conflicts between Latah County and D. Ray Barker, Attorney at Law, referred to as "Counsel", for a period of 2 years from October 1, 2011 through September 30, 2013; contract is to perform legal services for Indigent Persons at the rate of Seventy Dollars (\$70.00) per hour pursuant to monthly statements submitted to the Board of County Commissioners by said Counsel for each case in which he is appointed and approved by the District Judge.

Jennifer Barrett  
Jennifer Barrett, Chairman

**ABSENT**  
Tom S. Stroschein, Commissioner

David McGraw  
David McGraw, Commissioner

YESNOABSTAINX                              X            

ATTEST:

DATE:

K. Liddell  
Clerk/Deputy Clerk

8-8-11



PROFESSIONAL SERVICES CONTRACT  
FOR INDIGENT PERSONS - CONFLICTS

THIS CONTRACT FOR PROFESSIONAL SERVICES, made and entered into effective the 1st day of October, 2011, by and between Latah County, a political subdivision of the State of Idaho, acting through its duly elected Board of Commissioners, hereinafter called "County" and D. Ray Barker, hereinafter called "Counsel,"

WITNESSETH:

WHEREAS County is required by law to furnish legal counsel to certain needy and incapacitated persons at public expense; and

WHEREAS Counsel is an attorney duly licensed to practice law in the State of Idaho and maintains an office for the practice of law in the City of Moscow, State of Idaho; and

WHEREAS County finds that the economic interests of the citizens of Latah County are served by contracting with Counsel for a period of twenty-four (24) months, commencing October 1, 2011, and ending September 30, 2013, upon the following terms and conditions:

THEREFORE IT IS AGREED:

I.

EMPLOYMENT. Counsel hereby agrees to accept appointments to perform legal services in such cases as the Magistrate or the District Judge may determine that the public defenders have a conflict of interest or that the public defender is not qualified pursuant to qualifications for public defense counsel proposed by the Idaho Supreme Court in cases in which the death penalty may be or has been imposed on a defendant, under the terms and conditions set forth in this agreement:

II.

TERM. The term of this agreement shall be from October 1, 2011, through September 30, 2013.

III.

CONSIDERATION AND COMPENSATION:

A. County shall make payment to Counsel at the rate of Seventy Dollars (\$70.00) per hour pursuant to monthly statements submitted by Counsel in each case in which he is appointed and approved by the District Judge.

B. The second year (final 12 months) of this agreement is conditioned upon and subject to the approval of funding for the period October 1, 2012, through September 30, 2013, by the County.

C. Travel costs for appearances to argue assigned cases before the Idaho State Supreme Court or Idaho Court of Appeals shall not be included in this contract. Actual expenses for such travel shall be paid by County as an extraordinary county expense upon the submission of a voucher and affidavit stating such travel expense was solely for the purpose of appearing in connection with public defender cases and shall be compensated at the rate for travel of county employees or actual expenses, whichever is less. In the event of trial upon change of venue, travel and per diem shall be paid by County as an extraordinary county expense.

D. This contract does not include any costs of transcripts or any expenses of trial or investigation for which the court may approve expenditures or which are statutory expenditures.

E. The County shall reimburse Counsel for all non-overhead costs and expenses incurred by Counsel in the performance of such services, including but not limited to the

following: travel expenses outside of Moscow; long distance telephone charges; fax and copying expenses; printing and binding costs for all appellate briefs; postage; court fees and witness fees; and legal research costs and expenses.

#### IV.

DESCRIPTION OF SERVICES. Counsel shall furnish full and adequate representation as may be required to be furnished at public expense and shall expend such time and effort as may be necessary to discharge the obligation of the County to provide representation at public expense, including, without limitation, the following:

A. Full and adequate representation to and through the Idaho Supreme Court of such persons as may be determined by the court to be eligible for such representation at public expense in the following cases:

1. All such persons detained by a law enforcement officer; confined, the subject of hospitalization proceedings pursuant to Sections 18-212, 18-214, 66-322, 66-329 or 66-409, *Idaho Code*, or who are under a formal charge of having committed, or are being detained under a conviction of a serious crime, as determined by the court.
2. All such persons formally petitioned to be within the purview of the Youth Rehabilitation Act, *Idaho Code* Title 16, Chapter 18 or the Juvenile Corrections Act, *Idaho Code* Title 20, Chapter 5.
3. All such persons subject to proceedings under the Child Protective Act, *Idaho Code* Title 16, Chapter 16.
4. All such persons subject to proceedings under the provisions of the Uniform Criminal Extradition Act and the Uniform Rendition of Accused Persons Act, *Idaho Code* Title 19, Chapter 45.
5. All such persons involved in proceedings pursuant to the provisions of Idaho Code § 39-6306, dealing with domestic violence.

B. Counsel shall be excused from representing persons with whom an actual conflict of interest exists between Counsel and such persons on legal or ethical grounds when the court having jurisdiction of the case determines that such a conflict exists.

C. Counsel shall maintain an office in the City of Moscow, County of Latah, State of Idaho, with regularly scheduled office hours.

D. Counsel's services shall be initiated in each case at the time of the appointment of Counsel by the court in which such cases is pending. Defendant's indigency may be reassessed at each state of the proceedings and if the defendant is found not indigent, public representation services for such defendant may be terminated by the court.

E. Counsel shall attempt to make personal contact with each client within twenty-four (24) hours of receipt of notice of appointment from the court.

F. To prevent the appearance of conflict of interest, Counsel shall not represent any client in any matter against County or its employees arising out of or related to the attorney-client relationship created by appointment of Counsel by a court.

G. Counsel shall give his best professional efforts to cases to which he is appointed under this contract. However, except as otherwise stated herein, Counsel shall not generally be prohibited from the outside practice of law.

H. Counsel may make such arrangements as may be acceptable to the court for other attorneys to make court appearances in place of Counsel in the event of a scheduling conflict or other circumstances which prohibit counsel from appearing in person. In all such cases, Counsel shall be solely responsible for compensation of such attorneys as may appear in his place.

I. Counsel shall maintain policies of professional liability insurance in the amount of at least Five Hundred Thousand Dollars (\$500,000.00) with any carrier licensed to issue such insurance in Idaho. Counsel shall furnish proof of such insurance to the County.

V.

RECORDS AND REPORTS. Counsel shall compile and maintain complete and accurate records of each and every case assigned and submit monthly statements in each case in which he is appointed, detailing the total hours spent on each such case, the expenses charged to County for each such case and the hours, if any expended on each case by another attorney or legal intern. Case files shall be surrendered to any succeeding Counsel upon the expiration or termination of Counsel's appointment.

Such records and other information not required to be kept confidential under legal and ethical rules shall be made available by the County to a committee or attorneys appointed by the Senior District Judge resident in Latah County to review performance under this contract, which review may be conducted at least once every six (6) months and at such other times as directed by County.

VI.

TERMINATION. This contract shall terminate upon the expiration of the term hereof or upon the happening of any of the following events, whichever shall first occur:

- A. Upon death of Counsel;
- B. Inability of Counsel to perform any of the professional services provided for hereunder due to physical or mental disability. Physical or mental disability shall be determined by a court of competent jurisdiction or by two licensed physicians;

C. Disbarment or suspension from the practice of law or failure of Counsel to maintain his license to practice law in the State of Idaho;

D. Material breach of contract terms by the attorney denominated herein as Counsel; provided that the attorney denominated herein as Counsel may not be terminated under this subsection D except upon recommendation of the committee mentioned in Paragraph V above;

E. By mutual agreement of the parties hereto, following the receipt of not less than thirty (30) days written notice of intent to terminate this contract.

## VII.

EMPLOYEMENT STATUS. Counsel shall have the status of an independent contractor and shall not be an employee of the County of Latah. County shall not have the right to control the manner or method of the efforts and services to be performed by Counsel. County shall not be responsible for payroll taxes, workmen's compensation, liability insurance, state or federal withholding or income taxes or payment of retirement funds with regard to Counsel or any of Counsel's employees or independent contractors. County shall have no responsibility for security or protection of Counsel's records, files, supplies or equipment.

## VIII.

INDEMNIFICATION. Counsel agrees to indemnify and hold County, its officers, agents, and employees harmless from any liability, claims or damages arising out of or in any way connected with Counsel's performance of the work described in this agreement.

IX.

POINTS OF CONTACT. All notices between counsel and County shall be directed by Counsel to the Latah County Commissioners, P.O. Box 8068, Moscow, Idaho, 83843 and by County to Counsel at P.O. Box 9408, Moscow, Idaho 83843-0118.

IN WITNESS WHEREOF, the parties have affixed their hands and seals to duplicate originals here of this 8<sup>th</sup> day of August, 2011.

COUNSEL:

D Ray Barker  
D. Ray Barker, Attorney at Law

FOR LATAH COUNTY:

Board of County Commissioners

Jennifer Barrett  
Jennifer Barrett, Chair

ABSENT  
Tom S. Stroschein, Commissioner

David McGraw  
David McGraw, Commissioner

ATTEST:

Kliditi  
Deputy Clerk

## **Exhibit F**

### **Teton County Conflict Public Defense Contract**



## CONFLICT PUBLIC DEFENDER AGREEMENT FOR SERVICES

WHEREAS, Teton County, Idaho, hereinafter referred to as "County", requires the services of an independent contract attorney to serve as a Conflict Public Defender when the contracted Public Defender has a conflict; and

WHEREAS, Chad Marlowe, Bart Birch and Herb Heimerl, Pam Parkins and Billie Siddoway, hereinafter referred to as "Contractors", are licensed attorneys in the State of Idaho and have the necessary specialized training, education, experience and specialized knowledge to be Conflict Public Defenders;

NOW THEREFORE, the parties agree to the following terms and conditions:

### WITNESSETH:

1. **Description of Work:** Contractors agree to provide legal services, when the Public Defender has a conflict, to Defendants in Teton County who are appointed a public defender for felony, misdemeanor, protection, mental commitment, and post conviction relief matters. Expressly excluded from this agreement are all homicides, attempted homicides and complex racketeering felonies.
2. **Rotation:** The Clerk of District Court shall contact each individual Contractor on a rotating basis whenever the Public Defender has a conflict. If the Contractor whose turn it is in the rotation has a conflict the Clerk will move to the next Contractor in the rotation. If all Contractors are conflicted the County may use another attorney.
3. **Compensation:** Contractors will be paid \$55.00 per hour and must bill County for said representation.
4. **Responsibility of the Parties:** County shall assume certain costs associated with providing a proper defense in the assigned cases, including but not limited to, costs associated with experts and depositions. Contractors agree to provide office materials and office equipment to perform the above services at no additional cost to County. The Contractors further agree to comply with all federal, state, city and local rules and regulations and requirements of the Idaho State Bar. The parties further agree that the Contractors and all their employees are independent contractors of County and in no way receive benefits of employment with the County. Contractors further agree to maintain in full force and effect legal malpractice coverage, and, if such is required by Idaho Law, worker's compensation for contractor and any agent, employee and staff of contractor may employ and provide proof to County of such coverage or that such worker's compensation insurance is not required under the circumstances.
5. **Termination:** Either party may terminate this contract upon 30 days advance notice. In the event of termination, Contractors shall, as soon as possible, present to County the case numbers of all cases pending wherein contractor is the attorney of record, along with current billings relating to each case. Unless otherwise agreed between parties, Contractor will complete such cases at an hourly rate of \$55.00 per hour.
6. This is the entire agreement of the parties and can only be amended or modified by agreement of the parties.

In witness whereof, the parties have executed this Agreement on this 10<sup>th</sup> day of June, 2013.

TETON COUNTY:

  
\_\_\_\_\_  
Kelly Park  
Chairman of Board of County Commissioners

CONTRACTOR:

  
\_\_\_\_\_  
Billie Siddoway