PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made by and between the City of Lacey, a code City of the State of Washington, hereinafter "City" and CONTRACTOR NAME hereinafter "Contractor," jointly referred to as "Parties."

IN CONSIDERATION of the terms and conditions contained herein, the Parties agree as follows:

1. Definitions.

1.1. Case: a new court filing or action that names a person who is eligible for appointment of a public defense attorney. In courts of limited jurisdiction multiple citations from the same incident shall be counted as one (1) case.

1.1.1. Cases reassigned to a conflict public defender or cases in which a defendant hires a private attorney for representation within the first 45 days of representation shall not be counted as a case.

1.2. Caseload: the number of cases assigned to a public defense attorney in a 12-month period.

1.3. Concluded: the Court has accepted a proposed resolution, (including the entry of a plea, diversion agreement, stipulated order of continuance (SOC), or deferred prosecution), the Court has imposed a final sentence following trial or failure to comply hearing, the Court has dismissed the case on a motion from either part or sua sponte, or the defendant has failed to appear (FTA)and the defendant has remained on active warrant status for at least 30 days subsequent to the FTA.

1.4. Contractor: CONTRACTOR NAME and shall mean each attorney working for the Contractor.

1.5. Defendant: a person charged with a misdemeanor or gross misdemeanor offense that is filed into the Thurston County District Court, and for whom the Contractor must provide services pursuant to this Agreement.

1.6. Legal Assistant: a non-lawyer legal professional who assists the attorney with administrative tasks.

1.7. Review Case: a case assigned for reviews, post sentencing, and/or probation violations.

1.8. Social Worker: a public defense professional who provides professional services to assist the attorney to help meet the needs of the client.

1.9. Appellate Court: any Washington State court sitting in an appellate posture, including a superior court hearing a case under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ), the Washington Court of Appeals, and the Washington Supreme Court.

2. Scope of Services, Standards, and Warranty. The Contractor will provide indigent defense services in accordance with the standards set forth in Lacey Municipal Code 9.60, as the same exists or is hereafter amended. The Contractor warrants that they, and every attorney and/or intern employed by the Contractor to perform such services under this contract, has read and is fully familiar with the Washington State Bar Association Guidelines on Indigent Defense, the Washington State Supreme Court Rules relevant to public defense services, and the standards set forth in Lacey Municipal Code 9.60 hereinafter "Standards". Compliance with these Standards is an essential element of this Agreement.

2.1. Documentation. Compliance includes, but is not limited to, documentation of the following aspects

of the Attorney representation:

2.1.1. Number of monthly and year-to-date cases and type of cases the Contractor was appointed to including:

2.1.1.1. The number of appointed cases;

2.1.1.2. The number of cases assigned for review;

2.1.1.3. The number of cases reassigned to a conflict public defender; and

2.1.1.4. The number of cases in which a defendant hires a private attorney for representation.

2.1.2. For each case appointed, the contractor shall document and provide:

2.1.2.1. Date Contractor was appointed;

2.1.2.2. Client Name;

2.1.2.3. Case number; and

2.1.2.4. Charge type(s).

2.1.3. Number of monthly and year-to-date cases the Contractor closed per month. For each case closed, the Contractor shall document and provide:

2.1.3.1. Date Contractor was appointed;

2.1.3.2. Date case closed;

2.1.3.3. Client name;

2.1.3.4. Case number;

2.1.3.5. Charge type(s);

2.1.3.6. Whether investigation/ expert services were used;

2.1.3.7. Whether substantive motions were filed;

2.1.3.8. Whether trial was confirmed; and

2.1.3.9. Final disposition (jury/bench trial, plea as charged, dismissed etc.).

Said documentation shall be provided to the City on a monthly basis, by the 15th day of the month following the month in which said documented services were rendered. If the Contractor has not been assigned any cases during the month, Contractor shall prepare and make available any necessary grant reporting documentation upon request.

2.2. Caseload. The Contractor will provide indigent defense representation for up to the NUMBER OF CASES per year for which the Contractor is specifically appointed, on an as needed basis.

2.2.1. The City utilizes an unweighted case count.

2.2.2. The current Agreement for Public Defender Services reflect terms for a caseload-based contract, aligned with current Washington Supreme Court Rules. The City intends to implement mandated caseload reductions, as required by current Washington Supreme Court Rules, as outlined in **Table A.**

Table A City of Lacey Public Defender Caseload Reduction	
January 1st of the Year	**Cases per Attorney**
2026	400
2027	372
2028	344
2029	316
2030	288
2031	260
2032	232
2033	204
2034	176
2035	148
2036	120

2.2.3. The number of monthly assigned cases may vary.

2.2.4. Case equivalents for time spent by public defense attorneys providing defense services under this section are accounted for in the caseload identified in section 2.2.

2.3. Certification to District Court. The Contractor, and every attorney and/or intern performing services under this agreement, shall certify compliance quarterly with the District Court on the form established for that purpose by court rule.

2.3.1. A copy of each and every such certification shall be provided to the City by the 15th day of the first month of the applicable quarter.

2.4. Travel Required. The Contractor will be required to travel to multiple different facilities for court appearances and/or to meet with their clients. The City contracts with Thurston County District Court, located at 3000 Pacific Ave SE, Olympia, WA 98501, for municipal court services. The City may contract with other courts in Thurston County, for municipal court services. The City contracts with the Nisqually Detention and Corrections Center, located at [enter address] for jail services. Likewise, the Contractor will be required to appear in the Thurston County Correctional Facility, located at [enter address] for consultation and hearings with clients held with or without bail in that facility. Court services, consultations, and hearings may also occur via virtual/telephonic appearances at the discretion of the City and contracted facilities.

2.5. Participation in Future Indigent Defense Related Studies. The Contractor agrees to participate in any future indigent service-related studies or audits conducted by the City or its assignee so long as they do not violate any ethical or legal obligations that the contractor has with their clients.

2.6. Administration. The City Manager or designee shall administer and be the primary contact for Contractor. Prior to commencement of work, Contractor shall contact the City Manager or designee

to review the Scope of Services, schedule, and date of completion. Upon notice from the City Manager or designee, Contractor shall commence work, perform the requested tasks in the Scope of Services, stop work, and promptly cure any failure in performance under this Agreement.

2.7. Representations. City has relied upon the qualifications of Contractor in entering into this Agreement. By execution of this Agreement, Contractor represents they possess the ability, skill, and resources necessary to perform the work and are familiar with all current laws, rules, and regulations which reasonably relate to the Scope of Services. No substitutions of agreed-upon personnel shall be made without the prior written consent of City.

Contractor represents that the compensation as stated in Section 4 is adequate and sufficient for the timely provision of all professional services required to complete the Scope of Services under this Agreement.

Contractor shall be responsible for the technical accuracy of its services and documents resulting therefrom, and City shall not be responsible for discovering deficiencies therein. Contractor shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in City-furnished information.

2.8. Standard of Care. Contractor shall exercise the degree of skill and diligence normally employed by professional Contractors engaged in the same profession, and performing the same or similar services at the time such services are performed.

2.9. Modifications. City may modify this Agreement and order changes in the work whenever necessary or advisable. Contractor shall accept modifications when ordered in writing by the City Manager or designee, so long as the additional work is within the scope of Contractor's area of practice. Compensation for such modifications or changes shall be as mutually agreed between the Parties. Contractor shall make such revisions in the work as are necessary to correct errors or omissions appearing therein when required to do so by City without additional compensation.

3. Compensation and Method of Payment

3.1. Total Base Compensation. TO BE NEGOTIATED

3.1.1. Except as expressly provided in Section 4.1 the cost of travel infrastructure, administrative support, research materials and systems, and training, as well as standard overhead services necessary to comply with Standards are included in the base compensation.

3.2. Investigative and Expert Services. The City shall reimburse defense counsel for necessary and reasonable investigative and expert services reasonably incurred and pre-approved by the City.

3.2.1. The Contractor shall provide the following documentation for each instance of billed services:

- 3.2.1.1. Date for Services;
- 3.2.1.2. Name of Investigator/Expert Service provider;
- 3.2.1.3. Name of requesting attorney**;**
- 3.2.1.4. Description of services;
- 3.2.1.5. Client name;
- 3.2.1.6. Case number;
- 3.2.1.7. Charge(s);
- 3.2.1.8. Hours billed;

3.2.1.9. Hourly rate billed; and
3.2.1.10. Total amount billed.

3.3. Other Payments. In addition to the above compensation, the City shall pay for the following case expenses when reasonably incurred and approved by the City:

3.3.1. Lay Witness fees and mileage incurred in bringing defense witnesses to court, but not including salary or expenses of law enforcement officers required to accompany incarcerated witnesses;

3.3.2. Medical and psychiatric evaluations;

3.3.3. Expert witness fees and expenses;

3.3.4. Interpreters for languages not commonly spoken in the City or interpreters for services other than attorney/client communication;

3.3.5. Polygraph, forensic and other scientific tests;

3.3.6. Any other non-routine expenses the City finds necessary and proper for the investigation, preparation, and presentation of a case.

Payment by the City for services will only be made after the services have been performed. The City reserves the right to withhold payment under this Agreement for that portion of the work (if any) which is determined in the reasonable judgment of the City Manager or designee to be noncompliant with the Scope of Services, City standards, City Code, and federal or state standards.

4. Notice. Notices other than applications for payment shall be given in writing as follows:

TO THE CITY:	TO THE CONTRACTOR:
Name:	Name:
Phone:	Phone:
Address:	Address:
Email:	Email:

5. Term of Contract. This Agreement shall be from TERM START, through TERM END, unless sooner terminated as provided in this Agreement.

6. Termination.

6.1. For Cause. This agreement may be terminated for cause for violation of any material term of this agreement. "Material term" shall include any violation indicating a failure to provide representation in accordance with the rules of the court and the ethical obligations established by the Washington State Bar Association, a violation of the Standards of the provisions in Section 6 relating to insurance, conviction of a criminal charge, and/or a finding that the license of the Contractor, or any attorney providing services under the agreement, has been suspended or revoked. Any violation of the other provisions of this Contract shall be subject to cure. Written notice of contract violation shall be provided to the Attorney who shall have ten (10) business days to correct the violation. Failure to correct the violation will give rise to termination for cause at the City's discretion. In lieu of terminating this contract, the City may agree in writing to alternative corrective measures.

6.2. Termination on Mutual Agreement. The parties may agree in writing to terminate this contract at any time. Unless otherwise agreed to in writing, termination, or expiration of this contract does not affect any existing obligation or liability of either party.

6.3. Representation. This agreement provides compensation for services related to each and every assigned case. Therefore, in the event this agreement is terminated, the Contractor will continue to represent clients on any and all previously assigned cases until such cases are concluded or unless otherwise notified by the City.

6.4. The provisions of Section 2 and Sections 14, as well as this subsection 7.3 survive termination as to the Contractor. The City shall remain bound by the provisions of Section 3 with respect to additional costs incurred with respect to cases concluded after the termination of this contract.

7. Nondiscrimination. Neither the Contractor nor any person acting on behalf of the Contractor shall, by reason of race, creed, color, national origin, sex, sexual orientation, marital status, honorably discharged doctrine or military status, or the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

8. Independent Contractor Relationship. The Parties intend that an independent Contractor/City relationship will be created by this agreement. Neither the Contractor, nor any agent, employee, servant or representative of the Contractor shall be deemed to be an employee, agent, servant or representative of the City for any purpose, and the employees of the Contractor are not entitled to any of the benefits the City provides to its employees. The Contractor shall be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement. Neither the City, nor any of its employees, shall have any control over the manner, mode, or means by which the Contractor, its agents or employees, render indigent defense services required under this Agreement, except as otherwise set forth.

9. Assignment and Delegation. Neither Party shall assign, transfer, or delegate any or all of the responsibilities of this Agreement or the benefits received hereunder without prior written consent of the other Party.

10. Subcontracts. Except as otherwise provided herein, Contractor shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of City.

11. Indemnification and Hold Harmless. Contractor shall, at its sole expense, defend, indemnify, and hold harmless City and its officers, agents, and employees, from any and all claims, actions, suits, liability, loss, costs, attorney's fees, costs of litigation, expenses, injuries, and damages of any nature whatsoever relating to or arising out of the wrongful or negligent acts, errors, or omissions in the services provided by Contractor, Contractor's agents, subcontractors, subContractors, and employees to the fullest extent permitted by law, subject only to the limitations provided below.

Contractor's duty to defend, indemnify, and hold City harmless shall not apply to liability for damages arising out of such services caused by or resulting from the sole negligence of City or City's agents or employees pursuant to RCW 4.24.115.

Contractor's duty to defend, indemnify, and hold City harmless against liability for damages arising out of such services caused by the concurrent negligence of (a) City or City's agents or employees, and (b)

Contractor, Contractor's agents, subcontractors, subContractors, and employees shall apply only to the extent of the negligence of Contractor, Contractor's agents, subcontractors, subContractors, and employees.

Contractor's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liability to which it applies, City's personnel-related costs, reasonable attorneys' fees, the reasonable value of any services rendered by the office of the City Attorney, outside Contractor costs, court costs, fees for collection, and all other claim-related expenses.

Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. These indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefits acts. Provided, that Contractor's waiver of immunity under this provision extends only to claims against Contractor by City, and does not include, or extend to, any claims by Contractor's employees directly against Contractor.

Contractor hereby certifies that this indemnification provision was mutually negotiated.

12. Insurance. Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees, or subcontractors.

12.1. Minimum Scope of Insurance. Contractor shall obtain insurance of the types described below:

12.1.1. Automobile liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.

12.1.2. Commercial general liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury, and advertising injury. City shall be named as an additional insured under Contractor's commercial general liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.

12.1.3. Workers' compensation coverage as required by the industrial insurance laws of the State of Washington.

12.1.4. Professional liability insurance appropriate to Contractor's profession.

12.2. Minimum Amounts of Insurance. Contractor shall maintain the following insurance limits:

12.2.1. Automobile liability insurance with a minimum combined single limit for bodily injury and property damage of no less than $1,000,000 per accident.

12.2.2. Commercial general liability insurance shall be written with limits no less than $1,000,000 for each occurrence, and $2,000,000 for general aggregate.

12.2.3. Professional liability insurance shall be written with limits no less than $1,000,000 per claim and $1,000,000 policy aggregate limit.

12.3. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions for automobile liability, professional liability, and commercial general liability insurance:

Contractor's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by City shall be in excess of Contractor's insurance and shall not contribute with it.

Contractor shall fax or send electronically in .pdf format a copy of insurer's cancellation notice within two business days of receipt by Contractor.

If Contractor maintains higher insurance limits than the minimums shown above, City shall be insured for the full available limits of commercial general and excess or umbrella liability maintained by Contractor, irrespective of whether such limits maintained by Contractor are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by Contractor.

Failure on the part of Contractor to maintain the insurance as required shall constitute a material breach of the Agreement, upon which the City may, after giving at least five business days' notice to Contractor to correct the breach, immediately terminate the Agreement, or at its sole discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to City on demand, or at the sole discretion of the City, offset against funds due Contractor from the City.

12.4. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

12.5. Evidence of Coverage. As evidence of the insurance coverages required by this Agreement, Contractor shall furnish acceptable insurance certificates to the City Staff outlined in Section 15at the time Contractor returns the signed Agreement, which shall be Exhibit C. The certificate shall specify all of the parties who are additional insureds, and shall include applicable policy endorsements, and the deduction or retention level. Insuring companies or entities are subject to City acceptance. If requested, complete copies of insurance policies shall be provided to City. Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

13. Waiver. No officer, employee, agent, or other individual acting on behalf of either Party has the power, right, or authority to waive any of the conditions or provisions of this Agreement. A waiver in one instance shall not be held to be a waiver of any other subsequent breach or nonperformance. All remedies afforded in this Agreement or by law shall be taken and construed as cumulative and in addition to every other remedy provided herein or by law. Failure of either Party to enforce at any time any of the provisions of this Agreement or to require at any time performance by the other Party of any provision hereof shall in no way be construed to be a waiver of such provisions nor shall it affect the validity of this Agreement or any part thereof.

14. Anti-Kickback. No officer or employee of City, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in this Agreement, or have solicited, accepted, or granted a present or future gift, favor, service, or other thing of value from any person with an interest in this Agreement.

15. **Business Registration.** Contractor shall register with the City as a business prior to commencement of work under this Agreement if it has not already done so.

16. **Cost and Attorney's Fees.** The prevailing party in any litigation or arbitration arising out of this Agreement shall be entitled to its attorney's fees and costs of such litigation (including expert witness fees).

17. **Severability.** If any section, sentence, clause, or phrase of this Agreement should be held to be invalid for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of any other section, sentence, clause, or phrase of this Agreement.

18. **Entire Agreement.** This written Agreement constitutes the entire and complete agreement between the Parties and supersedes any prior oral or written agreements. This Agreement may not be changed, modified, or altered except in writing signed by the Parties hereto.

19. **Resolution of Disputes, Governing Law.** Should any dispute, misunderstanding, or conflict arise as to the terms or conditions contained in this Agreement, the matter shall be referred to the City Manager, whose decision shall be final. Provided, however, that any complaint regarding any violation of the Standards or which relate to any manner whatsoever to trial strategy or an ongoing case, shall be referred to the Judge of the District Court or to the Washington State Bar Association as appropriate. Nothing herein shall be construed to obligate, require, or permit the City, its officers, agents, or employee to inquire into any privileged communications between the Contractor and any indigent defendant. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington and the rules of the Washington State Supreme Court as applicable. Venue for an action arising out of this Agreement shall be in Thurston County Superior Court.

This Agreement shall become effective as of the date of the last signature below.

CITY OF LACEY	CONTRACTOR:
By:_____	By:_____
Rick Walk, City Manager	Contractor
Date:	Date:

Approved as to form:

_____

David Schneider, City Attorney

Date: