

2012-255

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Department of Community and Human Services  
Office of Public Defense Division  
206-296-7662 TTY Relay: 711

**KING COUNTY COMMUNITY AND HUMAN SERVICES CONTRACT – 2012-2013**

Contractor The Defender Association  
 Project Title Public Defense Legal Services  
 Contract Amount \$ 10,025,573.00  
 Contract Period From: July 1, 2012 To June 30, 2013  
 DUNS No. (if applicable) \_\_\_\_\_ CCR No. (if applicable) \_\_\_\_\_

THIS CONTRACT No. 5413548 is entered into by KING COUNTY (the "County"), and The Defender Association (the "Contractor") whose address is 810 Third Avenue, Suite 800, Seattle, WA 98104.

WHEREAS, the County desires to have legal services, as described in the Contract, performed for indigent persons legally entitled to appointed counsel in King County courts and as authorized by Ordinance No. 17232; and

WHEREAS, the Contractor is a nonprofit law firm, incorporated under the Washington Nonprofit Corporation Code, within the meaning of Section 501(c)(3) of the Internal Revenue Code, organized and operated exclusively for the purpose of providing court-appointed legal services to indigent persons; and

WHEREAS, the County and the Contractor agree that these legal services are provided by an independent contractor non-profit corporation, possessing all of the rights, duties and obligations that are possessed under Washington State law and applicable Federal laws for an independent contractor service provider; and

WHEREAS, the County and the Contractor agree that any and all funds provided pursuant to this Contract are provided for the sole purpose of provision of legal services to indigent persons assigned to the Contractor by the County Office of Public Defense (OPD) or the courts of King County.

NOW THEREFORE, in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties covenant and do mutually agree as follows:

**I. EXHIBITS**

The Contractor shall provide services and comply with the requirements set forth hereinafter and in the following attached exhibits, which are incorporated herein by reference:

Certificates of Insurance/Endorsements

Attached hereto as Exhibit I

Public Defense Legal Services

Attached hereto as Exhibit II

**This form is available in alternate formats upon request for persons with disabilities.**

## II. DURATION OF CONTRACT

This Contract shall commence on the 1st day of July, 2012, and shall terminate on the 30th day of June, 2013, unless extended or terminated earlier, pursuant to the terms and conditions of the Contract.

## III. FUTURE SUPPORT

The County makes no commitment to support the services contracted for herein and assumes no obligation for future support of the activity contracted herein except as expressly set forth in this Contract.

## IV. COMPENSATION AND METHOD OF PAYMENT

- A. The Contractor shall apply the funds received from the County under this Contract in accordance with the budget, if included within an Exhibit.
- B. The County shall reimburse the Contractor for satisfactory completion of the terms and conditions found in this Contract and its attached Exhibits.
- C. The current funding sources, funding levels, and effective dates:

FUNDING SOURCES	FUNDING LEVELS	EFFECTIVE DATES
COUNTY	\$10,025,573.00	7/1/12 - 6/30/13
FEDERAL Federal Catalogue No.		-
STATE		-
TOTAL	\$10,025,573.00	7/1/12 - 6/30/13

- D. The Contractor shall submit an invoice and all accompanying reports as specified in the attached Exhibit(s), including its final invoice and all outstanding reports. The County shall initiate authorization for payment to the Contractor not more than 30 days after a complete and accurate invoice and all outstanding reports are received and approved.
- E. If the Contractor's final invoice and reports are not submitted by the day specified in the attached Exhibit(s), the County shall be relieved of all liability for payment to the Contractor of the amounts set forth in said invoice or any subsequent invoice.
- F. The Contractor shall not invoice and charge the County for incurred costs which are also specifically paid for by another source of funds.

## V. EQUIPMENT PURCHASE, MAINTENANCE, AND OWNERSHIP

- A. The Contractor agrees that equipment purchased with Contract funds at a cost of \$5,000 per item or more and identified in an Exhibit as reimbursable is upon its purchase or receipt the property of the Contractor, County, and/or federal, and/or state government, as specified in the Exhibit.
- B. The Contractor shall be responsible for all such equipment, including the proper care and maintenance.

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- C. The Contractor shall ensure that all such equipment shall be returned to the appropriate government Contractor, whether federal, state or county, upon written request of the County.
- D. The Contractor shall admit County staff to the Contractor's premises for the purpose of marking such property with appropriate government property tags.
- E. The Contractor shall establish and maintain inventory records and transaction documents (purchase requisitions, packing slips, invoices, receipts) of equipment purchased with Contract identified funds.

## VI. CONTRACT AMENDMENTS

Either party may request changes to this Contract. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Contract. No oral statement or other conduct by the County shall change or modify the Contract.

## VII. INTERNAL CONTROL, ACCOUNTING AND AUDITS

### Internal Control and Accounting

The Contractor shall establish and maintain a system of accounting and internal controls that comply with applicable, generally accepted accounting principles, financial and governmental reporting standards as prescribed by the appropriate accounting standards board.

### Audits

- A. The Contractor shall provide the County with a copy of its applicable IRS Form 990 (Return of Organization Exempt from Tax), IRS Form 1065 (Partnership tax return), or equivalent when requested.
- B. The Contractor shall comply with the specific requirements for independent financial audits or alternatives as follows:
  - 1. A Contractor expending \$500,000 or more in direct or indirect federal funding from all sources during its fiscal year, including other forms of federal financial assistance shall have a single audit or program-specific audit conducted for that year. Such audit shall be done in accordance with the provisions of the Single Audit Act Amendments of 1996 as implemented through the Federal Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations, as revised.
  - 2. A Contractor expending \$300,000 or more from all fund sources during their fiscal year that is not otherwise subject to the requirements of OMB Circular A-133 as outlined above in B.1., shall have a financial statement audit conducted for that year. Such audit shall be performed by an independent certified public accountant and conducted in accordance with the American Institute of Certified Public Accountants' (AICPA) generally accepted auditing standards.
  - 3. A Contractor expending \$50,000 or more but less than \$300,000 from all fund sources during its fiscal year shall be required to complete a limited scope financial statement/internal control review as defined by the AICPA and according to AICPA standards provided the Contractor meets all of the following criteria:
    - a. The Contractor previously provided to the County a financial statement audit that was completed by an independent certified public accountant and conducted in

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accordance with AICPA generally accepted auditing standards, for that Contractor's most recently completed fiscal period;

- b. That financial statement audit and any associated management letter show no reportable conditions or internal control issues; and
- c. There has been no turnover in key staff since the beginning of the period for which the audit was completed.

Any limited scope financial statement/internal control review authorized under this subsection shall be conducted in accordance with the AICPA's Statements on Standards for Attestation Engagements and shall be performed by an independent certified public accountant.

If the Contractor does not meet the qualifications in section VIII, Audits, B, 3, a through c, then the Contractor shall provide a financial statement audit.

- 4. A Contractor expending less than \$50,000 from all fund sources during its fiscal year shall submit a compilation of financial statements that has been certified as accurate and complete by the Contractor's Board of Directors.
- 5. The County reserves the right to require an independent financial statement audit at its discretion based on changes in circumstances relating to the financial and programmatic conditions of the Contractor.
- C. A Contractor which is not subject to OMB Circular A-133 may, in extraordinary circumstances, request a waiver of audit requirements and, with the review and upon approval of the County, substitute for the above requirements other forms of financial reporting or fiscal representation certified by the Contractor's Board of Directors.
- D. The Contractor shall provide to the County a copy of the audit report, including any management letter or official correspondence submitted by the auditor, its response and corrective action plan for all findings and reportable conditions contained in its previous audit or any alternative documents required under Section VIII, Audits, B, 3 and 4 of this Contract. These documents shall be submitted no later than six months subsequent to the end of the Contractor's fiscal year. The documents may be submitted electronically or in hard copy.
- E. If additional federal and/or state audit or review requirements are imposed on the County during the term of this Contract, the Contractor agrees this Contract may be amended to require that the Contractor comply with any such additional audit requirements. Even if this Contract is not amended, the Contractor agrees to comply with any such additional audit requirements.
- F. If the Contractor receives a financial audit, including an A-133 audit, due to requirements other than stated herein, such audit shall be provided to the County within the time period identified in Section VIII, Audits, D, even if not otherwise required under this Section.
- G. The Contractor agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception that occurs due to the negligence, intentional act and/or failure for any reason to comply with the terms of this Contract by the Contractor, its officers, employees, agents, and/or representatives. This duty to repay shall survive the expiration or termination of the Contract.

**VIII. RECORDS, INSPECTIONS AND EVALUATIONS****A. Retention of Records**

1. The Contractor and its Subcontractors shall maintain books, records, and documents of its performance under this contract in accordance with generally accepted account principles. The Contractor shall retain for six years after the date of final payment under the Contract all financial information, data and records for all work.
2. The Contractor shall inform the County in writing of the location, if different from the Contractor address listed on page one of this Contract, of the aforesaid books, records, documents and other evidence shall notify the county in writing of any changes in location within 10 working days of any such relocation.

**B. Evaluations and Inspections**

1. The Contractor shall provide right of access to its facilities, including those of any Subcontractor, to the County, the state, and/or federal agencies or officials at all reasonable times in order to audit the services provided under this Contract. The County shall give advance notice to the Contractor in the case of fiscal audits to be conducted by the County.
2. The records and documents with respect to all matters covered by this Contract shall be subject at all times to inspection, review, or audit by the County and/or federal/state officials so authorized by law during the performance of this Contract and six years after termination hereof, unless a longer retention period is required by law.
3. The Contractor agrees to cooperate with the County or its agent in the audit of the Contractor's performance under this Contract and to make available all information reasonably required by any such evaluation process. The results and records of said evaluations shall be maintained and disclosed in accordance with RCW Chapter 42.56.

**C. Public Records Requests**

1. This Contract shall be considered a public document and will be available for inspection and copying by the public in accordance with the Public Records Act, chapter 42.56 RCW (the "Act").
2. If the Contractor considers any portion of any record provided to the County under this Contract, whether in electronic or hard-copy form, to be protected under law, the Contractor shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If a request is made for disclosure of such portion, the County will determine whether the material should be made available under the Act. If the County determines that the material is subject to disclosure, the County will notify the Contractor of the request and allow the Contractor 10 business days to take whatever action it deems necessary to protect its interests. If the Contractor fails or neglects to take such action within said period, the County will release the portions of record(s) deemed by the County to be subject to disclosure. The County shall not be liable to the Contractor for inadvertently releasing records pursuant to a disclosure request not clearly identified by the Contractor as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET."

**IX. PROPRIETARY RIGHTS**

The parties to this Contract hereby mutually agree that if any patentable or copyrightable material or article should result from the work described herein, all rights accruing from such material or article shall be the sole property of the County. The County agrees to and does hereby grant to the Contractor, irrevocable, nonexclusive, and royalty-free license to use, according to law, any material or article and use any method that may be developed as part of the work under this Contract.

The foregoing products license shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Contractor which are modified for use in the performance of this Contract.

The foregoing provisions of this section shall not apply to existing training materials, consulting aids, checklists, and other materials and documents of the Contractor that are not modified for use in the performance of this Contract.

**X. CORRECTIVE ACTION**

If the County determines that a breach of contract has occurred, that is, the Contractor has failed to comply with any terms or conditions of this Contract or the Contractor has failed to provide in any manner the work or services agreed to herein, and if the County deems said breach to warrant corrective action, the following sequential procedure shall apply:

- A. The County shall notify the Contractor in writing of the nature of the breach;
- B. The Contractor shall respond in writing no later than ten working days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies. The corrective action plan shall specify the proposed completion date for bringing the Contract into compliance, which date shall not be more than 30 days from the date of the Contractor's response, unless the County, at its sole discretion, specifies in writing an extension in the number of days to complete the corrective actions;
- C. The County shall notify the Contractor in writing of the County's determination as to the sufficiency of the Contractor's corrective action plan. The County shall have sole discretion in determining the sufficiency of the Contractor's corrective action plan;
- D. In the event that the Contractor does not respond within the appropriate time with a corrective action plan, or the Contractor's corrective action plan is determined by the County to be insufficient, the County may commence termination of this Contract in whole or in part pursuant to Section XI.A;
- E. In addition, the County may withhold any payment owed the Contractor or prohibit the Contractor from incurring additional obligations of funds until the County is satisfied that corrective action has been taken or completed; and
- F. Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Section XI. Subsections A, B, C, and D.

**XI. TERMINATION**

- A. This Contract may be terminated by the County without cause, in whole or in part, prior to the termination date specified in Section II, by providing the Contractor 30 days advance written notice of the termination.

The County may terminate this Contract, in whole or in part, upon seven days advance written notice in the event that (1) the Contractor materially breaches any duty, obligation, or service required pursuant to this Contract, or (2) the duties, obligations, or services required herein become impossible, illegal, or not feasible.

If the Contract is terminated by the County, pursuant to this Subsection XI.B.(1), the Contractor shall be liable for damages, including any additional costs of procurement of similar services from another source.

If the termination results from acts or omissions of the Contractor, including but not limited to misappropriation, nonperformance of required services, or fiscal mismanagement, the Contractor shall immediately return to the County any funds, misappropriated or unexpended, which have been paid to the Contractor by the County.

- B. If county or other expected or actual funding is withdrawn, reduced, or limited in any way prior to the termination date set forth in this Contract and its attached Exhibits, the County may, upon written notification to the Contractor, terminate this Contract in whole or in part.

If the Contract is terminated as provided in this Subsection: (1) the County shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and (2) the Contractor shall be released from any obligation to provide such further services pursuant to the Contract as are affected by the termination.

Funding or obligation under this Contract beyond the current appropriation year is conditional upon appropriation by the County Council of sufficient funds to support the activities described in the Contract. Should such appropriation not be approved, this Contract shall terminate at the close of the current appropriation year.

- C. This Contract may be terminated by the Contractor without cause, prior to the date specified by providing the County 90 days advance written notice of the termination. The Contractor shall provide the County 90 days advance written notice of its intent not to renew this Contract, in whole or in part.
- D. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Contract or law that either party may have in the event that the obligations, terms, and conditions set forth in this Contract are breached by the other party.

**XII. ENTIRE CONTRACT/WAIVER OF DEFAULT**

The parties agree that this Contract is the complete expression of the terms hereto and any oral or written representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Contract. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the

Contract unless stated to be such through written approval by the County, which shall be attached to the original Contract.

### **XIII. HOLD HARMLESS AND INDEMNIFICATION**

- A. In providing services under this Contract, the Contractor is an independent contractor, and neither it nor its officers, agents, or employees are employees of the County for any purpose. The Contractor shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes, by, or on behalf of the Contractor, its employees, and/or others by reason of this Contract. The Contractor shall protect, indemnify, and hold harmless the County, its officers, agents, and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from: (1) the Contractor's failure to pay any such compensation, wages, benefits, or taxes; and/or (2) the supplying to the Contractor of work, services, materials, or supplies by Contractor employees or other suppliers in connection with or support of the performance of this Contract.

- B. The Contractor further agrees that it is financially responsible for and shall repay the County all indicated amounts following an audit exception that occurs due to the negligence, intentional act, and/or failure, for any reason, to comply with the terms of this Contract by the Contractor, its officers, employees, agents, and/or representatives. This duty to repay the County shall not be diminished or extinguished by the prior termination of the Contract pursuant to the Duration of Contract or the Termination sections.
- C. The Contractor shall protect, defend, indemnify, and hold harmless the County, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of, or in any way resulting from, the negligent acts or omissions of the Contractor, its officers, employees, and/or agents, in its performance and/or non-performance of its obligations under this Contract. The Contractor agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the Contractor, by mutual negotiation, hereby waives, as respects the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the County incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Contractor.
- D. The County shall protect, defend, indemnify, and hold harmless the Contractor, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of, or in any way resulting from, the sole negligent acts or omissions of the County, its officers, employees, or agents. The County agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the County, by mutual negotiation, hereby waives, as respects the Contractor only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the Contractor incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the County.



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- E. Claims shall include, but not be limited to, assertions that use or transfer of software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in unfair trade practice.
- F. To the extent that a Contractor subcontractor fails to satisfy its obligation to defend and indemnify the County as detailed in Section XVII.B. of this Contract, the Contractor shall protect, defend, indemnify, and hold harmless the County, its officers, employees and agents from any and all costs, claims, judgments, and/or awards or damages arising out of, or in any way resulting from, the negligent act or omissions of the Contractor's subcontractor, its officers, employees, and/or agents in connection with or in support of this Contract.
- G. Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.
- H. The indemnification, protection, defense and hold harmless obligations contained herein shall survive the expiration, abandonment or termination of this Contract.

**XIV. INSURANCE REQUIREMENTS**

Upon execution of this Contract, the Contractor, at its own cost, shall have procured and will maintain for the duration of this Contract, insurance as specified in the Minimum Scope and Limits of Insurance. Failure by the Agency, its agents, employees, officers, and or subcontractors, to comply with the insurance requirements stated herein shall constitute a material breach of this Contract.

Each insurance policy shall be written on an "occurrence" form; except that professional liability, errors and omissions, will be acceptable on a "claims made" form.

If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is the subject of this Contract.

By requiring such minimum insurance coverage, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Contract.

- A. Minimum Scope and Limits of Insurance;  
The Contractor shall maintain limits no less than,

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations covering COMMERCIAL GENERAL LIABILITY.

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2. **Professional Liability, Errors and Omissions: \$2,000,000 Per Claim and in the Aggregate.** In the event that services delivered pursuant to this Contract either directly or indirectly involve or require professional services, Professional Liability, Errors, and Omissions coverage shall be provided. "Professional Services", for the purpose of this Contract section, shall mean any services provided by a licensed professional or those services that require professional standards of care
3. **Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.** In the event that services delivered pursuant to this Contract involve the transportation of clients by Agency personnel in Agency-owned vehicles or non-owned vehicles Risk Management will review and set the appropriate limits of coverage.

Insurance Services Office form number (CA 00 01) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 7, 8, or 9.

4. **Workers' Compensation: Statutory requirements of the State of residency, and Employers' Liability or "Stop Gap" coverage: \$1,000,000.**

**B. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not apply to the Agency's liability to the County and shall be the sole responsibility of the Agency.

**C. Other Insurance Provisions and Requirements**

The insurance coverage(s) required in this Contract are to contain, or be endorsed to contain the following provisions:

1. **All Liability Policies except Workers Compensation and Professional Liability:**
  - a. The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Contract. Additional Insured Endorsement shall be included with the certificate of insurance, "CG 2010 11/85" or its equivalent is required. **The County requires this Endorsement to complete the Contract.**
  - b. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees and agents.
  - c. The Contractor's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
2. **All Policies**

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, until after forty-five (45) calendar days prior written notice, has been given to the County.

**D. Acceptability of Insurers**

Insurance coverage is to be placed with insurers with a Bests' rating of no less than A: VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability, Errors and Omissions insurance coverage may be placed with insurers with a Bests' rating of B+:VII. Any exception must be approved by the County.

If at any time any of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

**E. Verification of Coverage**

The Agency shall furnish the County certificates of insurance and endorsements required by this Contract. Such certificates and endorsements, and renewals thereof, shall be attached as exhibits to the Contract. The certificates and endorsements for each insurance policy are to be on forms approved by the County prior to the commencement of activities associated with the Contract. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

**F. Subcontractors**

The Contractor shall include all Subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. Insurance coverages provided by Subcontractors as evidence of compliance with the insurance requirements of this Contract not provided by the Contractor, shall be subject to all of the requirements stated herein.

**XV. NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY****A. Nondiscrimination in Employment**

During performance of this Contract, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of the employee or applicant's sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

**B. Equal Employment Opportunity Efforts**

The Contractor will undertake equal employment opportunity efforts to ensure that applicants and employees are treated, without regard to their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age. The Contractor's equal employment opportunity efforts shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth this nondiscrimination clause. In accordance with KCC 12.16.010.J,

"equal employment opportunity efforts" shall mean active efforts to ensure equal opportunity in employment that is free from all forms of discrimination.

Ref: KCC 12.16.020.

**C. Equal Benefits to Employees with Domestic Partners**

Pursuant to Ordinance 14823, King County's "Equal Benefits" (EB) ordinance, and related administrative rules adopted by the County Executive, as a condition of a competitive award of a contract valued at \$25,000 or more, the non-public Contractor agrees that it shall not discriminate in the provision of employee benefits between employees with spouses, and employees with domestic partners during the performance of this Contract. Failure to comply with this provision shall be considered a material breach of this Contract, and may subject the Contractor to administrative sanctions and remedies for breach.

When a competitively awarded contract is valued at \$25,000 or more, the Contractor shall complete a Worksheet and Declaration form for County review and acceptance prior to Contract execution. The EB Compliance forms, Ordinance 14823 (which is codified at KCC Chapter 12.19), and related administrative rules are incorporated herein by reference.

They are also available online at:

[http://www.kingcounty.gov/operations/procurement/Services/Equal\\_Benefits.aspx](http://www.kingcounty.gov/operations/procurement/Services/Equal_Benefits.aspx)

**D. Nondiscrimination in Subcontracting Practices.**

During the term of this Contract, the Contractor shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate against any person because of their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

**E. Compliance with Laws and Regulations.**

The Contractor shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit discrimination. These laws include, but are not limited to, Chapter 49.60 RCW, Titles VI and VII of the Civil Rights Act of 1964, the American with Disabilities Act, and the Restoration Act of 1987. KCC chapters 12.16, 12.17 and 12.18 are incorporated herein by reference and the requirements in these code sections shall specifically apply to this Contract. The Contractor shall further comply fully with any equal opportunity requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents.

**F. Small Contractors and Suppliers and Minority and Women Business Enterprises Opportunities.**

King County encourages the Contractor to utilize small businesses, including Small Contractors and Suppliers (SCS), as defined below, and minority-owned and women-owned business enterprises certified by the Washington state Office of Minority and Women's Business Enterprises (OMWBE) in County contracts. The County encourages the Contractor to use the following voluntary practices to promote open competitive

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opportunities for small businesses, including SCS firms and minority-owned and women-owned business enterprises:

1. Inquire about King County's Contracting Opportunities Program. King County has established a Contracting Opportunities Program to maximize the participation of Small Contractors and Suppliers (SCS) in the award of King County contracts. The Program is open to all SCS firms certified by King County Business Development and Contract Compliance (BDCC). As determined by BDCC and identified in the solicitation documents issued by the County, the Program will apply to specific contracts. However, for those contracts not subject to the Program or for which the Contractor elected not to participate in the Program during the solicitation stage, the Contractor is still encouraged to inquire voluntarily about available firms. Program materials, including application forms and a directory of certified SCS firms, are available at the following Web-site address: <http://www.kingcounty.gov/bdcc>

The term "Small Contractors and Suppliers" (SCS) means that a business and the person or persons who own and control it are in a financial condition which puts the business at a substantial disadvantage in attempting to compete for public contracts. The relevant financial condition for eligibility under the Program is set at fifty percent (50%) of the Federal Small Business Administration (SBA) small business size standards using the North American Industry Classification System and Owners' Personal Net Worth less than \$750,000 dollars.

2. Contact the Washington State Office of Minority and Women's Business Enterprises (OMWBE) to obtain a list of certified minority-owned and women-owned business enterprises by visiting their website at <http://www.omwbe.wa.gov/> or by Toll Free telephone (866) 208-1064.
  3. Use the services of available community organizations, consultant groups, local assistance offices, the County, and other organizations that provide assistance in the recruitment and placement of small businesses, including SCS firms and minority-owned and women-owned business enterprises.
- G. Sanctions for Violations - Any violation of the mandatory requirements of the provisions of this Section shall be a material breach of Contract, for which the Contractor may be subject to damages, withholding payment and any other sanctions provided for by Contract and by applicable law.
- H. Compliance with Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) and the Americans with Disabilities Act of 1990 as amended (ADA).

Pursuant to Title II of the ADA, and Section 504, King County must not discriminate against people with disabilities in providing services, programs or activities even if those services, programs or activities are carried out by contractors. The Contractor agrees that it shall provide all programs, services, and activities to County employees or members of the public under this Contract in the same manner as King county is obligated to under Title II of the ADA, and Section 504 and shall not deny participation of the benefits of such services, programs, or activities to people with disabilities on the basis of such disability. Failure to comply with this section shall be a material breach of, and grounds for the immediate termination of, this Contract.

**Attachment D**

The Contractor agrees to provide to persons with disabilities access to programs, activities and services provided under the Contract or agreement, as required by the disability access laws as defined by KCC 12.16; and

The Contractor shall not discriminate against persons with disabilities in providing the work under the Contract. In any subcontracts for the programs, activities and services under their Contract or agreement with the County, the Contractor shall include the requirement that the Subcontractor provide to persons with disabilities access to programs, activities and services provided under the Contract or agreement, as required by the disability access laws as defined by KCC 12.16, that the Subcontractor shall not discriminate against persons with disabilities in providing the work under the Contract and that the Subcontractor shall provide that the County is a third-party beneficiary to that required provision.

**XVI. SUBCONTRACTS AND ASSIGNMENT/SUBCONTRACTING**

- A. The Contractor shall include the above Sections III, IV, V, VII, VIII, XIII, XIV, XVI, paragraph B-I, XXV, and XXVII in every subcontract or purchase agreement for services which relate to the subject matter of this Contract.
- B. The Contractor agrees to include the following language verbatim in every subcontract, provider agreement, or purchase agreement for services which relate to the subject matter of this Contract:

"Subcontractor shall protect, defend, indemnify, and hold harmless King County, its officers, employees and agents from any and all costs, claims, judgments, and/or awards of damages arising out of, or in any way resulting from the negligent act or omissions of subcontractor, its officers, employees, and/or agents in connection with or in support of this Contract. Subcontractor expressly agrees and understands that King County is a third party beneficiary to this Contract and shall have the right to bring an action against subcontractor to enforce the provisions of this paragraph."

- C. The Contractor shall ensure that all subcontractors receiving any federal funds pursuant to this agreement have not been disbarred or suspended from federal contract participation. This may be done by checking the Excluded Parties List System <http://epls.arnet.gov>, which lists all suspended and debarred entities.
- D. The Contractor shall not assign or subcontract any portion of this Contract or transfer or assign any claim arising pursuant to this Contract without the written consent of the County. Said consent shall be sought in writing by the Contractor not less than 15 days prior to the date of any proposed assignment or subcontract.
- E. "Subcontract" shall mean any agreement between the Contractor and a subcontractor or between subcontractors that is based on this Contract, provided that the term "subcontract" does not include the purchase of (1) support services not related to the subject matter of this Contract, or (2) supplies.

**XVII. CONFLICT OF INTEREST**

Disclosure of Current and Former County Employees - To avoid any actual or potential conflict of interest or unethical conduct:

**Attachment D**

- A. County employees or former County employees are prohibited from assisting with the preparation of proposals or contracting with, influencing, advocating, advising or consulting with a third party, including Contractor, while employed by the County or within one year after leaving County employment if he/she participated in determining the Work to be done or processes to be followed while a County employee.
- B. Contractor shall identify at the time of offer current or former County employees involved in the preparation of proposals or the anticipated performance of Work if awarded the Contract. Failure to identify current or former County employees involved in this Contract may result in termination of this Contract.
- C. After Contract award, the Contractor is responsible for notifying the County's Project Manager of current or former County employees who may become involved in the Contract any time during the term of the Contract.

**XVIII. BOARD OF DIRECTORS**

- A. If the Contractor is incorporated, it shall have an active, legally constituted board of directors in accordance with RCW Chapters 23B or 24, as applicable.
- B. The following additional requirements shall apply to the contractors that qualify as non-profit organizations under USC, Title 26, Subtitle A, Chapter 1, Subchapter F, Part 1, Section 501(C)(3).
  - 1. The Contractor shall have a Board of Directors that shall be comprised of neither employees nor relatives of employees, officers, or directors of the Contractor. For the purposes of this Section, a relative is defined as husband, wife, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, niece, nephew, grandparent, grandchild, uncle, aunt, domestic partner and child of domestic partner. In addition, the relatives of a domestic partner shall be considered relatives to the same extent such relatives would be included in this Section, as if the employee and domestic partner were married.
  - 2. The Board of Directors shall meet regularly.
  - 3. The Board of Directors shall cause to be adopted a formal conflict of interest policy for Board members that complies with the applicable provisions of the Internal Revenue Code and its 501(C)(3) status, and addresses issues regarding gifts, financial gain, and improper use of position.

**XIX. MANAGING DIRECTOR OF AGENCY**

The managing director of the Agency shall be an attorney licensed to practice law in the State of Washington. The managing director shall be a salaried employee of the Agency, subject to the authority and control of the Board of Directors of the Agency. The managing director of the Agency shall be responsible for receiving funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs provided pursuant to this Contract.

**XX. CONFIDENTIALITY**

The Agency agrees that information, records, and data collected in connection with this Contract shall be protected from unauthorized disclosure in accordance with applicable common law, state and federal law, including but not limited to attorney-client privilege. The County agrees that the King County Office of The Public Defender shall protect any information received from the Agency from unauthorized disclosure in accordance with applicable common law, state and federal law, including but not limited to attorney-client privilege.

The County, through the Office of The Public Defender, shall abide by any applicable law of privilege in monitoring the Agency's performance under this Contract.

**XXI. PERSONAL INFORMATION – NOTICE OF SECURITY BREACH**

To the extent that the Contractor maintains computerized or other forms of data that are owned by the County, the Contractor agrees to comply with the provisions of RCW 42.56.590 and any other applicable statutes or ordinances relating to said data.

**XXII. COMPLIANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)****A. Obligations and Activities of the Contractor**

1. The Contractor agrees not to use or disclose protected health information other than as permitted or required by this Contract, HIPAA and the Health Information Technology for Economic and Clinical Health Act (HITECH). The Contractor shall use and disclose protected health information only if such use or disclosure, respectively, is in compliance with each applicable requirement of 45 CFR § 164.504(e). The Contractor is directly responsible for full compliance with the privacy provisions of HIPAA and HITECH that apply to business associates.
2. The Contractor agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information that it creates, receives, maintains, or transmits on behalf of the County as required by 45 CFR, Part 164, Subpart C. The Contractor is directly responsible for compliance with the security provisions of HIPAA and HITECH that apply to business associates, including sections 164.308, 164.310, 164.312, and 164.316 of title 45 CFR.
3. Within two business days of the discovery of a breach as defined at 45 CFR § 164.402 the Contractor shall notify the County of any breach of unsecured protected health information. The notification shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the Contractor to have been, accessed, acquired, or disclosed during such breach; a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known; a description of the types of unsecured protected health information that were involved in the breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved); any steps individuals should take to protect themselves from potential harm resulting from the breach; a brief description of what the Contractor is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; the contact procedures of the Contractor



**Attachment D**

for individuals to ask questions or learn additional information, which shall include a toll free number, an e-mail address, Web site, or postal address; and any other information required to be provided to the individual by the County pursuant to 45 CFR § 164.404, as amended. A breach shall be treated as discovered in accordance with the terms of 45 CFR § 164.410. The information shall be updated promptly and provided to the County as requested by the County.

4. The Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of protected health information by the Contractor in violation of the requirements of this Contract or the law.
5. The Contractor agrees to report in writing all unauthorized or otherwise improper disclosures of protected health information or security incident to the County within two days of the Contractor knowledge of such event.
6. The Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply through this Contract to the Contractor with respect to such information.
7. The Contractor agrees to make available protected health information in accordance with 45 CFR § 164.524.
8. The Contractor agrees to make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.526.
9. The Contractor agrees to make internal practices, books, and records, including policies and procedures and protected health information, relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of King County, available to the Secretary, in a reasonable time and manner for purposes of the Secretary determining King County's compliance with HIPAA, HITECH or this Contract.
10. The Contractor agrees to make available the information required to provide an accounting of disclosures in accordance with 45 CFR §164.528. Should an individual make a request to the County for an accounting of disclosures of his or her protected health information pursuant to 45 CFR § 164.528, Contractor agrees to promptly provide an accounting, as specified under 42 U.S.C. § 17935(c) (1) and 45 CFR §164.528, of disclosures of protected health information that have been made by the Contractor acting on behalf of the County. The accounting shall be provided by the Contractor to the County or to the individual, as directed by the County.

**B. Permitted Uses and Disclosures by Business Associate**

The Contractor may use or disclose protected health information to perform functions, activities, or services for, or on behalf of, King County as specified in this Contract, provided that such use or disclosure would not violate HIPAA if done by King County or the minimum necessary policies and procedures of King County.

**C. Effect of Termination**

1. Except as provided in paragraph C.2. of this Section, upon termination of this Contract, for any reason, the Contractor shall return or destroy all protected health information received from the County, or created or received by the Contractor on behalf of the County. This provision shall apply to protected health information that is in the possession of subcontractors or agents of the Contractor. The Contractor shall retain no copies of the protected health information.
2. In the event the Contractor determines that returning or destroying the protected health information is infeasible, the Contractor shall provide to King County notification of the conditions that make return or destruction infeasible. Upon notification that return or destruction of protected health information is infeasible, the Contractor shall extend the protections of the Contract to such protected health information and limit further uses and disclosure of such protected health information to those purposes that make the return or destruction infeasible, for so long as the Contractor maintains such protected health information.

**D. Reimbursement for Costs Incurred Due to Breach**

Contractor shall reimburse the County, without limitation, for all costs of investigation, dispute resolution, notification of individuals, the media, and the government, and expenses incurred in responding to any audits or other investigation relating to or arising out of a breach of unsecured protected health information by the Contractor.

**XXIII. EMERGENCY RESPONSE**

The Contractor shall comply with the terms of Exhibit II, paragraph III.A.3.

**XXIV. NOTICES**

Unless otherwise specified in the Contract, all notices or documentation required or provided pursuant to this Contract shall be in writing and shall be deemed duly given when received at the addresses first set forth below via U.S. mail, personal delivery or electronic mail with the notice or documentation attached in .pdf format.

**XXV. KING COUNTY RECYCLED PRODUCT PROCUREMENT POLICY**

The Contractor agrees to use recycled paper for all printed and photocopied documents related to the submission of this solicitation and fulfillment of the Contract and shall, whenever practicable, use both sides of the paper. (Reference: KCC 10.16 & King County Executive Policy CON 7-1-2).

**XXVI. SERVICES PROVIDED IN ACCORDANCE WITH LAW AND RULE AND REGULATION**

The Contractor and any subcontractor agree to abide by all of the laws of the State of Washington that are applicable to their business and the substance of the legal services that are the subject of this Contract. The Contractor and any subcontractors also agree to abide by all Rules of Professional Conduct governing attorney conduct and to abide by the requirements of the attorney-client privilege, as defined by Washington statutory law and common law.

**Attachment D**

In the event that there is a conflict between any of the language contained in any exhibit or attachment to this Contract, the language in the Contract shall have control over the language contained in the exhibit or the attachment, unless the parties affirmatively agree in writing to the contrary.

This Contract shall be governed by and construed to the laws of the State of Washington. Any claim or suit between the parties arising out of this Contract may only be filed and prosecuted in King County Superior Court or U.S. District for the Western District of Washington, in Seattle.

**XXVII. NO THIRD PARTY BENEFICIARIES**

Except for the Parties to whom this Contract is assigned in compliance with the terms of this Contract, there are no third party beneficiaries to this Contract, and this Contract shall not impart any rights enforceable by any person or entity that is not a Party hereto.

**XXVIII. POLITICAL ACTIVITY PROHIBITED**

None of the funds, materials, property, or services provided directly or indirectly under this Contract shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

**XXIX. FORCE MAJEURE**

The term "force majeure" shall include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, terrorism, fire, accidents, shutdowns for purpose of emergency repairs, industrial, civil or public disturbances, causing the inability to perform the requirements of this Contract. If any party is rendered unable, wholly or in part, by a force majeure event to perform or comply with any obligation or condition of this Contract, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent commercially practicable to restore normal operations. In the event the Contractor ceases to be excused pursuant to this provision, then the County shall be entitled to exercise any remedies otherwise provided for in this Contract, including termination for default.

**XXX. SEVERABILITY**

Whenever possible, each provision of this Contract shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid and enforceable and have the intent and economic effect as close as possible to the invalid, illegal and unenforceable provision.

IN WITNESS HEREOF, the parties hereto have caused this contract to be executed and instituted on the date above written.

KING COUNTY

CONTRACTOR

FOR [Signature]  
King County Executive

[Signature]  
Signature

Date 5/8/12

AMANDA E LEE  
Name (Please type or print)

Date 5.7.2012

Approved by DCHS Director

Approved as to Form:

OFFICE OF THE KING COUNTY  
PROSECUTING ATTORNEY  
SPECIAL DEPUTY SHERYL WILLERT  
FEBRUARY 8, 2012

KING COUNTY

CONTRACTOR

FOR [Signature]  
King County Executive

[Signature]  
Signature

Date

[Signature]  
Name (Please type or print)

Date

Approved by DCHS Director

Approved as to Form:

OFFICE OF THE KING COUNTY  
PROSECUTING ATTORNEY  
SPECIAL DEPUTY SHERYL WILLERT  
FEBRUARY 8, 2012





**VICARIOUS LIABILITY FOR SPECIFIED ENTITIES ENDORSEMENT**

It is understood and agreed that the Policy is amended to include the following:

The entities specified below are insured under this Policy but solely to the extent that a Claim is made against them for an Act of an Insured.

Nothing herein shall serve to confer any rights or duties to such entities under this Policy, other than as provided herein.

There shall be no coverage afforded to such entities as a result of its independent Acts.

**Entities**

**King County, Office of the  
Public Defender  
Walthew Building  
123 3rd Avenue S, Floor 4  
Seattle, WA 98104-2696**



**VICARIOUS LIABILITY FOR SPECIFIED ENTITIES ENDORSEMENT**

All other terms and conditions of the Policy remain unchanged.

It is understood and agreed that the Policy is amended to include the following:

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy and expires concurrently with said Policy unless another effective date is shown below. Insured under this Policy but solely to the extent that a Claim is made against them for an Act of an Insured.

By Authorized Representative: *[Signature]* to confer any rights or duties to such entities under this Policy, other than as provided. (No signature is required if issued with the Policy or if it is effective on the Policy Effective Date)

There shall be no coverage afforded to such entities as a result of its independent Acts.

**Entities**

**King County, Office of the  
Public Defender  
Walthew Building  
123 3rd Avenue S, Floor 4  
Seattle, WA 98104-2696**

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy and expires concurrently with said Policy unless another effective date is shown below.

GSL3948XX(4-08)

By Authorized Representative: *[Signature]* (No signature is required if issued with the Policy or if it is effective on the Policy Effective Date)

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## EXHIBIT II

## PUBLIC DEFENSE LEGAL SERVICES

I. WORK STATEMENT

The Agency shall provide the services of attorneys and staff members in compliance with all of the applicable laws and administrative regulations of the State of Washington, the United States, King County Code (KCC), Washington State Rules for Professional Conduct (RPC).

II. PROGRAM DESCRIPTION

## A. Goal

To provide legal services through effective assistance of counsel to indigent persons, that is statutorily and constitutionally based, within the framework of an efficient and fiscally responsible independent non-profit Agency.

## B. Eligible Population

The population served shall be indigent persons legally entitled to appointed legal services in King County courts as assigned by the Office of The Public Defender (OPD) or as appointed from the bench.

## C. Definitions

## 1. Case Categories:

## a. Becca: CHINS/ARY/Truancy practice area:

i. CHINS/ARY Petition: A Child in Need of Services (CHINS) petition and At Risk Youth (ARY) petition involves the representation of one child or one parent from the filing of the petition through fact finding and disposition and the first two subsequent review hearings. All additional review hearings, including new contempts filed in the same petition number, shall be 0.33 credits. In the event that a court consolidates a truancy matter with proceedings under a Youth at Risk or Child in Need of Services Petition, the Agency shall receive credit for the truancy representation.

ii. Truancy: A petition filed under Revised Code of Washington (RCW) 28A.225.030. A case assignment will be made when the Court notifies OPD of a signed judicial order for appointment of counsel upon the filing of setting a show cause hearing for Contempt of Court and requiring appointment of counsel.

b. Calendars: The Agency shall provide coverage for calendars if indicated in Attachment B, Calendar Attorney and Staff List. The calendars are defined as follows:

i. Dependency Calendar: All initial 72-hour shelter care calendars in Seattle or Regional Justice Center (RJC) shall include the

presence of an attorney and follow the OPD assignment procedure.

- ii. **General Attorney of the Day (AOD) Services:** The Agency will in good faith attempt to provide legal advice in all case areas included in this Contract 24 hours a day seven days a week via beeper/pager/phone access and respond promptly to any accused adult or juvenile who is in the investigation phase or recently charged with a crime or detained on a civil matter within the jurisdiction of OPD. AOD for legal advice may occur both in RJC and Seattle. AOD includes a request from a defendant for substantial legal advice or a police agency to respond for line-up presentations. A call to the 24 hour beeper is calendar work not a case assignment.
 

Agency shall provide its beeper/pager/phone contact number to the King County adult and juvenile detention facilities, the Superior and District courts, other public defense agencies, and OPD. Agency primary responsibility is included in Attachment B. Agencies shall establish backup protocols both within the Agency and with other OPD public defense agencies. Where substantial advice services are provided as a result of initial General AOD contact via beeper, credits can be requested as per Attachment A. "Substantial advice" includes legal services beyond providing of simple direct, one-time legal advice by phone or in person at a detention facility, and includes ongoing legal services preliminary to a formal appointment as counsel for prospective client. Substantial advice credit is available for face-to-face contact.

Individual substantial advice assignments may also be appointed by the court or assigned by OPD, where the scope of work exceeds that described in the General AOD paragraph above.
- iii. **Felony Arraignment Calendar.**
- iv. **Felony Sentence Modification Calendar:** The Superior Court Probation Modification Calendar.
- v. **Juvenile AOD:** The Agency shall provide Juvenile Special Services which include making "morning rounds" in juvenile detention; lineups, detention reviews and arraignments; diversion counseling per RCW 13.40.080; and representing offenders as counsel until an attorney is formally appointed.
- vi. **Juvenile First Appearance Calendar:** Each Agency representing juveniles shall provide representation on the Juvenile First Appearance Calendar. Representation of juveniles on this daily Juvenile Court Calendar shall include prior clients and/or unrepresented juveniles. Time spent on this calendar shall include preparatory work done concerning the juveniles listed on the calendar who do not appear because of expedited filing by

- the Prosecuting Attorney, release from detention prior to hearing, or other reasons for non-appearance.
- vii. King County Court Misdemeanor calendars include: District Court Felony Investigation Calendar, Bench Warrant Return Calendar, and initial detention hearings for new misdemeanor charges.
  - viii. Expedited Felony calendars in King County District Court (KCDC) shall include the presence of Agency attorneys as assigned in Attachment B. Only Expedited Felony cases shall be counted toward calendar case workload, cases on this calendar that are not Expedited felonies shall be assigned case credit. At such time that KCDC establishes a consistent higher or lower number of weekly Expedited calendars, OPD shall evaluate the impact on Agency workload and provide a commensurate adjustment by amendment to this Contract.
  - ix. Civil Contempt of Court practice area: A civil contempt case shall include legal representation in hearings, related solely to a contempt citation and shall be limited to cases where the factual likelihood of loss of liberty arises from at the initiation of King County or the State of Washington, or a judicial act in child support enforcement contempt matters. Non-legal support staff will be funded at a ratio of 2.0 FTE support staff to 1.0 FTE attorney; in addition to 0.20 clerical staff and 0.10 attorney supervisor per 1.0 FTE attorney.
  - c. Civil Contempt of Court practice area: A civil contempt case shall include legal representation up to a maximum of three hearings, related solely to a contempt citation and shall be limited to cases where the factual likelihood of loss of liberty arises from at the initiation of King County or the State of Washington or a judicial act, in cases not involving child support enforcement matters.
  - d. Dependency practice area: Coverage for all dependency, termination, guardianship, dependency guardianship, contested private adoption termination, and Reinstatement of Parental Rights cases.
    - i. Dependency Case: A dependency case credit is given for the legal representation of a client from:
      - 1) The initial predispositional assignment through the dispositional hearing. Should an agreed order of dependency be entered on or before the date of the entry of the Pre-Trial Order from the Pre-Trial Hearing, it shall be considered part of the dependency case. If the case is assigned to the Agency after the establishment of dependency and entry of the dispositional order, an initial case credit shall be given at the time of assignment.
      - 2) The filing of a termination or guardianship petition entered on or before the date of the entry of the Pre-Trial

Order from the Pre-Trial Hearing through the disposition of the termination or guardianship. Should an agreed order regarding termination or guardianship be entered on or before the entry of the pre-trial order, it shall be considered part of the termination or guardianship case.

- 3) Appointment of counsel pursuant to RCW 26.33.110 for contested private adoption termination shall be considered a termination of parental rights appointment for credit purposes. The Agency shall not be required to have more than two open RCW 26.33.110 cases at a given time.

ii. Post-Dispositional Hearing: A dependency review shall include legal representation at any post-dispositional hearing or hearings related to the original dependency filing, excluding the initial 72 hour shelter care review, the 30-day shelter care review, fact finding hearing, and the dispositional hearing. Reviews included within this category shall include, but not be limited to: the initial progress review, six month review hearings, permanency planning hearings, new shelter hearings occurring post disposition, or other reviews or hearings set by the parties or by the court. If a review hearing is continued, additional credit shall not be allocated for the review unless the substantive issues within the review hearing change or substantial work is done. In the event that a court consolidates a family court matter with proceedings under a dependency case, pursuant to Local Juvenile Court Rules (LJuCR) 3.13, the Agency shall receive additional dependency review credit under this section for representation involving hearings in the consolidated matter.

iii. Dependency Trial/Termination or Guardianship Trial

- 1) A dependency trial shall include:

- a) A contested fact-finding for a dependency and the preparation for said fact-finding or the entry of an agreed order of dependency and agreed dispositional order at the time of the scheduled dependency fact-finding; or
- b) Entry of an agreed order of dependency after the entry of the Pre-Trial Order from the Pre-Trial Hearing, and any contested hearing or hearings related to the dispositional order pursuant to the agreed order, as described in RCW 13.34.110 (1) and (2). This does not include post-dispositional review hearings; or
- c) Contested trials that are actually litigated in an evidentiary hearing.

- 2) A termination trial shall include:

- a) A contested fact-finding on a termination petition or guardianship petition and the preparation for said fact finding; or
  - b) Entry of an agreed order regarding termination or guardianship petition at the time of the scheduled contested fact-finding. Agreed orders only qualify for additional credit if the fact finding hearing has been scheduled for a contested evidentiary hearing and after the entry of the Pre-trial Order from the Pre-trial Hearing; or
  - c) Contested trials that are actually litigated in an evidentiary hearing.
- iv. If more than one petition is pending involving one client, only one case shall be allowed credit. If matters involving one client with multiple petitions are severed for separate proceedings on different petitions, credit shall be given for such hearings. In the event that a new petition is filed as to a parent involving a child not previously involved in prior proceedings and that petition is filed post-disposition of previously filed petitions, then a new case credit will be allowed on the newly filed petition.
- v. Reinstatement of Parental Rights Matters: Representation of a client from the time of appointment of counsel through completion of the matter to point of either completed reinstatement of parental rights, or dismissal of the Petition for Reinstatement of Parental Rights. To the extent that any hearings held in this matter are also concurrently a permanency plan hearing or review hearing in the related dependency matter, no additional review credits are given for those hearings for purpose of the related dependency matter. Review hearings that are Post-Hearing on the Merits reviews are eligible for credit.
- e. Felony practice area:
- i. Felony Case: All legal representation related to a case filed in the Criminal Division of King County Superior Court by the King County Prosecutor's Office, alleging a violation of criminal law and having a maximum sentence of more than one year, through sentencing and any restitution hearing and as listed in Attachment A. If the Agency wishes to bill a second attorney's time as co-counsel on a felony case, it must secure a court order for co-counsel appointment and provide a copy of said order to OPD.
  - ii. Felony/Probation Review: A felony/probation review shall include legal representation at any hearing or hearings arising from a single notice of hearing subsequent to disposition of the case. Areas within this category shall include, but not be limited to: probation reviews, revocations, early release, conditional



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release, safe-to-be-at-large, temporary release, medical release, and material witness hearings. A restitution hearing will be a review only if it is assigned to an agency other than the agency which represented the client at sentencing.

iii. Persistent Offender (I 593 C 1 L 94; RCW 9.94A.030(33); RCW 9.94A.570): Persistent offender is a defendant as defined by RCW 9.94A.030(33) and subject to sentencing pursuant to RCW 9.94A.570. The Agency shall provide documentation to OPD to verify a persistent offender case status.

iv. Complex Litigation: All death penalty homicide cases and all aggravated homicide cases. Aggravated homicide cases are considered death penalty cases until such time as decision is made by the Prosecuting Attorney not to file a notice of intention to seek death.

- 1) Complex litigation cases are "pending" until completion of the guilt phase and penalty phase/sentencing.
- 2) Aggravated homicide cases, in which the death penalty is not sought, shall occupy the portion of a full time attorney up to a maximum of one Full Time Employee (FTE) qualified at Senior Public Defense I level or above. Professional support and clerical staff, and attorney supervision will be assigned as necessary, consistent with the King County Public Defense Payment Model (KCC Motion 12160) and KCC Motions 13003 and 13004.
- 3) Aggravated homicide cases, in which the death penalty is sought, shall be assigned up to two FTE attorneys, consistent with Superior Court Special Proceedings Rules – Criminal (SPRC-2). The Agency shall assign at least one attorney qualified at Senior Public Defender I, or above to a case.

Attorneys assigned to a death penalty case cannot have an additional active trial level death penalty case pending on their assigned caseload, but are not prohibited from representing other non-death penalty clients in other pending matters, provided those duties do not interfere with the attorneys' ability to provide effective assistance of counsel on the assigned death penalty matter. Agency shall not be awarded more than 12.5 credits per assigned attorney FTE in any given month. Professional support and clerical staff, and attorney supervision will be assigned as necessary, consistent with the King County Public Defense Payment Model (KCC Motion 12160) and KCC Motions 13003 and 13004.

- 4) The Agency and the County understand that the portion of attorney(s) and professional support staff assigned to

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each complex litigation case may change from time to time as the case moves through the adjudication process. In the event that a case concludes sooner than scheduled in Attachment B, case credit allocation will be adjusted accordingly.

- f. **Involuntary Commitment practice area:**
  - i. **Initial Petition:** An involuntary commitment case shall include any hearing on a petition for involuntary commitment under one cause number including a hearing for probable cause, or any petition for additional commitment under the same cause number pursuant to RCW 71.05.280, except such hearings defined in (ii) and (iii) below.
  - ii. **180-Day Petition:** Any involuntary commitment case that went to a 180-day hearing following a petition filed pursuant to RCW 71.05.320 shall be considered a separate case and shall be billed by client name and shown separately. When a new docket number is assigned and the first court appearance is a 180-day hearing, the Agency will receive case credit and payment for either the assignment of the new docket number or the 180-day hearing, but not both.
  - iii. **Involuntary Medication Hearing:** A hearing held pursuant to a petition for involuntary administration of medications or electroconvulsive therapy shall be considered a separate case.
  - iv. **An alcohol involuntary commitment proceeding filed pursuant to RCW 70.96A including all hearings under the same cause number shall be considered one case.**
  - v. **A drug-related involuntary commitment filed pursuant to RCW 70.96A including all hearings under the same cause number shall be considered one case.**
- g. **The Agency shall fully participate as requested by the County in Superior Court and OPD planning and responsibilities for providing services in the event of a Court Order for Public Health Isolation or Quarantine of Individuals and appointment of counsel pursuant to WAC 246-100-04D and WAC 246-100-060 as to Court proceedings.**
- h. **Juvenile Offender practice area: Coverage for all juvenile cases filed in juvenile court, including Diversion Calls.**
  - i. **Juvenile Offender Case:** A juvenile offender case includes any criminal charge filed by the King County Prosecutor's Office in King County Juvenile Court. All hearings from initial assignment through dispositional hearing after plea, fact-finding or entry of diversion and rush filing hearing associated with initial dispositional order and restitution hearing are included within initial case credit, except that substantial preparation for a decline hearing is eligible for additional case credit.

- ii. **Juvenile Offender Modification/Review:** A juvenile offender modification/review shall include all post-dispositional or post-diversionary hearings related to the allegations contained in the notice of the modification/review. In the event that the juvenile respondent has several notices of modification/review because of different cause numbers and all such modifications/reviews are heard at a single hearing, then such hearing shall constitute one completed juvenile offender modification/review.
  - iii. **Juvenile Offender Restitution Review Hearing:** The first restitution hearing after the disposition hearing is considered part of the initial case credit. Any subsequent juvenile offender restitution review hearing will receive review credit. In the event that the juvenile has several pending restitution hearings and such hearings are all heard at the same hearing, then such completed hearing shall constitute one completed restitution review hearing.
- i. **Misdemeanor practice area:**
- i. **Misdemeanor Case:** Any criminal case, including traffic misdemeanors, filed by the King County Prosecutor in the District Courts.
  - ii. **Misdemeanor Appeal:** A misdemeanor appeal involves filing the notice of appeal, if necessary, perfecting the record following the filing of the notice of appeal, preparation of the transcript pursuant to Rule 6.3a Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ), preparing such briefs and memoranda as are required, arguing the case in Superior Court, and handling such paperwork as the Superior Court's decision and orders direct.
  - iii. **Misdemeanor Writ:** A writ involves filing notice, perfecting the record, preparing such briefs and memoranda as required, arguing the case in Superior Court and handling such paperwork as the Superior Court's decision and orders direct.
- j. **Sexual Predator practice area:** Legal representation for indigent persons assigned by OPD for cases filed under RCW 71.09, civil commitment petitions filed by the King County Prosecuting Attorney or the Attorney General's Office, subject to such conditions stated in the current Program Agreement, and General Terms Agreement between the County and the State of Washington Department of Social and Health Services (DSHS) from the effective date of these agreements, and directly invoice to and be reimbursed by DSHS at a rate determined by DSHS or as ordered by the Court.

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- k. Specialty Court practice area:
- i. King County Superior Court Drug Diversion Court (DDC) and Juvenile Drug Court (JDC): Any criminal case filed into King County Superior Court Drug Diversion Court or Juvenile Drug Court. Staffing is determined in DDC and JDC by a separate agreement, which is incorporated as applicable by attachment to this Contract.
  - ii. King County District Court Mental Health Court includes: Any case filed into King County District Court Mental Health Court. Staffing is determined by a separate agreement, which is incorporated as applicable by attachment to this Contract.
  - iii. King County Juvenile (Dependency) Court: Dependency Family Treatment Court cases shall be handled by the agency assigned to the case as part of the routine representation in the dependency matter. Case credits will be according to the dependency credit section of Attachment A.
2. Case Credit: Case credit is a unit of work. The total number of units that an attorney is expected to perform is listed in the case credit workloads of Section III. Program Requirements, of this Exhibit. Attachment A of this Exhibit defines the Case Credit Application and parameters for additional credit in extraordinary cases.
- Extraordinary Case Credit: Extraordinary case types including Juvenile Felony Offender, Contempt of Court, Dependency, Termination of Parental rights, RCW 26.33.110 contested adoption termination, Reinstatement of Parental Rights, Murder, Persistent Offender, and all Adult Felony cases shall be given extra credits if the nature of the case requires such extra credits, based upon a written application from the Agency. Other case types may be approved for extraordinary credit at the discretion of OPD. Factors entering into the awarding of extra credits shall be as according to Attachment A.
3. Criminal Case: A case is any one charge or series of related charges filed against one defendant/respondent in a single charging document or in the case of misdemeanors a series of charges under several charging documents, set for one court hearing that will ultimately lead to one disposition.
- a. If a related series of charges which is defined herein as a single case is subsequently set for separate disposition hearings or trials, the Agency may request additional credit for each case, which is severed from the consolidated case.
  - b. A completed case involves all necessary legal action from arraignment through disposition. This includes the filing of a notice of appeal upon the client's request, application to proceed in *forma pauperis* on appeal, and a motion for appointment of appellate counsel.
  - c. A case remanded to the trial court for proceedings following appeal is a new case credit. The filing of an appeal (interlocutory appeal which is

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accepted for review by the appellate court or post-dispositional) closes the case for credit purposes.

- d. For Juvenile Offender and all Misdemeanor cases:
    - i. If a new count is filed on a separate incident after the case has been assigned, but not a new court case number, the Agency may request additional credit for each count similarly filed and as per paragraph III.A.1.f. An incident is defined as a criminal charge alleged to have occurred on or about a specific calendar day. Multiple offenses charged as occurring on or about the same date are considered a single incident. Regardless of the total number of incidents alleged (separate count and separate date) either in the original or amended complaint, up to a maximum of three credits shall be allowed. Agency can apply for Extraordinary Case Credit for appropriate cases beyond the three case credits.
    - ii. Criminal charges alleged to have occurred on indeterminate dates or during a specified range of dates (e.g. on or between specific dates) are considered one incident. The Agency may present documentation to OPD to demonstrate that separate and discreet dates of incident were intended. Documentation should include such portions of pre-trial discovery to justify claim for separate incidents. In the event that such separate incidents are determined, a maximum of three credits shall be allowed, if requested by the Agency, per charging document.
  - e. Felony case credits shall be allocated as provided in Attachment A. This allocation is in accordance with King Council Motions 12160, 13003 and 13004, and is an interim directive until such time the Council determines a different method to case-weight felony cases. Felony case assignments assume assignment of one attorney to a case. If the Agency wishes to assign and bill a second attorney's time on a felony case, it must secure a court order for appointment of a second attorney on that case and provide a copy of said order to OPD.
  - f. All cases assigned on and after July 1, 2009 shall be subject to attorney time billing requirements if additional case credits are requested, pursuant to Section IV and Attachment G of this Exhibit.
4. **Criminal Case Disposition:** Case disposition shall mean the dismissal of charges, the entering of an order of deferred prosecution, an order or result requiring a new trial, imposition of sentence or deferral of same, or dispositional continuance and any other hearing on that cause number that occurs within 45 days of sentence, entry of an order for deferral of sentence, or dispositional continuance by District Court. Sentencing includes completed hearing on establishing restitution order. A motion to modify restitution shall be considered for additional credit if the motion occurs after 180 days. Transfer of a case to the Adult Drug Diversion Court, Regional Mental Health Court, Veterans Court, or Juvenile Drug Diversion Court are considered dispositions.

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A restitution hearing ordered at the time of original disposition shall be included as part of the case credit as defined by this disposition description. It shall include the filing of a notice of appeal, if applicable. It shall not include a felony or misdemeanor probation review unless such review occurs within 45 days of disposition. Additionally, it shall not include any hearing ordered at the conclusion of a deferred sentence unless such hearing occurs within 45 days of sentencing.

5. **Indigent:** An indigent defendant is a person determined indigent by OPD or the Court as being eligible for a court-appointed attorney, pursuant to RCW 10.101, 13.34.090, and OPD policy. Defendants shall be considered provisionally assigned until a screening for indigency is completed, pursuant to RCW 10.101.020(4). The Agency is required to cooperate with OPD in the effort to have assigned defendants screened; which shall include, reminding clients to be screened upon release from custody. Out of custody defendants may be required to be re-screened if their financial situation changes or at each 180 days of Agency representation. If a defendant is found to be not indigent, OPD will inform the Agency and court. In the event the court removes the Agency from assignment or orders the Agency to withdraw as appointed counsel, credit for such representation by the Agency is determined by the terms of this Contract, including the relevant sections of Attachment A.
6. **Legal Services:** Legal service is legal representation provided by an individual licensed attorney, and associated professional support staff to an individual client, pursuant to a case assignment or court appointment. The attorney will be required by the Agency to satisfy the Code of Professional Responsibility, the law of the State of Washington and the United States in the full discharge of the duties to each individual client under this Contract.
7. **Professional support staff:** Investigators, social workers and paralegals.
8. **Supervision:** An attorney with significant experience who is capable of actively monitoring an attorney's work product, caseload management, and relationship with clients and is capable of providing legal advice and guidance in other areas relevant to assuring high quality staff attorney performance. The Agency will provide active supervision for each staff attorney, in the ratio of one supervisor per ten staff attorneys.

### **III. PROGRAM REQUIREMENTS**

#### **A. Services**

1. **Case Credit Allocation and Case Assignment:**
  - a. OPD shall make reasonable efforts to maintain the Agency at the total case credit allocation and case assignment as shown on Attachment B of this Exhibit, for each quarter of the year. The quarterly case credit amounts in Attachment B are provided for planning purposes. OPD shall make reasonable efforts to distribute cases beyond variance consistent with the case credit allocation in Attachment B of this Exhibit and paragraph b. below. The variance in case distribution does not apply to calendars, specialty court agreements, complex felony cases, or Sexually Violent Predator cases.

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- b. The Agency shall accept case assignments within contracted subject areas, including case assignments above the projected variance levels. Agency refusal to accept an individual case assignment within contractual subject areas shall not in and of itself be considered a material breach of this Contract, however the County may determine such refusal requires Agency corrective action. The County shall pay the Agency for work in excess of the variance levels according to Section IV of this Exhibit.
- c. The Agency shall accept all complex litigation cases as determined by OPD, after consultation with the Agency concerning capacity.
- d. If the Agency has begun delivery of legal services and the defendant/respondent absconds for a period of 180 days or more, upon re-apprehension, the allocation of a new case credit shall be allocated by OPD upon reassignment to Agency.
- e. If the Agency is assigned to a case prior to arraignment, has not provided legal services, and the defendant fails to appear for arraignment, the case shall be returned to OPD within 30 days or as agreed with OPD, and the Agency shall be debited.
- f. For Felony, Juvenile Offender and Misdemeanor cases, if either within the original charging instrument or after initial assignment, additional charges are filed under the same cause number against the same defendant/respondent, and said charges arise out of a different allegation or series of allegations unrelated by transaction to the first charges, then additional case credit shall be provided according to paragraphs II.C.2, 3, and 4 above.
- g. The Agency may be appointed by the court as standby counsel in pro se cases. If such appointment is made, the Agency shall receive one case credit, less previous credit assigned for case. The Agency is not necessarily expected to utilize its professional support staff for pro se case work. If professional support staff work is requested by the pro se defendant, the Agency may opt to reduce its credit allocation by 0.1 per case credit allocated by not utilizing Agency professional support staff. In the event that the Agency elects to not provide professional support staff services, then it is the responsibility of the pro se defendant to comply with OPD Expert Services protocols regarding requests for any such services as may be necessary. Standby counsel shall provide such assistance and advice as may be ordered by the court and otherwise as consistent by case law and other legal requirements, and applicable standards of attorney representation and attorney conduct, including pro se requests for expert services.
- h. The Agency shall electronically file a Closed Case Report (Attachment D) each month with OPD which shall include all information requested in the report for the month indicated and be submitted to OPD no later than 20 days following the last day of the previous month. A case is considered closed for further credit for attorney time expended after 30

days past sentencing, or a dispositional order is filed, or upon filing of a Notice of Appeal, unless an additional court order appoints counsel.

2. Funds for payment for expert services are not included in this Exhibit. Requests for appointment for expert services shall be made consistent with the existing OPD Expert Services policies and procedures, and dependent upon available appropriation of funds. The Agency must assure that its staff follows the OPD expert procedures, as agreed with OPD.
3. The Agency shall fully participate as requested by the County in Superior Court and OPD planning and responsibilities for providing services in the event of a natural disaster, a major disruption to court processes, or a pandemic. The Agency shall maintain disaster plan protocols which shall include a provision for daily contact with OPD and the Courts to verify court calendars requiring counsel presence. The parties acknowledge that all such plans presume the continued ability to communicate between the Agency and OPD. OPD shall assist the Agency in coordination with the courts and general implementation of the disaster plan.

The Agency's disaster plan shall include procedures and protocols to respond to and recover from a natural disaster or major disruption to agency operations such as a work stoppage; and continue operations during a prolonged event such as a pandemic. The plans shall be consistent with written County disaster plans for purposes of continuation of court business in the event of a disaster.

#### B. Practice Standards and Records

1. The Agency shall require that all attorneys, professional support staff and supervisors maintain contemporaneous records of all legal services provided on a specific case. The records shall provide a factual description of the work done and shall be sufficiently detailed to allow monitoring of legal service activity by OPD.
2. Upon closing a case, all attorney, professional support staff and supervisor files associated with the case shall be cross referenced and accessible as a whole for OPD monitoring.
3. The Agency shall maintain professional practice standards in providing a level of legal service that does not fall below the minimum professional standards and RPCs of the Washington State Supreme Court, the Washington State Bar, the National Legal Aid & Defender Association, and any applicable case law and court rules that define the duties of counsel to their clients. The Agency shall formally adopt the internal Agency practice standards as submitted to OPD February 1, 2006, and shall include a procedure for monitoring compliance with the standard. Case credit workload standards shall be according to paragraph III.B.14. below.
  - a. Attorney practice standards, include but are not limited to:
    - i. Lawyer-client relationship, initial case actions, investigation and preparation, preliminary hearings; disposition without trial; trial; post conviction or fact finding and any other areas of attorney practice deemed appropriate by Agency management or Board.



- ii. Attorney use of professional support staff services and expert services.
  - b. Professional support staff service practice standards.
  - c. Practice standards for supervision of attorneys and professional support staff services.
- 4. The Agency agrees that, within available resources, reasonable efforts will be made by the Agency to continue the initial attorney assigned to a client throughout any case in which representation is undertaken. The Agency is not prohibited from rotating attorneys through various Agency divisions or from assigning a single attorney to handle various aspects of legal proceedings for all indigent persons where such method of assignment is the most reasonable method of obtaining effective legal representation for indigent persons.
- 5. The Agency agrees that a member of the Agency staff shall visit any assigned in-custody criminal defendant, in-custody civil commitment, or dependency clients, and obtain basic contact and other fundamental intake information for a bond hearing within one business day from notification to the Agency of the assignment of the case and the in-custody status of the client, and/or within one business day upon notification of transport to a local detention facility. This provision applies to clients in custody at any facility within the King County jail. If a client is in custody in a non-County jail, the Agency shall make contact within three business days of receiving the assignment.
- 6. The Agency agrees that an attorney shall make contact with all assigned persons within five working days from a case assignment, or in rare occurrences where this is not achieved the Agency shall document reasonable efforts to make said contact.
- 7. The Agency agrees that a preliminary written response to any written complaints from OPD concerning services provided by the employees of the Agency or the Agency itself shall be submitted to OPD within three working days of the date the complaint is received by the Agency Director or the Director's designee. Written complaints include email communications from OPD; email response date will be provided.
- 8. Upon assignment of any client charged with a criminal or civil case to an Agency, the Agency shall make diligent and reasonable efforts to obtain initial discovery within five business days of the assignment, whether initial or subsequent, on any case. In all cases, discovery shall be reviewed as soon as possible and in no event later than five business days after receipt for purposes of determining any conflicts of interest. The Agency shall notify OPD immediately and no later than 14 calendar days from assignment without good cause shown, of any conflict of interest as defined by the Washington State Rules of Professional Conduct. The Agency shall state the basis when possible, as court determines, for the conflict in its written notification.
- 9. The Agency shall establish and enforce policies and procedures to ensure that attorney time and other Agency resources funded by this Contract shall be for

work which is the subject of this Contract and as according to Section IV and Attachment A of this Exhibit.

The Agency shall establish policies and procedures for pro-bono work provided by staff of the Agency. These policies and procedures shall assure that any such pro bono work is not provided to the exclusion or detriment of legal services that are the subject of this Contract.

10. Attorney Professional Support Staff

The Agency shall provide sufficient professional support staff, including investigators, social workers and paralegals to provide for effective assistance of counsel.

11. Minimum Attorney Qualifications

- a. Attorneys shall have the requisite qualifications for the cases to which they are assigned by the Agency, consistent with Washington State Bar Association (WSBA) Standards for Public Defense Services, Standard Fourteen, Qualifications for Attorneys, as adopted in 2007 and as may be amended by WSBA during the Contract period.
- b. Each staff attorney representing any client assigned by OPD shall work under the supervision of a supervising attorney employed by the Agency. Such supervision shall provide the staff attorney with sufficient resources so the attorney will be able to handle cases on his/her own. The employees of the Agency are not employees of the County and the County will not provide supervision to any of the Agency's employees.
- c. The Agency may choose to use Rule 9 Interns or Rule 8 attorneys, as allowed by Washington State Bar Association regulations.

12. Attorney/Professional Support Staff Evaluation

The Agency director, or his/her designee, shall evaluate the professional performance of each individual Agency attorney and professional support staff member annually. Attorney evaluations shall include: quality of case preparation, compliance with the requirements of this Contract, monitoring of time and caseload records, review of case files, and in-court observation. Professional support staff evaluations shall be sufficiently comprehensive to assess the quality of the actual work performed.

The Agency shall keep a written record of all required performance evaluations.

13. Attorney/Professional Support Staff Training

The Agency shall provide access to sufficient training to support attorney and professional support staff performance of duties under this Contract. The Agency shall maintain all necessary records to assess the adequacy of the training. A Continuing Legal Education (CLE) approved by the Washington State Bar Association is presumptively adequate.

At a minimum during each calendar year of the Contract period, the Agency shall require each attorney to attend at least seven WSBA approved credits of CLE in a practice area under this Contract. Each Agency attorney must attend training approved by WA State OPD, pursuant to RCW 10.101.050 and as posted on WA State OPD website, at least once per calendar year. Each Agency attorney also shall satisfy the minimum requirements for practicing law in the State of Washington as determined by the Washington Supreme Court.

14. Case Credit Workload Guidelines

The County shall review Agency case credit workloads, case assignments, standards, and support staff/attorney ratios for each area of cases to assess compliance with the requirements of this Contract.

The total amount of reimbursement included in this Contract resulted from the application of the Public Defense Payment Model approved by the King County Council by Motions 12160, 13003, and 13004, as supplemented by external funding sources and as otherwise approved by the King County Council. Pursuant to the policies stated in Motion 12160, the allocation for each case area was calculated to provide funding for public defenders at parity with similarly situated attorneys in the Office of the Prosecuting Attorney. The Agency's staffing plan may be reviewed by OPD to verify that an attorney's experience level meets or exceeds required experience for case practice area, and placement within the salary schedule is reasonable. The Agency agrees to comply with the following average annual case credit workloads per attorney per case type:

Supervisors	0
Felony	150
Complex	150
593	150
King County Misdemeanor	450
Expedited Felony Calendar cases	450 (assignments)
Juvenile*	330
* KCC Motion 12160, 13003, 13004, supplemented by WA State funds (see Att C of this Exhibit) to allow an effective caseload of 250.	
Dependency	180
Becca ARY/CHINS	250
Becca Truancy	375
Contempt of Court (Child Support Enforcement) – Calendar Funding	
Contempt of Court (Non-Child Support Enforcement)	225
Involuntary Treatment Act (ITA)	410

A supervisor, including a managing director or assistant director, may provide minimal representation to clients under this Exhibit solely for the purpose of addressing management issues, emergencies or caseload overflow beyond the

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projections. OPD shall be notified of primary representation by supervisory staff constituting a caseload that exceeds available one to ten ratio of supervisory availability.

15. The Agency agrees to abide by the OPD Withdrawal requirement (Attachment E) when declining a case or withdrawing from a case because of a conflict of interest. Agency may withdraw only pursuant to applicable court rules and RPCs. Agency attorney shall promptly notify the court of any conflict of interest or any other reason requiring withdrawal from a case assigned under this Exhibit. The Agency shall file an OPD Withdrawal Form the same day of discovery of such conflict and is permitted to withdraw under applicable court rules so that substitute counsel can be assigned by OPD.

The Agency shall immediately submit to OPD the OPD Withdrawal Form and a copy of the court order, if any, approving withdrawal and the case will be re-assigned by OPD within one business day. Credits shall be applied according to Attachment A of this Exhibit. OPD shall notify withdrawing agency of next counsel assigned to the case.

16. The Agency shall report all extraordinary occurrences to OPD in accordance with the Extraordinary Occurrences Policy and Procedure, and cooperate with any OPD extraordinary occurrence review. The Agency shall adopt an Agency specific extraordinary occurrence policy. The requirement to report to OPD does not replace reporting requirements by other entities.
17. The Agency shall have a process for the filing and review of complaints that are brought to the Agency's attention by clients, OPD, or other criminal justice system staff. The Agency shall establish an internal complaint procedure that is accessible to all clients, in accordance with RCW 34.05, 49.60, RPCs, and the OPD Client Complaint Services Policy and Procedure. The Agency shall maintain a file system for reliable report backup of each complaint.
18. The Agency agrees to abide by the terms of the OPD Attorney Supervision Policy and Procedures.
19. The Agency shall have an Information System (IS) that can report accurate data to OPD, and shall comply with the OPD IS Policy and Procedure. The Agency shall have functional personal computers using a Windows Operating System version XP or above and shall be connected to the Internet with the following supports:—
- a. The Agency shall have at least one trained primary and one trained backup on-site IS support person who has training on Basic Administration of Windows XP, and other basic software training.
  - b. The Agency shall notify OPD, in writing, of staffing changes (i.e. new hires, transfers, and terminations) for those staff directly responsible for data reporting and IS maintenance.
  - c. If a virus attacks an Agency computer, Agency response must be immediate (i.e. within 15 minutes) to take the computer off line and other appropriate action.

**IV. COMPENSATION AND METHOD OF PAYMENT**

- A. The Agency shall be paid monthly as provided in Attachment C of this Exhibit except as paragraph IV B. applies. The Payment Schedule shall pertain to all cases assigned to the Agency from July 1, 2011 through June 30, 2012. Payment for the period of this Contract or any portion thereof is conditional upon appropriation by all necessary agencies and funding sources of sufficient funds to support the activities described in the Contract. That portion of funds for Agency payment derived from either WA State or the Mental Illness and Drug Dependency (MIDD) program are conditional upon re-appropriation at any time. If any other fund amounts are changed or prove insufficient to fund specific services described in this Contract, OPD may amend this Contract to reflect such change.
- B. Payment shall be made monthly, subject to performance requirements being met and upon completion of scheduled corrective action requirements noted in the OPD 2009 site visit review and the Agency plan for corrective action. For each corrective action due date missed by the established due date, one percent of the subsequent month's payment will be withheld until action is completed or report is received and accepted by the County.
- C. For all cases, other than those assigned to the Agency by OPD, in all case areas and for all review credits and other credits, the Agency shall make a reasonable effort to ensure that credit requests are submitted to OPD weekly.
- D. The Agency shall respond to the OPD Case Credit Certification Report within ten business days of receipt by the Agency.
- E. Payments may be made for extraordinary expenses that are in addition to those payments shown in Attachment C, Payment Schedule. Extraordinary expenses shall be approved in writing in advance of the expenditure by OPD.
- F. In the event that workload demand exceeds the projected levels, the Agency shall accept case assignments and case credits above the variance levels on a monthly basis. OPD will monitor the distribution on a cumulative monthly basis to ensure that a reasonable distribution of cases, consistent with Attachment B allocation, has been maintained. OPD recognizes that a variance above projected levels may be inconsistent with the case credit workload guidelines and up to the variance percentage for a specific case area will not be a cause cited for Agency corrective action.
- G. For quarterly and annual payment purposes, the variance shall be no more than five percent, for all case areas except felony cases, which shall have a variance of no more than two-and-one-half percent. These variance percentages will be applied to the projected caseload to establish the variance range. Variance does not apply to calendars, specialty court agreements, Sexually Violent Predator cases, or Complex Litigation cases.
- H. Quarterly reconciliation: At the end of each quarter, OPD will evaluate the case credit accumulation for each Agency for each case type. Action taken will be as follows:
1. The actual quarterly caseload for each type of case area, as shown in the quarterly Certified Statistics will be compared to the actual variance range, for each practice area.

## Attachment D

2. If the Agency's actual quarterly caseload falls within the high and low values of the variance, an adjustment to the reimbursement will not be made.
  3. If the Agency's actual quarterly caseload falls outside of either the high or low values of the projected variance range, an adjustment to the payment may be made.
  4. If a quarterly reconciliation results in payment due to the Agency from the County, the Agency may, at the Agency's option, defer such payment to a later month in the Contract period.
  5. If the quarterly reconciliation results in payment due to the County from the Agency, the County may, at the County option, defer such payment to a later month in the Contract period.
  6. Reconciliation will be based on case credits per case type or per charge type.
- I. Contract end reconciliation: The final payment will be the result of a reconciliation of actual performance to Contract specifications. The reconciliation will be conducted as follows:
1. All extra credit requests from the Agency shall be submitted by the 15<sup>th</sup> day of the month subsequent to the end date of the Contract. OPD will issue a Case Credit Reconciliation Report to the Agency within 5 business days from receipt of Agency request. Agency response to the OPD Case Credit Reconciliation Report shall be submitted to OPD no later than 30 days of this Report from OPD. Credit requests submitted from the Agency that are received by OPD after this day shall not be considered for reimbursement unless the Agency sends OPD a written request for an extension of the due date by the 15<sup>th</sup> day of the month, citing specific extraordinary circumstances.
  2. The variance percentages outlined in Section III. Program Requirements will be applied to the projected caseload to establish the variance range.
  3. The actual caseload for each type of case will be compared to the variance range for each type of case, except for complex felony cases, calendars, specialty court agreements, or Sexually Violent Predator cases.
  4. If the Agency's actual caseload falls within the high and low values of the variance, an adjustment to December reimbursement will not be made.
  5. If the Agency's actual caseload falls outside of either the high or low values of the projected variance range, an adjustment to the final payment will be made.
- J. Becca Cases: The Agency shall be paid by OPD for CHINS, ARY, and Truancy legal services from funds provided by the State of Washington through King County Superior Court, Juvenile Court Services, and such additional funds as may be made available by King County.
1. Truancy. Truancy cases will be counted as one credit for appointments on the filing of a truancy contempt of court where the right to counsel attaches. No additional credits will be given for review hearings.

## Attachment D

2. **ARY/CHINS.** ARY and CHINS cases will be counted as one credit for new assignments on a petition for ARY or CHINS. The initial case credit will include two review hearings. Review hearings after the first two on that petition will earn one third (.33) credit per review.
  3. **Review hearings.** All hearings subsequent to the hearing in which the ARY or CHINS fact finding is completed and in which disposition of the petition is ordered, if ordered in a separate hearing, will be considered a review. Any contempt hearing ordered on the original petition post disposition will be considered a review credit, if the matter is handled within the proceedings relating to the ARY or CHINS petition. Hearings relating to the contempt in the ARY or CHINS proceeding which occur post disposition of the contempt matter will be considered a review hearing.
  4. **Truancy credit load limit.** For purposes of this contract, Truancy cases will have a case credit load limit of 375 credits per FTE attorney per year.
  5. **ARY / CHINS credit load limit.** For purposes of this contract, ARY and CHINS cases will have a case credit load limit of 250 credits per FTE attorney per year.
  6. **A variance of five percent applies to Becca cases in total, as counted in aggregate in this Contract. Site specific estimates of cases assigned included in Attachment B are for Agency management purposes only.**
- K. Sexual Predator cases:** The Agency shall be paid by the State of Washington for cases filed under RCW 71.09 and assigned to the Agency by OPD at a rate determined by DSHS or as ordered by the Court. Agency reimbursement shall be based on submission of expenditure reports and an invoice to DSHS in a format approved by DSHS. OPD shall apply its policies and procedures, as amended and posted on its website, to review and approve or deny requests from Agency counsel for use of Expert Services in 71.09 cases. Such authorization for Expert Services shall be made at the sole discretion of OPD. Upon approval or denial of counsel's request for Expert Services, OPD shall notify counsel. Per OPD policy, defense counsel may appeal an expert service denial to the court. Expert service reimbursement shall be invoiced to and provided directly by DSHS.
- L. Attorney Monthly Case Service Form:** All attorney hours shall be entered in Agency case files. The Agency agrees that maintaining accurate and contemporaneous records of attorney time is an essential responsibility of Agency attorneys. The Agency shall be responsible for submitting monthly attorney hourly records for all cases assigned on and after July 1, 2009 for which the Agency requests additional credits. The completed form shall be submitted in an electronic format provided by OPD, as included by Attachment to this Contract. All cases for which the Agency requests additional credits shall be based solely on the cumulative number of attorney hours worked on that case by the primary attorney (unless a second attorney is ordered by the court), as supported by the monthly attorney hourly record.

The Agency shall participate on the OPD and Contractors Data Interface Workgroup, which will identify the business operations necessary at the Agency and OPD to put into effect this reporting requirement for all cases assigned to the Agency. The data transmissions shall be tested prior to this data report submission requirement taking effect and a start date shall be recommended by the workgroup to OPD. Cases

**Attachment D**

assigned prior to July 1, 2009 for which the Agency requests additional credits shall not be subject to this Attachment requirement, but shall be available for extraordinary case credit according to Attachment A.

**M. Prepayments**

1. The Agency shall ensure that it has sufficient funds to complete prepaid cases assigned but not completed at the end of the Contract period. The Agency must report its calculated prepayment retention amount and cost estimate, include the method of calculation, and provide a conclusion about whether the funds available would cover all costs associated with completing the cases assigned and prepaid. Not having an adequate reserve shall not be cause for a material breach of contract, but may require Agency corrective action.
2. In the absence of a precise calculation of prepayments by the Agency, the County shall estimate the sufficiency of funds using the following formula: For all felony, misdemeanor, initial dependency assignments, and juvenile offender cases assigned during the three months before the end of the contract that remain open at contract-end, it is assumed that the first month cases are 75 percent completed, the second month cases are 50 percent completed, and final month cases are 25 percent completed. For dependency cases it is assumed first month cases are 15 percent completed, second month cases are ten percent completed, and final month cases are five percent completed. The estimation shall be the result of calculating the number of open cases for each month by the corresponding percentage of uncompleted work, and then determining the sum of the uncompleted case count by the per case revenue amount to determine the sufficiency of funds.

**N. Procedures for Retirement Contribution Payment and Reporting**

This section summarizes the process for (1) remitting to King County the funds that the contractor has withheld from paychecks for Public Employees Retirement System (PERS) enrolled employees' contributions to PERS, and (2) delivering the monthly reports of hours and compensation earned by PERS-enrolled employees at the contractors. The contact person for any questions about these issues is Kathy Pryor at 206-684-1395 or [kathryn.pryor@kingcounty.gov](mailto:kathryn.pryor@kingcounty.gov).

1. **King County's Reporting/Payment to DRS**

On or before the 15<sup>th</sup> of May, King County will send the first transmittal report to the Washington State Department of Retirement Systems (DRS) for the eligible employees providing public defense services. The report will contain the names, social security numbers, hours and compensation earned in April, 2012, along with a payment for employee and employer contributions.

2. **Contractor's Payment of Employee Contributions to King County**

The method for paying the employee contributions to King County is an Automated Clearing House (ACH) transaction. These transactions must occur no later than five business days before the 15<sup>th</sup> of each month.

The contractor will have to contact their own bank to obtain an ACH form. Then they must complete it and return it to their bank to set up the transaction. This



- will create the initial set up for the contractor to electronically transmit the funds for the employee portion of the PERS plan for all future monthly payments, by use of the ACH, directly to the appropriate King County bank account.
3. **Contractor's PERS Reports**  
 The contractor must also send King County their Employees PERS report spreadsheet no later than five business days before the 15<sup>th</sup> of each month. This will allow King County to reconcile the reports to the ACH funds transfers and do our accounting processes before transmitting the payment to DRS.  
  
 The Employee PERS report sheet should be sent, encrypted, to PDO-PERS@kingcounty.gov. Please contact Kathy Pryor with any questions about this process.  
  
 Attached is a sample copy of the ACH form (Attachment H), and a sample copy of the Employee PERS report spreadsheet (Attachment I). Electronic versions have been previously provided to the contractor.
  4. **Audits and Contractor**  
 Personnel payroll records must be maintained by the contractor for a minimum of sixty years, and made available upon request to King County, the State Auditor's Office or DRS, for audit purposes.

**V. REPORTING REQUIREMENTS**

Compliance with the terms of this Exhibit requires the following reports, in a format approved by the County, to be submitted at the times indicated in the chart below.

Report Title	2012-2013 Due Date
Closed Case Reports	Monthly, or more frequently as necessary
Weekly Credit Request Report	
Persistent Offender (593) Monthly Case Report	
Additional Credit forms for cases assigned prior to July 1, 2009	
Complex Litigation time sheets	
Extraordinary Case Credit Report for cases assigned prior to July 1, 2009	July 20, 2012
2009 Attorney hourly record for cases assigned from July 1, 2009 through 2012, if additional case weighting credits are requested	August. No more than one financial audit shall be required in any given calendar year.
Contract-end Case Credit Reconciliation Report	
Annual Financial Statements, IRS Form 990, Audit Report including management letters.	

## Attachment D

Report Title	2012-2013 Due Date
Additional summaries, reports or documents, corrective actions directly related to Contract performance, as requested by OPD with reasonable notice.	Varies
Employees PERS Report	No later than five business days before the 15 <sup>th</sup> of each month

## ATTACHMENT A

## Case Credit Application Schedule

Type of Case	
<b>Felony</b>	
One completed case	One case credit
Substantial advice	0.10 case credit
Substantial advice in the King County Detention Facility	0.20 case credit
Probation, other reviews, or sentencing only	0.33 case credit
Assignment for Motion to Withdraw Guilty Plea or a Motion for New Trial to an agency other than the agency handling the case	One case credit
Homicide cases assigned on and after July 1, 2009	Ten case credits upon assignment for the following case types: <ol style="list-style-type: none"> <li>1. Murder 1 – RCW 9A.32.040</li> <li>2. Murder 2 – RCW 9A.32.050</li> <li>3. Homicide by Abuse – RCW 9A.32.055</li> <li>4. Manslaughter 1 – RCW 9A.32.060</li> <li>5. Vehicular Homicide</li> </ol>
Adult Sex Offenses subject to Indeterminate Life Sentences on cases assigned on and after July 1, 2009	Five case credit upon assignment for the following case types: <u>Indeterminate Sex Cases – Life Sentence</u> <ol style="list-style-type: none"> <li>1. Rape 1 – RCW 9A.44.040</li> <li>2. Rape 2 – RCW 9A.44.050</li> <li>3. Rape Child 1 – RCW 9A.44.073</li> <li>4. Rape Child 2 – RCW 9A.44.076</li> <li>5. Indecent Liberties with Forcible Compulsion – RCW 9A.44.100(2)(b)</li> <li>6. Child Molestation 1 – RCW 9A.44.083</li> <li>7. Kidnapping 1 with Sexual Motivation – RCW 9A.40.020</li> <li>8. Kidnapping 2 with Sexual Motivation – RCW 9A.40.030</li> <li>9. Assault 1 with Sexual Motivation – RCW 9A.36.011 and RCW 9A.36.030(43)</li> <li>10. Assault 2 with Sexual Motivation – RCW 9A.36.021(2)(b)</li> <li>11. Assault of a Child 1 with Sexual Motivation – RCW 9A.36.120</li> <li>12. Burglary 1 with Sexual Motivation – RCW 9A.52.020</li> </ol>

<p>Additional Credits for Felony cases assigned on and after July 1, 2009 but before January 1, 2012</p>	<p>If Homicide cases listed above or Sex Offenses subject to Indeterminate Life Sentences cases listed above exceed 220 hours of attorney time, three additional credits for every 50 attorney hours over 200 attorney hours, upon OPD receipt and approval by OPD of required Attorney Billing document.</p> <p>Any other felony case: three credits for every 50 hours over the initial presumed 12.1, upon OPD receipt and approval by OPD of required Attorney Billing document.</p>
<p>Additional Credits for Felony cases assigned on and after January 1, 2012</p>	<p>If Homicide cases listed above or Sex Offenses subject to Indeterminate Life Sentences cases listed above exceed 220 hours of attorney time, three additional credits for every 50 attorney hours over 200 attorney hours, upon OPD receipt and approval by OPD of required Attorney Billing document.</p> <p>Upon OPD receipt and approval by OPD of required Attorney Billing document, all other felony cases filed after January 1, 2012 that receive a single credit at assignment under the interim case weighting system enacted in Ordinance 16542, shall earn one credit for every 13.3 hours over the initial presumed 12.1 hours of attorney work.</p>
<p>Case from Court Order for Public Health Isolation or Quarantine of Individuals, WAC 246-100-04D and WAC 246-100-060.</p>	<p>One felony case credit</p>
<p>Persistent Offender (593)</p>	<p>For cases assigned prior to July 1, 2009, one case credit upon assignment, less previously assigned felony credit. The Agency is eligible for additional case credit for each additional 12.1 hours or portion thereof of attorney time on the case according to the Extraordinary Cases section of this Attachment A.</p> <p>For 593 cases assigned on or after July 1, 2009 but before January 1, 2012, the Agency is eligible for one additional case credit for each additional 12.1 hours or portion thereof of attorney time.</p> <p>For 593 cases assigned on or after January 1, 2012, the Agency is eligible for one additional case credit for each additional 13.3 hours of attorney time, upon receipt and approval by OPD of required Attorney Billing document.</p> <p>The Agency shall report monthly to OPD the total attorney time in each persistent offender case in a format consistent with Attachment F categorizing attorney hours. It is understood that the Agency director</p>

	<p>or the director's designee will review the status of all pending persistent offender cases in the Agency at least monthly and will discuss the cases with the attorneys representing the clients. Such review will include the status of investigation, preparation and presentation of mitigation packages, legal and factual issues in the case, the client's physical and mental status, and any plea bargaining offers.</p> <p>Case credits upon assignment or upon documentation of persistent offender status and additional credits for cases assigned prior to July 1, 2009 shall be as per Extraordinary Cases application and submission of Persistent Offender Monthly Case Report. Cases assigned on and after July 1, 2009, but before January 1, 2012, shall be tracked by the Persistent Offender Monthly Case Report, Attachment F. For cases assigned after January 1, 2012, attorney time shall be submitted on Attachment G for persistent offender cases, and Attachment F will not be used for those cases.</p>
<p>Felony Bench Warrant during case</p>	<p>One case credit if more than 180 days has passed since the date of the bench warrant and if the bench warrant was on a new case assignment; or 0.33 case credit if warrant was a probation review or other hearing valued at 0.33 credit.</p>
<p>Case transferred to another agency, assigned counsel, or retained counsel</p>	<p>Substantial advice credit if case is not completed prior to transfer and if Agency provides to OPD satisfactory justification for credit. This does not include withdrawals based on discovery of conflict upon initial conflict check by Agency, generally completed within 14 days of receipt of OPD assignment, including upon initial receipt of pretrial discovery. In the event that award of substantial advice credit alone results in a substantial financial hardship to the Agency, the Agency may request additional credit. Factors to be considered for additional credit include stage of proceedings (e.g. set for plea, set for or approaching trial date, amount and nature of work expended) and explanation made by the Agency to resolve any breakdown in communication between the defendant and the assigned attorney.</p>
<p>Case transferred to Drug Diversion Court</p>	<p>One case credit retained by transferring agency.</p>
<p>Each court event on a case assigned as a conflict from Drug Diversion Court, if case returned to originating/transferring agency.</p>	<p>0.33 case credit</p>
<p>Case assigned as a conflict from Drug Diversion Court</p>	<p>One case credit</p>

## Attachment D

<b>Complex Litigation</b>	
Capital cases	Two attorneys; up to 25 complex litigation case credits per month as reported by the Agency and consistent with SPRC 2; support staff and supervision to be assigned consistent with the King County Public Defender Payment Model.
Aggravated Homicide (non-death penalty)	One attorney; up to 12.5 complex litigation case credits per month maximum.
<b>King County Misdemeanor</b>	
One completed case, King County District Court	One case credit
District Court review, revocation, re-sentencing or other hearing	One case credit
Expedited Felony	Calendar funding
Misdemeanor Appeal	Four case credits
Misdemeanor Writ	Three case credits
Substantial advice; excludes misdemeanor beeper calendar matters listed in Attachment B and other calendar representation	0.10 case credit
Substantial advice for in-custody clients; excludes misdemeanor beeper calendar matters listed in Attachment B and other calendar representation	0.20 case credit
<b>Juvenile Offender</b>	
One completed case	One case credit
Decline hearing or Out of County Mods	One case credit
Reviews	0.33 case credit
Substantial advice	0.10 case credit
Juvenile Drug Court	Calendar Funding
Case transferred to Juvenile Drug Court	One case credit retained by transferring agency.

Each court event on a case assigned as a conflict from Juvenile Drug Court, if case returned to originating/transferring agency.	0.33 case credit
Case assigned as a conflict from Juvenile Drug Court	One case credit
<b>Juvenile Dependency</b>	
A dependency case	One case credit
Post Disposition Review Hearing	0.40 case credit
Dependency trial or contested disposition	0.50 case credit
Termination Petition	One case credit
Termination trial	One case credit
Atty/Day for substantial advice	0.10 case credit
Reinstatement of Parental Rights	One case credit for child representation. One case credit for parent representation only if the court ordered appointment on the matter for the parent.
Post-Hearing on the Merits review hearing (Reinstatement of Parental Rights)	0.40 case credit
Contested Private Adoption	One case credit
<b>Civil Contempt</b>	
All hearings involving child support enforcement proceedings	Calendar funding
For Civil Contempt cases not involving child support proceedings, from show cause initial assignment hearing up to and including two contempt reviews	One case credit.
Subsequent reviews, for Civil Contempt cases not involving child support proceedings	0.33 case credit

<b>Becca Child in Need of Services, At-Risk Youth, Truancy</b>	
ARY/CHINS case	One case credit for one completed case – petition through disposition; includes first two review hearings.
ARY/CHINS Reviews	0.33 case credits for the third and successive review hearings, including any new contempts on the same petition.
Truancy	One case credit for initial petition filing One case credit for contempt filing
<b>ITA</b>	One case credit
<b>Drug Diversion Court</b>	Calendar funding
<b>District Mental Health Court</b>	Calendar funding
<b>Other Circumstances</b>	
New statutory mandates	Case types not contemplated by this Contract arising from legislation with effective dates after July 1, 2011 shall be assigned by OPD and accepted by the Agency subject to agreement on the credit to be given.
Extraordinary Cases	<p>Extraordinary Juvenile Felony Offender, Dependency, Termination of Parental Rights, RCW 26.33.110 contested adoption termination, Reinstatement of Parental Rights, Contempt of Court, Murder, Persistent Offender, all Adult Felony cases, and in other case categories shall be given extra credits if the nature of the case requires such extra credits, based upon a written application from the Agency for additional credits and negotiation between OPD and the Agency. Factors entering into the awarding of extra credits include, but are not limited to: seriousness of the charges; amount and complexity of evidence; number of witnesses; unusual legal issues; number of defendants; whether there is a plea, bench trial or jury trial; number of pre-trial motions or hearings needed; severity of the consequences; actual length of trial, and the extent to which workload is accounted for by existing case weighting methodologies.</p> <p>The Agency application must be specific about the work to be done or completed to date as shown on the Attorney Billing form, the estimated length of time to perform the work, and the personnel that will be assigned to perform the work. Initial OPD response to</p>



## Attachment D

	the Agency, including requests for additional information, shall be made within five business days from OPD receipt of Agency application.
Credit for cases where the Agency withdraws due to a conflict of interest	When the Agency has reviewed discovery and reported to OPD its withdrawal for reason of conflict and requested credit for time expended, OPD shall review the Agency's request for credit, including the reason given for withdrawal, and may grant appropriate credit. Should such credit be denied, OPD shall inform the Agency of the basis for denial. Credit shall be determined as per rule involving case transferred to another Agency, Attachment A above.
Pro Se/Standby Counsel	Case credited in same manner as other felony credits in this Attachment A, if professional support staff work is performed by the Agency and requests for appointment of professional support staff at public expense outside of the Agency are not submitted to OPD. If professional support staff work is requested by the pro se defendant, the Agency must inform OPD if it is opting to reduce its credit allocation by 0.1 per each attorney credit assigned in the case by not utilizing its professional support staff.

## ATTACHMENT B

## Agency Case Credit Allocation and Cases Assigned Estimate for July 2012 to June 2013

Case Category	Total Agency Case Credit Allocation	Percentage Share	3rd Quarter 2012	4th Quarter 2012	1st Quarter 2013	2nd Quarter 2013
<i>Felony &amp; 593s</i>	2,688	32%	672	672	672	672
<i>Complex</i>	300	29%	75	75	75	75
Total Felony	2,988	32%	747	747	747	747
KC Misdemeanor	952	14%	238	238	238	238
Juvenile Offender	1,020	29%	255	255	255	255
Dependency	1,098	33%	274.5	274.5	274.5	274.5
ITA	3,300	100%	825	825	825	825
Becca ARY/CHINS*	17	5%	5	4	4	4
Becca Truancy*	18	5%	4	4	5	5
<b>TOTAL</b>	<b>9,393</b>	<b>35%</b>	<b>2,348.5</b>	<b>2,347.5</b>	<b>2,348.5</b>	<b>2,348.5</b>

\*New Cases - DYS

## 2012-2013 Calendar Attorney and Staff List

Case Area	KCCH	MRJC	YSC	Calendar	Agency	Day	Time	Atty	Staff	Supv
FELONY	x			In-of-Custody SRA calendar	TDA	Th-Fri	AM	0.20	0.50	0.02
	x			Arrestment calendar	TDA	Mon- Thurs	AM	0.40	0.20	0.04
	x			Felony Investigation calendar	TDA	Mon- Sat	PM	0.60	0.30	0.06
EXPEDITED FELONY	x			Expedited Felony calendar	TDA		AM/PM	0.80	0.56	0.08
KC MISDEAMEANOR		x		Domestic Violence Court calendar	TDA	Mon- Fri	AM/PM	0.50	0.25	0.05
	x			Seattle District Court	TDA	Wed	AM/PM	0.20	0.10	0.02
JUVENILE			x	1st appearance & diversion calls	TDA	Mon- Fri	AM	0.50	0.25	0.05
DEPENDENCY		x		Attorney of the Day (AOD) 72-hour Shelter Care	TDA	Mon- Fri	AM	0.50	0.25	0.05
			x	Attorney of the Day (AOD) 72-hour Shelter Care	TDA	Mon- Fri	AM	0.50	0.25	0.05
<b>TOTAL TDA</b>								<b>4.20</b>	<b>2.66</b>	<b>0.42</b>

Beeper/Pager Duty - North-end District & Superior Court based on place of filing,  
Juvenile Court, ITA<sup>1</sup>

\$9,427 Jul-Dec 2012  
\$9,427 Jan-Jun 2013

<sup>1</sup> Payments for Beeper/Pager Duty are included in the Calendar Staffing total of Attachment C.

## ATTACHMENT C

## Payment Schedule

This Payment Schedule shall pertain to all cases assigned to the Agency from July 1, 2012 to June 30, 2013. The Agency shall be paid the following monthly amounts for cases and special services:

<b>2012</b>	<b>July Payment</b>	<b>Aug Payment</b>	<b>Sept Payment</b>	<b>Oct Payment</b>	<b>Nov Payment</b>	<b>Dec Payment</b>
Felony (regular & 593s)	276,442	276,443	276,442	276,443	276,442	276,443
Felony (complex) <sup>a,b</sup>	30,853	30,853	30,853	30,853	30,853	30,853
Juvenile	47,682	47,681	47,682	47,681	47,682	47,681
King County Misdemeanor	32,636	32,633	32,636	32,633	32,636	32,633
Involuntary Treatment Act	124,164	124,165	124,164	124,165	124,164	124,165
Dependency	94,101	94,103	94,101	94,103	94,101	94,103
Calendar Staffing	65,121	65,118	65,121	65,118	65,121	65,118
<b>Agency Admin &amp; Overhead:</b>						
<i>Administration</i>	67,679	67,680	67,679	67,680	67,679	67,680
<i>Indirect Cost</i>	26,375	26,377	26,375	26,377	26,375	26,377
<i>Rent</i>	52,159	52,157	52,159	52,157	52,159	52,157
<b>Total Agency Administration and Overhead</b>	<b>146,213</b>	<b>146,214</b>	<b>146,213</b>	<b>146,214</b>	<b>146,213</b>	<b>146,214</b>
<b>Sub-Total General Fund</b>	<b>817,212</b>	<b>817,210</b>	<b>817,212</b>	<b>817,210</b>	<b>817,212</b>	<b>817,210</b>
Becca	2,154	2,156	2,154	2,156	2,154	2,156
Juvenile 10.101 <sup>c</sup>						
<b>TOTAL</b>	<b>819,366</b>	<b>819,366</b>	<b>819,366</b>	<b>819,366</b>	<b>819,366</b>	<b>819,366</b>

## Attachment D

<b>2013<sup>d</sup></b>	<b>Jan Payment</b>	<b>Feb Payment</b>	<b>Mar Payment</b>	<b>Apr Payment</b>	<b>May Payment</b>	<b>Jun Payment</b>	<b>GRAND TOTAL</b>
Felony (regular & 593s)	288,049	288,049	288,049	288,049	288,049	288,047	3,386,947
Felony (complex) <sup>a,b</sup>	32,148	32,148	32,148	32,148	32,148	32,150	378,008
Juvenile	49,684	49,684	49,684	49,684	49,684	49,682	584,191
King County Misdemeanor	34,006	34,006	34,006	34,006	34,006	34,004	399,841
Involuntary Treatment Act	129,377	129,377	129,377	129,377	129,377	129,379	1,521,251
Dependency	98,052	98,052	98,052	98,052	98,052	98,054	1,152,926
Calendar Staffing	67,842	67,842	67,842	67,842	67,842	67,841	797,768
<b>Agency Admin &amp; Overhead:</b>							
<i>Administration</i>	70,523	70,523	70,523	70,523	70,523	70,521	829,213
<i>Indirect Cost</i>	27,484	27,484	27,484	27,484	27,484	27,482	323,158
<i>Rent</i>	52,159	52,159	52,159	52,159	52,159	52,157	625,900
<b>Total Agency Administration and Overhead</b>	<b>150,166</b>	<b>150,166</b>	<b>150,166</b>	<b>150,166</b>	<b>150,166</b>	<b>150,160</b>	<b>1,778,271</b>
<b>Sub-Total General Fund</b>	<b>849,324</b>	<b>849,324</b>	<b>849,324</b>	<b>849,324</b>	<b>849,324</b>	<b>849,317</b>	<b>9,999,203</b>
Becca	2,240	2,240	2,240	2,240	2,240	2,240	26,370
Juvenile 10.101 <sup>c</sup>							
<b>TOTAL</b>	<b>851,564</b>	<b>851,564</b>	<b>851,564</b>	<b>851,564</b>	<b>851,564</b>	<b>851,557</b>	<b>10,025,573</b>

<sup>a</sup> Payment is made on a per credit basis for cases open during the month.

<sup>b</sup> This total amount is estimated in consideration of cases open at the beginning of the contract. The actual annual amount may be greater or lesser depending upon new case assignments and the timing of case closing for existing cases.

<sup>c</sup> Public Defense Improvement Fund from the Washington State Office of Public Defense.

<sup>d</sup> Second six month payments (January through June) are contingent upon King County Council appropriation.



### Closed Case Report Case Disposition Codes

Disposition Code	OPD Description
1	Appeal withdrawn
2	ARY/CHINS continued placement with further review
3	ARY/CHINS petition dismissed
4	ARY/CHINS returned home, continued for review
5	Assigned in error
6	Bail forfeiture
7	Bench warrant
8	Client deceased
9	COC dismissed
10	COC found, continued for review
11	COC not found, continued for review
12	Compromise of misdemeanor
13	Conditional discharge
14	Conflict of interest
15	Conflict with client
16	Continued without findings
17	Deferred disposition (juvenile)
18	Deferred prosecution
19	Dependency attorney withdrawn – lack of contact
20	Dependency found, dismissed
21	Dependency not found, dismissed
22	Discretionary decline granted
23	Dismissed with prejudice
24	Dismissed without prejudice
25	Diversion
26	Drug/Mental Health failed/revoked
27	Drug/Mental Health graduated/dismissed
28	Extradition case completed
29	Final discharge
30	Found incompetent, dismissed
31	Guardianship established
32	Guilty as charged – Bench
33	Guilty as charged – Jury
34	Guilty, reduced charge – Bench
35	Guilty, reduced charge – Jury
36	ITA agreed order, hospital
37	ITA agreed order, less restrictive conditions
38	ITA client entered treatment voluntarily
39	ITA client released, no petition filed
40	ITA court dismissal
41	ITA court ordered hospital

42	ITA court ordered less restrictive condition
43	ITA revocation less restrictive
44	ITA voluntary dismissal
45	Lost jurisdiction, juvenile turned 18
46	Material witness representation ended
47	Mistrial, hung jury
48	Mistrial, not hung jury
49	No violation found
50	Not guilty – Bench
51	Not guilty – Jury
52	Not guilty, insanity – Bench
53	Not guilty, insanity – Jury
54	Parental rights not reinstated
55	Parental rights reinstated
56	Plead guilty as charged
57	Plead guilty as charged, other charge(s) dismissed
58	Plead guilty as charged, other charge(s) reduced
59	Plead guilty to reduced charge, other charge(s) dismissed
60	Plead guilty to reduced charge, other charge(s) reduced
61	Plead guilty to reduced charges
62	Pro-se, attorney withdrawal
63	RALJ affirmed
64	RALJ reversed (any count)
65	RALJ, Government appeal affirmed
66	RALJ, Government appeal reversed
67	Retained attorney
68	Services rendered, e.g. sentencing, AOD, substantial advice
69	Stand-by counsel
70	Stipulated order of continuance (SOC)
71	Termination established
72	Termination not established
73	Transfer to Drug Court
74	Transfer to Mental Health Court
75	Truancy contempt dismissed, child relocated out of school district
76	Truancy contempt dismissed, contempt purged
77	Truancy contempt dismissed, youth aged out
78	Truancy contempt found, continued for review
79	Truancy contempt not found, continued
80	Truancy contempt not found, dismissed
81	Venue changed, withdraw
82	Violation found
83	Writ denied
84	Writ granted



**ATTACHMENT E  
OPD WITHDRAWAL FORM**

Date: \_\_\_\_\_  
 Client Name: \_\_\_\_\_ AKA: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 DOB: \_\_\_\_\_ JCN: \_\_\_\_\_ CCN: \_\_\_\_\_  
 Cause Number: \_\_\_\_\_ Charge: \_\_\_\_\_  
 Case Type:     Felony     Juvenile     Dependency     Civil Contempt  
                    KC Misdemeanor     ITA     Other \_\_\_\_\_  
 Date Discovery Received: \_\_\_\_\_ Date Conflict Identified: \_\_\_\_\_

**REASON FOR WITHDRAWAL:**

Conflict of Interest     Other \_\_\_\_\_  
 Defendant Retained Private Counsel: **(Name of Attorney)** \_\_\_\_\_

**CONFLICT INFORMATION:**

This Agency's conflict is with: Name \_\_\_\_\_ DOB: \_\_\_\_\_  
 Cause Number: \_\_\_\_\_ Co-Defendant in Current Case?  Yes     No  
 Victim/Client     Suspect/Client     Witness/Client     Other  
 Irreconcilable breakdown in client communication

**OTHER NAMES IN DISCOVERY:**

NAMES	DOB	STATUS IN CASE	REPRESENTATION HISTORY

SEE ATTACHED SHEET FOR ADDITIONAL LISTINGS

Client is  In-Custody  Out-of-Custody    Received Conflict From: \_\_\_\_\_

**HEARING SCHEDULE:**

Trial Date: \_\_\_\_\_ Next Hearing: \_\_\_\_\_ Type of Hearing: \_\_\_\_\_  
 Withdrawal Hearing Date: \_\_\_\_\_ (Must be at least two full working days from this  
 Notification of Withdrawal if trial date has been set. Agency must notify PA and co-defendant counsel,  
 if any.)

**LOCATION OF DISCOVERY:**

PA's Office     Agency will forward to new counsel     Other \_\_\_\_\_

**REQUEST FOR CREDIT/DEBIT:**

Withdrawal within 14 days of assignment     Substantial advice  
 One credit (explanation must be attached)     Other \_\_\_\_\_ (explanation must be  
 attached)

This form filled out by: \_\_\_\_\_ Date: \_\_\_\_\_ APPROVED BY: \_\_\_\_\_ Date: \_\_\_\_\_

**OPD USE ONLY**

OPD REASSIGNED TO: \_\_\_\_\_ INITIALS: \_\_\_\_\_ DATE: \_\_\_\_\_  
 FAX     Interoffice Mail

**ATTACHMENT F**

**Persistent Offender (593) Monthly Case Report for cases assigned prior to July 1, 2009**

Client Name: \_\_\_\_\_

Cause No.: \_\_\_\_\_

Month/Year: \_\_\_\_\_

Attorney(s): \_\_\_\_\_

Week (Dates)	Attorney (1)	Attorney (2) (if assigned)	Total Atty.	Invest	Social Wkr.	Paralegal	Total Support	Total Week	Total to Date
/ to /									
/ to /									
/ to /									
/ to /									
<b>TOTAL</b>									

**NOTE: 12.1 hours = 1.00 credit**

**Abbreviations must be used to categorize attorney hours:**

- CC = Contact with Client**
- R = Legal Research**
- Ptr = Pretrial Hearing**
- Tr = Trial**
- S = Sentencing/Disposition**
- CP = Case Prep**
- C = Confer with attorney/investigator/social worker/paralegal**
- N/A = No second attorney assigned**

## ATTACHMENT G

## Attorney Monthly Billing

Description	Code
Arraignment / First Appearance	IC1
Case Setting / Status	IC2
Omnibus	IC3
Pretrial	IC4
Restitution Hearing	IC5
Motion Hearing	IC6
Trial (Court)	IC7
Trial (Jury)	IC8
Ex Parte	IC9
Competency Hearing	IC10
Probation Review / Modification	IC11
Waiting at Court	IC12
Bond / Bail / Release Hearing (include Quash Warrant)	IC13
Sentencing	IC14
72-Hour Shelter Hearing	IC15
30-Hour Shelter Hearing	IC16
Preliminary Hearing	IC17
Pretrial Calendar	IC18
Fact Finding	IC19
Disposition	IC20
Review Hearing	IC21
Permanency Plan Hearing	IC22
ITA 72-Hour Hearing	IC23
ITA 14-Day Hearing	IC24
ITA Trial	IC25
ITA Review	IC26
ITA 45-Day Hearing	IC27
Extradition Hearing	IC28
Post Trial Hearing: New Trial / Withdraw Plea	IC29
Diversion / Deferred Prosecution	IC30
RALJ Appeal Hearing	IC31

Description	Code
Conference - Client	OC1
Conference - Investigator	OC2
Conference - Other Staff	OC3
Conference - Probation Officer	OC4
Conference - Expert	OC5
Negotiation - Prosecutor / Attorney General	OC6
Telephone Conference - Client	OC7
Telephone Conference - Investigator	OC8
Telephone Conference - Other Staff	OC9
Telephone Conference - Expert	OC10
Telephone Conference - Court	OC11
Telephone Conference - Prosecutor / Attorney General	OC12
Telephone Conference - Other	OC13
Telephone Conference - Probation Officer	OC14
Documents / Pleading Preparation / Drafting	OC15
Letter - Client	OC16
Letter - Investigator	OC17
Letter - Court	OC18
Letter - Prosecutor / Attorney General	OC19
Letter - Expert	OC20
Letter - Other	OC21
Research	OC22
Hearing Preparation	OC23
Trial Preparation	OC24
Travel to Court	OC25
Witness Interview	OC26
Discovery Review	OC27
Travel to Jail	OC28
Defense Investigation Review	OC29
Pleadings Review	OC30
Mitigation Preparation	OC31
Conference - DSHS Caseworker	OC32
Conference - Court Staff	OC33
Conference - Other	OC34





ATTACHMENT H

# ACH Authorization Form

## CREDIT/DEBIT AUTHORIZATION FORM

I (we) hereby authorize \_\_\_\_\_ (THE COMPANY) to initiate entries to my (our) checking/savings accounts at the financial institution listed below (THE FINANCIAL INSTITUTION), and, if necessary, initiate adjustments for any transactions credited/debited in error. This authority will remain in effect until THE COMPANY is notified by me (us) in writing to cancel it in such time as to afford THE COMPANY and THE FINANCIAL INSTITUTION a reasonable opportunity to act on it.

\_\_\_\_\_  
(Name of Financial Institution)

\_\_\_\_\_  
(Address of Financial Institution - Branch, City, State, & Zip)

\_\_\_\_\_  
(Signature) (Date)

\_\_\_\_\_  
(Name - PLEASE PRINT)

\_\_\_\_\_  
(Address - PLEASE PRINT)

Set Amount: \_\_\_\_\_ or Maximum Amount: \_\_\_\_\_

Financial Institution Routing Number: \_\_\_\_\_

Checking/Savings Account Number: \_\_\_\_\_

These numbers are located on the bottom of your check as follows:

⑆ 123456789 ⑆ 1234567890123 ⑆  
Routing Number Account Number



### ATTACHMENT I Employees PERS Report

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26
SSN	Mbr Last Name	Mbr First Name	Mbr Mid Name	Mbr Ext	Address	City	State	Zip Code	Zip Ext	Gender	Birth Date	Earning Per	Hours	Mbr Comp	Earning type	Elig Start Date	Elig End Date	Employer Cont	Def Ben Member Cont	Defined Cont	Tax Status	Invest Prgm	Rate Option	P/T Choice Date	Plan Choice
123456789	Doe	Jane	E		1800 Pennsylvania Ave	Seattle	WA	98115		F	19501131	201204	170	4580.05	Regular	20120401		332.053625	212.51432						
234567890	Doe	John	Anthony	Jr	1313 Mockingbird Lane	Renton	WA	98346	1012	M	19610203	201204	167	5620.78	Regular		20120431	407.50655		393.4546		WSIB	0.07		

Legend of Numbered Columns above

1	SSN	Social Security Number of employee
2	Mbr Last Name	Last name of the employee
3	Mbr First Name	First name of the employee
4	Mbr Mid Name	Middle name or middle initial of employee
5	Mbr Ext	Legal extension of employees name, i.e. Jr. Sr. III (if they have one)
6	Address	Employees mailing address
7	City	City within employee's mailing address
8	State	State abbreviation within mailing address
9	Zip Code	Zip code within employees mailing address
10	Zip Ext	Zip code extension within employees mailing address (if known)
11	Gender	Employee's gender
12	Birth Date	Employee's date of birth
13	Earning Per	Month and year compensation was earned
14	Hours	Hours worked during the month
15	Mbr Comp	Salary or wages earned during the month
16	Earning type	Regular wages, Cashout of annual or sick leave, bonus
17	Elig Start Date	Begin date of employment; for initial reporting April 01, 2012
18	Elig End Date	Termination date; used when an employee leaves your employ
19	Employer Cont	Employer contributions
20	Def Ben Mbr Cont	PERS 1 and PERS 2 employee contributions
21	Defined Cont	PERS 3 employee contributions
22	Tax Status	Leave Blank-contributions are deferred from tax
23	Invest Prgm	Either WSIB or SELF
24	Rate Option	Rate option for PERS 3 employee