

REQUEST FOR PROPOSALS (RFP)

By

THE CITY OF WALLA WALLA, WASHINGTON

FOR

**PUBLIC CRIMINAL DEFENSE SERVICES
AND
CONFLICT PUBLIC CRIMINAL DEFENSE SERVICES**

ISSUED: September 5, 2018

DUE: October 5, 4:00 p.m., PDT

**DELIVERY
INSTRUCTIONS: FIVE (5) COPIES ENCLOSED IN AN ENVELOPE
ADDRESSED AS FOLLOWS:**

**Byron Olson
Deputy City Manager
City of Walla Walla
15 North Third Avenue
Walla Walla, WA 99362-1859**

Estimated Timeline

RFP Issued:	September 5, 2018
Proposals Due at 4:00 PM:	October 5, 2018
Proposals Review Complete:	November 6, 2018
Interviews as necessary:	November 13-16, 2018
City Council Action:	December 19, 2018
Contract Awarded:	December 21, 2018
Anticipated Contract Start:	January 1, 2019

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SECTION 1 - INSTRUCTIONS TO PROPOSERS

1-1 SCOPE OF WORK

Provide public criminal defense services to indigent defendants charged for offenses by the City of Walla Walla and designated as indigent by the Municipal/District Court Judge.

Provide such services strictly according to the "City of Walla Standards for Public Defense Services" adopted by Resolution 2015-112 passed by the City Council on October 28, 2015 and attached to this RFP as Attachment B.

This Request for Proposals (RFP) for Public Criminal Defense Services for the City of Walla Walla contains instructions governing the requirements for proposal format; informational material to be included with the proposal; and submittal procedures required for consideration of the proposal by the responsible City evaluation team. This RFP also addresses the eligibility requirements and responsibilities which a proposer must meet for consideration of their proposal.

Proposers assume responsibility for comprehending the entire RFP. If clarification is desired, it is the responsibility of the proposer to submit questions, in writing, to the City Official listed in Section 1-4. It is the proposer's responsibility to ensure that all procedures and requirements of the RFP are accurately followed and appropriately addressed. The proposer should carefully read the entire RFP before submitting a proposal.

1-2 PROPOSAL SUBMISSION

The Proposal must be SEALED and CLEARLY IDENTIFIED with the title "Public Criminal Defense Services Proposal for the City of Walla Walla" and the Proposer's name and address to be submitted no later than 4:00 p.m., Pacific Standard Time, on Friday, October 5, 2018 to the City of Walla Walla, 15 North 3rd Avenue, Walla Walla, Washington, 99362-1859. A facsimile response or an electronic response to this RFP does not meet the stated requirements of a sealed proposal and will not be accepted.

Proposals received after the exact time specified for receipt will not be considered.

1-3 PROPOSAL SCHEDULE

Wednesday, September 5, 2018
Friday, October 5, 2018
December 21, 2018 Tuesday,
January 1, 2019

Request for Proposals issued
Proposals Due @ 4:00 p.m.
Contract Awarded
Anticipated Contract Start

1-4 INQUIRIES

All inquiries concerning this RFP must be received in the offices of the City Manager no later than 4:00 p.m., Pacific Standard Time, on Monday, October 1, 2018 and submitted to:

Byron Olson
Deputy City Manager
15 North 3rd Avenue
Walla Walla, WA 99362-1859
Telephone: (509) 527-4540
E-mail: bolson@wallawallawa.gov

Proposers should consider the Deputy City Manager as the first and prime point of contact on all matters related to the procedures associated with this RFP. If additional information is needed from any source, the Deputy City Manager will work with the Proposer to gather that information.

1-5 INTERPRETATION, CORRECTIONS OR CHANGES IN RFP

Any interpretation, correction, or change in the RFP will be made by addendum by the City. Interpretations, corrections, or changes to the RFP made in any other manner will not be binding, and no Proposer may rely upon any such interpretation, correction, or change.

1-6 ACKNOWLEDGMENT OF ADDENDUMS TO RFP

Receipt of any addendum or addenda to this RFP must be acknowledged by a Proposer on the Proposal Response Certification (Attachment A).

1-7 OFFER ACCEPTANCE PERIOD

Submitted proposal shall constitute an irrevocable offer for ninety (90) calendar days from the proposal opening date even if the City makes one or more counter offers.

1-8 REJECTION OF PROPOSALS

The City in its sole discretion expressly reserves the right to reject any or all proposals or portions thereof; to reissue a Request for Proposal; and to waive minor irregularities, discrepancies, and any other matters or shortcomings.

1-9 COMPENSATION

The City is not required or constrained to award the Agreement on the basis of cost.

Compensation will be addressed as outlined in Standard One of the “City of Walla Standards for Public Defense Services” (Attachment B):

Public criminal defense attorneys and staff should be compensated at a rate commensurate with their training and experience. To attract and retain qualified personnel, compensation and benefit levels should be comparable to those of attorneys and staff in prosecutorial offices in the area.

For assigned counsel reasonable compensation should be provided. Compensation should reflect the time and labor required to be spent by the attorney and the degree of professional experience demanded by the case. Assigned counsel should be compensated for out-of-pocket expenses.

The compensation structure or structures (e.g. hourly fee; case fee; annual fee) submitted as part of this proposal shall include everything necessary for the provision of public criminal defense services including routine administrative costs associated with providing legal representation. These administrative costs include but are not limited to travel; telephone calls; law library, including electronic legal research; financial accounting; case management systems; computers and software; office space and supplies; training; meeting the reporting requirements imposed by these standards; and other costs necessarily incurred in the day-to-day management of the contract.

The City will provide additional compensation for the reasonable costs of necessary expert witnesses; interpreter services; investigation services; mental health professionals; and other non-routine services as outlined in Section 2.4.2 Preauthorized Non-Routine Expenses of the “City of Walla Standards for Public Defense Services” (Attachment B).

1-10 TERM OF AGREEMENT

Subject to negotiation, the initial term of the Agreement shall be three (3) years, commencing on or about January 1, 2019. The term of this Agreement may, if mutually agreed upon in writing, be extended by one (1) year increments for a total of five (5) additional years, provided written notice of each extension is given to the City at least thirty (30) days prior to the expiration date of such term or extension. During extension periods, all terms and conditions of this Agreement shall remain in effect unless otherwise agreed to by both parties.

1-11 AWARD OF AGREEMENT

The City shall make the award to the responsible Proposer(s) whose proposal will be most advantageous to the City with respect to conformance to the standards,

specifications, quality and other factors as evaluated by the City. The City is not required or constrained to award the Agreement on the basis of cost.

The City may award an Agreement on the basis of initial offers received, without interviews; therefore, each initial offer should contain the proposer's best terms from a technical standpoint.

1-12 PROPOSAL CONFIDENTIALITY

Each Proposer agrees that the contents of their respective proposals are potentially subject to public disclosure.

SECTION 2 - INSTRUCTIONS FOR PREPARING PROPOSALS

2-1 GENERAL

To aid in the evaluation process, it is required that all responses comply with the items and sequence as presented in paragraph **2-2 Proposal Outline**. Paragraph 2-2 outlines the minimum requirements and packaging for the preparation and presentation of a response. Failure to comply may result in rejection of the response. The proposal should be specific and complete in every detail, prepared in a simple and straightforward manner.

2-2 PROPOSAL OUTLINE

This RFP is designed to allow proposers to submit proposals in basically the same format in which the RFP is issued.

Submit five (5) copies of the proposal.

The proposal cover letter of no more than two pages shall be attached to the front of the proposal and shall include the following information/statements:

1. That your company agrees to all the terms and conditions of the RFP.
2. That your company agrees to execute the Agreement, if awarded.
3. Description of the firm, organization, officers or partners, number of employees, and operating policies that would affect this Agreement.
4. State the number of years your firm has been continuously engaged in criminal defense services.
5. Identify your firm's contact person for this RFP process and their phone, fax, and email address.

Submission Requirements

To provide objective criteria that can be used in determining various firms' abilities, the City requests that you address the following items in the order presented, taking no more than ten pages to do so. Any proposal exceeding ten pages will be rejected as non-conforming. Additional information, such as evidence of relevant work accomplished by your firm, may be attached and will not be counted towards the ten-page limit.

1. Provide a brief history of your firm including size; areas of expertise; and other relevant information.
2. Describe your firm's experiences with criminal defense services including provision of investigators, interpreters and other support which demonstrate your firm's ability to provide those services for the City.
3. List the name(s), position(s) and responsibilities of the individual(s) who will be assigned to directly provide public criminal defense services. Provide resumes for each.
4. Describe the experience of the assigned individual(s) as it relates to successfully providing public criminal defense services. Demonstrated experience is highly desirable and will weigh significantly in selection.
5. State your firm's understanding of public criminal defense services and the City's "Public Defense Services Standards".
6. List the services that your firm proposes to provide, whether Public Defender; Conflict Public Defender; or any services proposed in addition to those listed above. Proposers may indicate their desire to be considered for either Public Defender or Conflict Public Defender.
7. List your proposed compensation structure for all services described above whether hourly; by case; by annual term; or by any combination thereof.
8. Identify the support, information and other needs that your firm will require from the City to successfully deliver these services.
9. Provide any other information about your firm that demonstrates its ability to effectively provide public criminal defense services.
10. Provide three (3) references that can vouch for your ability to capably provide public criminal defense services.

SECTION 3 - EVALUATION PROCESS

Qualifications and proposals submitted by interested Proposers will be reviewed and evaluated based on the evaluation factors set forth in the RFP. **The City reserves the right to reject any or all proposals, or portions thereof.** The selection of a successful Proposer, if any, will be based upon which proposal the City determines would best meet its requirements and needs.

3-1 SELECTION AND EVALUATION PROCESS AND CRITERIA

Proposals received that conform to the proposal instructions will be evaluated by a team of City staff members and others qualified to do so. That team will select a

number of those proposals; conduct reference checks; and potentially, but not necessarily, invite the firms with the prevailing proposals for interviews. The team will then select the firm, firms, or individual attorneys judged to be best suited to deliver public criminal defense services and recommend that the City negotiate contracts with them. The City reserves the right to select one proposal; multiple proposals; none of the proposals; or to solicit additional proposals.

Proposals and subsequent potential interviews will be evaluated on the following criteria:

1. Proposer's experience with criminal defense services.
2. Proposer's demonstrated ability to successfully provide related services to a municipality or other similar entity.
3. Proposer's professional credentials and affiliations indicating the capabilities to provide public criminal defense services.
4. Relevant experience and credentials of the personnel assigned to provide public criminal defense services.
5. Quality of the submitted proposals in terms of content, relevance, organization and presentation.
6. Conformance of the proposals to the submission requirements.
7. Responses of the references.
8. Ability of the firm to meet the timeline set for the review process and the contract start date.
9. Qualifications of firm's management and support staff; appropriateness and completeness of contract implementation plan; physical resources (e.g. office space) available; and availability of technical support.

SECTION 4 - GENERAL CONTRACTUAL TERMS AND CONDITIONS

4-1 CITY COUNCIL APPROVAL

This Agreement may be subject to approval by the City Council. If such approval is not granted, the Agreement shall be void, and the City and Proposers shall have no further obligations or liabilities hereunder.

4-2 NO REIMBURSEMENT OF COSTS OR EXPENSES BY RESPONDENTS

The City will not reimburse or otherwise compensate any person or firm for the costs and expenses incurred by such person or firm in responding to this request.

ATTACHMENT A

**CITY OF WALLA WALLA REQUEST FOR PROPOSALS
FOR PUBLIC CRIMINAL DEFENSE SERVICES**

PROPOSAL RESPONSE CERTIFICATION

DATE

The undersigned, as Proposer, declares to have read the Request for Proposals, and that the following proposal is submitted on the basis that the undersigned, the company, and its employees or agents, shall meet, or agree to, all specifications contained therein. It is further acknowledged that addenda numbers _____ to _____ have been received and were examined as part of the RFP document.

Name of Proposer

Tax ID Number

Signature of Proposer

Title

Name of Firm

Street Address

City, State, Zip

Telephone / Fax Number

E-mail Address

State of Incorporation

ATTACHMENT B

CITY OF WALLA WALLA STANDARDS FOR PUBLIC DEFENSE SERVICES

October 2015

Preamble

The Washington Supreme Court adopts the following Standards to address certain basic elements of public defense practice related to the effective assistance of counsel. The Certification of Appointed Counsel of Compliance with Standards Required by CrR 3.1/CrRU 3.1/JuCR 9.2 references specific "Applicable Standards." The Court adopts additional Standards beyond those required for certification as guidance for public defense attorneys in addressing issues identified in *State v. A.N.J.*, 168 Wash.2d 91 (2010), including the suitability of contracts that public defense attorneys may negotiate and sign. To the extent that certain Standards may refer to or be interpreted as referring to local governments, the Court recognizes the authority of its Rules is limited to attorneys and the courts. Local courts and clerks are encouraged to develop protocols for procedures for receiving and retaining Certifications.

STANDARDS FOR PUBLIC DEFENSE SERVICES

STANDARD ONE: Compensation

Public defense attorneys and staff should be compensated at a rate commensurate with their training and experience. To attract and retain qualified personnel, compensation and benefit levels should be comparable to those of attorneys and staff in prosecutorial offices in the area.

For assigned counsel reasonable compensation should be provided. Compensation should reflect the time and labor required to be spent by the attorney and the degree of professional experience demanded by the case. Assigned counsel should be compensated for out-of-pocket expenses.

STANDARD TWO: Duties and Responsibilities of Counsel

Defense services shall be provided to all clients in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable state bar association standards, the Rules of Professional Conduct, case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases. Counsel's primary and most fundamental responsibility is to promote and protect the best interests of the client.

STANDARD THREE: Caseload Limits and Types of Cases

Standard 3.1 . The contract or other employment agreement shall specify the types of cases for which representation shall be provided and the maximum number of cases which each attorney shall be expected to handle.

Standard 3.2. The caseload of public defense attorneys should allow each lawyer to give each client the time and effort necessary to ensure effective representation.

Neither defender organizations, county offices, contract attorneys, nor assigned counsel should accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation. As used in this Standard, "quality representation" is intended to describe the minimum level of attention, care, and skill that Washington citizens would expect of their state's criminal justice system.

Standard 3.3. General Considerations. Caseload limits reflect the maximum caseloads for fully supported full-time defense attorneys for cases of average complexity and effort in each case type specified. Caseload limits assume a reasonably even distribution of cases throughout the year.

The increased complexity of practice in many areas will require lower caseload limits. The maximum caseload limit should be adjusted downward when the mix of case assignments is weighted toward offenses or case types that demand more investigation, legal research and writing, use of experts, use of social workers, or other expenditures of time and resources. Attorney caseloads should be assessed by the workload required, and cases and types of cases should be weighted accordingly.

If a defender or assigned counsel is carrying a mixed caseload including cases from more than one category of cases, these standards should be applied proportionately to determine a full caseload. In jurisdictions where assigned counsel or contract attorneys also maintain private law practices, the caseload should be based on the percentage of time the lawyer devotes to public defense.

The experience of a particular attorney is a factor in the composition of the case types in the attorney's caseload but is not a factor in adjusting the applicable numerical caseload limits except as follows: attorneys with less than six months of full time criminal defense experience as an attorney should not be assigned more than two thirds of the applicable maximum numerical caseload limit. This provision applies whether or not the public defense system uses case weighting.

The following types of cases fall within the intended scope of the caseload limits for criminal and juvenile offender cases in Standard 3.4 and must be taken into account when assessing an attorney's numerical caseload: partial case representations, sentence violations, specialty or therapeutic courts, transfers, extraditions, representation of material witnesses, petitions for conditional release or final discharge, and other matters that do not involve a new criminal charge.

Definition of case - A case is defined as the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation. In courts of limited jurisdiction multiple citations from the same incident can be counted as one case.

Standard 3.4. Caseload Limits. The caseload of a full-time public defense attorney or assigned counsel should not exceed the following:

150 Felonies per attorney per year; or

300 Misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system as described in this Standard, 400 cases per year; or

250 Juvenile Offender cases per attorney per year; or

80 open Juvenile Dependency cases per attorney; or

250 Civil Commitment cases per attorney per year; or

1 Active Death Penalty trial court case at a time plus a limited number of non-death- penalty cases compatible with the time demand of the death penalty case and consistent with the professional requirements of Standard 3.2; or

36 Appeals to an appellate court hearing a case on the record and briefs per attorney per year. (The 36 standard assumes experienced appellate attorneys handling cases with transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the average transcript length is greater than 350 pages, the caseload should be accordingly reduced.)

Full time Rule 9 interns who have not graduated from law school may not have caseloads that exceed twenty-five percent (25%) of the caseload limits established for full-time attorneys.

In public defense systems in which attorneys are assigned to represent groups of clients at first appearance or arraignment calendars without an expectation of further or continuing representation for cases that are not resolved at the time (except by dismissal) in addition to individual case assignments, the attorneys' maximum caseloads should be reduced proportionally recognizing that preparing for and appearing at such calendars requires additional attorney time. This provision applies both to systems that employ case weighting and those that do not.

Resolutions of cases by pleas of guilty to criminal charges on a first appearance or arraignment docket are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients, and must be counted as one case. This provision applies both to systems that employ case weighting and those that do not.

In public defense systems in which attorneys are assigned to represent groups of clients in routine review hearing calendars in which there is no potential for the imposition of sanctions, the attorneys' maximum caseloads should be reduced proportionally by the amount of time they spend preparing for and appearing at such calendars. This provision applies whether or not the public defense system uses case weighting.

STANDARD FOUR: Responsibility for Expert Witnesses

Reasonable compensation for expert witness (es) necessary to prepare and present the defense of the case shall be provided. Expert witness fees should be maintained and allocated from funds separate from those provided for defender services.

Requests for

expert witness fees should be made through an ex parte motion. The defense should be free to retain the expert of its choosing and in no cases should be forced to select experts from a list pre-approved by either the court or the prosecution.

STANDARD FIVE: Administrative Expenses

Contracts for public defense services should provide for or include administrative costs associated with providing legal representation. These costs should include but are not limited to travel; telephones; law library, including electronic legal research; financial accounting; case management systems; computers and software; office space and supplies; training; meeting the reporting requirements imposed by these standards; and other costs necessarily incurred in the day-to-day management of the contract.

Public defense attorneys shall have (1) access to an office that accommodates confidential meetings with clients and (2) a postal address, and adequate telephone services to ensure prompt response to client contact.

STANDARD SIX: Investigators

Public defense attorneys shall use investigation services as appropriate

Public defender offices, assigned counsel, and private law firms holding public defense contracts should employ investigators with investigation training and experience. A minimum of one investigator should be employed for every four attorneys.

STANDARD SEVEN: Support Services

The defense attorney or office shall provide secretaries, paralegals, and other support services which are adequate for an effective defense.

Public defense attorneys shall have adequate numbers of investigators, secretaries, word processing staff, paralegals, social work staff, mental health professionals and other support services, including computer system staff and network administrators. These professionals are essential to ensure the effective performance of defense counsel during trial preparation, in the preparation of dispositional plans, and at sentencing.

Legal Assistants - At least one full-time legal assistant should be employed for every four attorneys. Fewer legal assistants may be necessary, however, if the agency or attorney has access to word processing staff, or other additional staff performing clerical work. Defenders should have a combination of technology and personnel that will meet their needs.

Social Work Staff - Social work staff should be available to assist in developing release, treatment, and dispositional alternatives.

Mental Health Professionals - Each agency or attorney should have access to mental health professionals to perform mental health evaluations.

Investigation staff should be available as provided in Standard Six at a ratio of one investigator for every four attorneys.

Each agency or attorney providing public defense services should have access to adequate and competent interpreters to facilitate communication with non-English speaking and hearing-impaired clients for attorneys, investigators, social workers, and administrative staff.

STANDARD EIGHT: Reports of Attorney Activity and Vouchers

The defense attorney or office shall maintain a case-reporting and management information system which includes number and type of cases, attorney hours and disposition. This information shall be provided regularly to the City and shall also be made available to the Office of the Administrator of the Courts. Any such system shall be maintained independently from client files so as to disclose no privileged information.

A standardized voucher form shall be used by assigned counsel attorneys seeking payment upon completion of a case. For attorneys under contract, payment shall be made monthly or at times agreed to by the parties without regard to the number of cases closed in the period.

STANDARD NINE: Training

Attorneys providing public defense services shall participate in regular training programs on criminal defense law, including a minimum of twenty-one hours of continuing legal education every three years in areas relating to their public defense practice. All attorneys should be required to attend regular in-house training programs on developments in criminal law, criminal procedure and the forensic sciences.

Attorneys in civil commitment and dependency practices should attend training programs in these areas. Offices should also develop manuals to inform new attorneys of the rules and procedures of the courts within their jurisdiction.

Every attorney providing counsel to indigent accused should have the opportunity to attend courses that foster trial advocacy skills and to review professional publications and tapes.

STANDARD TEN: Monitoring and Evaluation of Attorneys

The legal representation plan for provision of public defense services should establish a procedure for systematic monitoring and evaluation of attorney performance based upon publicized criteria. Supervision and evaluation efforts should include review of time and caseload records, review and inspection of transcripts, in-court observations, and periodic conferences.

Performance evaluations made by a supervising attorney should be supplemented by comments from judges, prosecutors, other defense lawyers and clients.

Attorneys

should be evaluated on their skill and effectiveness as criminal lawyers or as dependency or civil commitment advocates.

Sub-standard performance by attorneys providing public defense services may be subject to monitoring, evaluation and reporting by the City Manager or designee.

STANDARD ELEVEN: Substitution of Counsel

The attorney engaged by local government to provide public defense services should not sub-contract with another firm or attorney to provide representation and should remain directly involved in the provision of representation. If the contract is with a firm or office, the contracting authority should request the names and experience levels of those attorneys who will actually be providing the services, to ensure they meet minimum qualifications. The employment agreement shall address the procedures for continuing representation of clients upon the conclusion of the agreement. Alternate or conflict counsel should be available for substitution in conflict situations at no cost to the counsel declaring the conflict.

STANDARD TWELVE: Limitations on Private Practice of Contract Attorneys

Private attorneys who provide public defense representation shall set limits on the amount of privately retained work which can be accepted. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent.

STANDARD THIRTEEN: Qualifications of Attorneys

In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services shall meet the following minimum professional qualifications:

- A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and
- B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and
- C. Be familiar with the Washington Rules of Professional Conduct; and
- D. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association; and
- E. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and
- F. Be familiar with mental health issues and be able to identify the need to obtain expert services; and
- G. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

STANDARD FOURTEEN: Disposition of Client Complaints

Each agency or firm or individual contract attorney providing public defense services shall have a method to respond promptly to client complaints. Complaints should first

be directed to the attorney, firm or agency which provided representation. If the client feels that he or she has not received an adequate response, the contracting authority or public defense administrator should designate a person or agency to evaluate the legitimacy of complaints and to follow up meritorious ones. The complaining client should be informed as to the disposition of his or her complaint within one week.

STANDARD FIFTEEN: Cause for Termination or Removal of Attorney

Contracts for indigent defense services shall include the grounds for termination of the contract by the parties. Termination of a provider's contract should only be for good cause. Termination for good cause shall include the failure of the attorney to render adequate representation to clients; the willful disregard of the rights and best interests of the client; and the willful disregard of the standards herein addressed.

Removal by the court of counsel from representation normally should not occur over the objection of the attorney and the client.

STANDARD SIXTEEN: Non-Discrimination

Neither the City, in its selection of an attorney, firm or agency to provide public defense representation, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation or handicap. Both the City and the contractor shall comply with all federal, state, and local non-discrimination requirements.

STANDARD SEVENTEEN: Guidelines for Awarding Defense Contracts

The city should award contracts for public defense services only after determining that the attorney or firm chosen can meet accepted professional standards. Under no circumstances should a contract be awarded on the basis of cost alone. Attorneys or firms bidding for contracts must demonstrate their ability to meet these standards.

Contracts should only be awarded to a) attorneys who have at least one year's criminal trial experience in the jurisdiction covered by the contract (i.e., City and District Courts, Superior Court or Juvenile Court), or b) to a firm where at least one attorney has one year's trial experience.

City attorneys, county prosecutors, and law enforcement officers shall not select the attorneys who will provide indigent defense services.

ATTACHMENT C

CONTRACT FOR PUBLIC DEFENDER - HOURLY FEE CITY OF WALLA WALLA

WHEREAS, the City of Walla Walla, Washington (hereinafter "City") provides public defense services pursuant to contract with attorneys practicing as _____ (herein the "Public Defender"), and

WHEREAS, a decision by the Federal Court for the Western District of Washington, the Honorable Robert Lasnik, in a case styled *Wilbur v. Mt. Vernon* (hereinafter the "Decision") emphasizes the need for the City to provide indigent defense services to misdemeanor clients in municipal and district courts in a manner which fully complies with the City's obligations under the Sixth Amendment to the United States Constitution, and

WHEREAS, the Washington Supreme Court has adopted standards regarding the caseload of Public Defenders and the Washington State Office of Public Defense has provided guidance regarding case weighting system, and

WHEREAS, the City has conducted an evaluation of its public defense system, including the court system and appointment process, and

WHEREAS, the City desires to amend its contract to bring it into compliance with the guidance of the Decision, Supreme Court Standards and the standards for the provision of indigent defense services adopted by the City in Resolution/Ordinance No. 2015-112. NOW THEREFORE,

In consideration of the mutual benefits to be derived and the promises contained herein, the City of Walla Walla, Washington, a municipal corporation ("City") and the individual Public Defender(s) services under this contract (the "Public Defender") have entered into this Agreement.

Scope of Services. Standards and Warranties. The Public Defender will provide indigent defense services in misdemeanor cases in accordance with the standards adopted by the City in Ordinance/Resolution Res 2015-112 as the same exists or is hereafter amended (hereinafter "Standards") and the Decision. The Public Defender individually warrants that he/she, and every Public Defender and/or intern employed by the Public Defender to perform services under this contract ("attorney service provider"), has read and is fully familiar with the provisions of the Standards adopted by the City and the Decision. Compliance with these Standards and the Decision goes to the essence of this Agreement.

I, The Public Defender, and every attorney and/or intern performing services under this Agreement shall certify compliance with Supreme Court Rule and governing case load quarterly with the Walla Walla District Court (hereinafter "Municipal Court") on the form established for that purpose by court rule. A copy of each and every such certification shall be provided to the City contemporaneously with filing. The Public Defender and every attorney and/or intern performing services under this agreement warrants that he/she shall conform to the case load limitations not only with respect to services under

this Agreement but also with respect to his/her practice as a whole, including other contracts for public defense and/or private practice.

Public Defender will maintain contemporaneous records on a daily basis documenting all work performed on a 1/10th of an hour basis on each assigned case. Public Defender will maintain and provide to the City a quarterly report detailing:

- the number of cases assigned during the period and the time spent on each case;

- the disposition of cases assigned indicating the number of cases dismissed, the number of cases in which charges were reduced, the number of cases tried, and the number of cases disposed of by plea;

- the number of cases in which a motion was brought with the Court as well as cases in which a motion was filed with the prosecutor and a reduced sentence or dismissal was negotiated;

- the number of cases in which an investigator was utilized;

- the number of cases which were set for trial including cases in which the defendant failed to appear;

- the number and type of criminal cases handled outside of this contract (including cases assigned by another public entity); and

- the percentage of the Public Defender's practice spent on civil or other non-criminal matters.

The Public Defender further warrants that his/her proposal, reflected in Section 2, Compensation, reflects all infrastructure, support, administrative services, routine investigation, and systems necessary to comply with the Decision and Standards except as provided in Section 2.4 below.

In addition to the detailed time reports referenced in Section 1.2 and its subsections, the Public Defender shall provide quarterly reports to the City regarding the training provided to each attorney/service provider and the time spent by the Public Defender supervising each attorney/service provider. Supervision shall be provided in accord with standards by a supervisor without a workload or with an appropriately reduced workload.

The Public Defender promises that he/she will promptly notify the City if any circumstance, including change in rule or law, renders it difficult or impossible to provide service in compliance with the Decision and/or the Standards.

Compensation. Effective upon execution, the City shall pay to the Public Defender for services rendered under this Contract the sum of (\$449) per hour for the assigned cases.

The compensation amount represents the consideration adequate supplemented in Section 2.4 below to provide all required infrastructure, support, and systems necessary to comply with the Standards and Decision including by way of illustration

and not limitation, training, investigation, translation, and mental and physical evaluation services. The parties believe that they have provided sufficient capacity to ensure that, in all respects and at all times, public defense service will comply with the Standards and Decision with an adequate reserve capacity for each attorney. The Public Defender agrees and promises that he/she will devote his/her full effort to the performance of this agreement and will undertake no private practice of law or other public contract that would impede his/her ability to perform under this agreement or reduce the case count available to each Attorney below the level necessary to comply with case load standards.

Case Counts. Based upon case counts maintained by Public Defender and reviewed by the City, current estimate of annual case counts for all indigent cases filed by the City is approximately 850 cases per year. As provided in the Standards, the case counts also include the Public Defender's appearance at all arraignment calendars. The terms "case" and "credit" shall be defined in accordance with the Washington State Supreme Court rule and Washington Office of Public Defense guidelines. The City has adopted an unweighted case count.

Adjustment; Internal Allocation. As provided in the Standards, case counts may be revised upwards based upon a variety of factors. Upon the Public Defender's request, the City shall review any particular case with the Public Defender to determine whether greater weighting should be assigned, and upward revisions shall not be unreasonably refused. The annual caseload shall be reviewed annually on or about June 30th each year.

Base Compensation. Except as expressly provided in Section 2.4, the cost of all infrastructure, administrative, support and systems as well as standard overhead services necessary to comply with the established standards are included in the base payment provided in Section 2.1 above.

Payments in Addition to the Base Compensation. The City shall pay for the following case expenses when reasonably incurred and approved by the Court from funds available for that purpose:

Discovery. Discovery shall be provided in accordance with law and court rule by the City Prosecutor. For post-conviction relief cases, discovery includes the cost to obtain a copy of the defense, prosecuting attorneys making any charge or court files pertaining to the underlying case.

Preauthorized Non-Routine Expenses. Non-routine case expenses requested by the Public Defender and preauthorized by order of the Court. Unless the services are performed by Public Defender's staff or subcontractors, non-routine expenses include, but are not limited to:

- investigation expenses;
- medical and psychiatric evaluations;
- expert witness fees and expenses;
- interpreters;
- polygraph, forensic and other scientific tests;
- unusually extensive computerized legal research;

- any other non-routine expenses the Court finds necessary and proper for the investigation, preparation, and presentation of a case. In the event any expense is found by the Court to be outside of its authority to approve, the Public Defender may apply to the Contract Administrator for approval, such approval not to be unreasonably withheld.

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

Copying Clients' Files. The cost, if it exceeds \$25, of providing one copy of a client's or former client's case file upon client's or client's appellate, post-conviction relief or habeas corpus attorney's request, or at the request of counsel appointed to represent the client when the client has been granted a new trial;

Copying Direct Appeal Transcripts Supreme Court Rules for Administration of Courts of Limited Jurisdiction RALJ Appeals. The cost, if it exceeds \$25, of making copies of direct appeal transcripts for representation in post-conviction relief cases. Public Defender is limited to no more than two copies;

Records. To the extent such materials are not provided through discovery, medical, school, birth, DMV, and other similar records, and 911 and emergency communication recordings and logs, when the cost of an individual item does not exceed \$75; and

Process Service. The normal, reasonable cost for the service of a subpoena.

Review and Renegotiation Due to Increases or Decreases in Case Load. The City and the Public Defender shall, at the option of either party, renegotiate this contract if there is a significant increase or decrease in the number of cases assigned. Significant "decrease" shall mean a change of more than ten percent (10%) in the number of cases assigned. If cases are estimated to approach **TBD** or exceed **TBD** cases per year or **TBD** cases per quarter, the parties may renegotiate this contract to adjust case coverage and compensation to Public Defender. At the request of either party, the City and Public Defender will periodically review case assignment trends, requests for additional credits and any other matters needed to determine contract compliance or necessary contract modifications. Public Defender shall promptly notify the City when quarterly caseloads can reasonably be anticipated to require use of overflow or conflict counsel to assure that cases assigned to Public Defender remain within the limits adopted in this contract and comply with state and local standards.

Renegotiation Due to Change in Rule or Standard. This contract may be renegotiated at the option of either party if the Washington State Supreme Court, the Washington State Bar or the City significantly modifies the Standards for Indigent Defense adopted pursuant to the Court rule or City Ordinance/Resolution.

Term. The term of this agreement shall be from the date of execution for a three-year initial term through December 31, 2021, unless sooner terminated as provided herein.

For Cause. This agreement may be terminated for good cause for violation of any material term of this agreement. "Material term" shall include any violation indicating a failure to provide representation in accordance with the rules of court, the ethical obligations established by the Washington State Bar Association, the willful disregard of the rights and best interests of the client, a willful violation of the Standards or the Decision, the provisions of Section 6 relating to insurance, conviction of a criminal charge, and/or a finding that the license of the Attorney or any Conflict Counsel providing service under this agreement, has been suspended or revoked. Any violation of the other provisions of this Contract shall be subject to cure. Written notice of contract violation shall be provided to the Conflict Counsel who shall have thirty (30) business days to cure the violation. Failure to correct the violation will give rise to termination for cause at the City's discretion. In lieu of terminating this contract, the City may agree in writing to alternative corrective measures.

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

Obligations Survive Termination. In the event of termination of this agreement, the following obligations shall survive and continue:

Representation. The compensation established in this agreement compensates Public Defender on an hourly basis for services relating to each and every assigned case. Therefore, in the event this agreement is terminated, the Public Defender will continue to represent clients on assigned cases until either:

For those matters set for trial within sixty (60) calendar days of the final contract date, through trial or the failure of the defendant to appear (FTA) for trial, or

For all other matters, for a period of thirty (30) days, provided, however, that if the defendant fails to appear (FTA) for a court appearance, the Public Defender may withdraw following the FTA.

The provisions of sections 1 and 5, as well as this subsection 3.4 survive termination as to the Public Defender. The City shall remain bound by the provisions of Sections 2 and 2.4 with respect to additional fees and costs incurred with respect to cases concluded after the termination of this contract.

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

Indemnification. The Public Defender agrees to hold harmless and indemnify the City, its officers, officials, agents, employees, and representatives from and against any and all claims, costs, judgments, losses, or suits including Public Defender's fees or awards, and including claims by Public Defender's own employees to which

Public Defender might otherwise be immune under Title 51 arising out of or in connection with any willful misconduct or negligent error, or omission of the Public Defender, his/her officers or agents.

It is specifically and expressly understood that the indemnification provided herein constitutes the waiver of the Public Defender's waiver of immunity under Title 51 RCW solely for the purposes of this indemnification. The parties have mutually negotiated this waiver.

The City agrees to hold harmless and indemnify the Public Defender, his/her officers, officials, agents, employees and representatives from and against any and all claims, costs, judgments, losses, or suits including Public Defender's fees or awards, arising out of or in connection with any willful misconduct or negligent error or omission of the City, its officers or agents.

This clause shall survive the termination or expiration of this agreement and shall continue to be in effect for any claims or causes of action arising hereunder.

Insurance. The Public Defender shall procure and maintain for the duration of this agreement insurance against claims for injuries to persons or property which may arise from or in connection with the performance of work hereunder by the Public Defender, or the agents, representatives, employees, or subcontractors of the Public Defender.

Minimum Scope of Insurance. The Public Defender shall obtain insurance of the types described below, naming the City as an additional named insured:

General Liability with a minimum limit of liability of \$1,000,000 combined single limit each occurrence bodily injury and property damage.

Automobile Liability covering owned and non-owned vehicles with a minimum limit of liability of \$1,000,000 combined single limit each occurrence bodily injury and property damage.

Professional Liability (Errors and Omissions) for Public Defender with a minimum limit of liability of \$1,000,000 each claim.

Workers' Compensation per statutory requirements of Washington industrial insurance RCW Title 51.

Verification of Coverage. Public Defender shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Service Provider before commencement of the work. Policies shall provide thirty (30) days written notice of cancellation to the City. The Public Defender shall provide the City with proof of insurance for "tail coverage" no later than December 31 of the year of termination of the Contract. The purpose of "tail coverage" is to provide insurance coverage for all claims that might arise from occurrences during the term of the Contract or extension(s) thereof, but not filed during the term of the Contract.

Work Performed by Public Defender. In addition to compliance with the Standards, in the performance of work under this Agreement, Public Defender shall comply with all federal, state and municipal laws, ordinances, rules and regulations which are

applicable to Public Defender's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

Work Performed at Public Defender's Risk. Public Defender shall be responsible for the safety of its employees, agents, and subcontractors in the performance of work hereunder, and shall take all protections reasonably necessary for that purpose. All work shall be done at the Attorney's own risk, and the Public Defender shall be responsible for any loss or damage to materials, tools, or other articles used or held in connection with the work. Public Defender shall also pay its employees all wages, salaries and benefits required by law and provide for taxes, withholding and all other employment related charges, taxes or fees in accordance with law and IRS regulations.

Personal Services, no Subcontracting. This Agreement has been entered into in consideration of the Public Defender's particular skills, qualifications, experience, and ability to meet the Standards incorporated in this Agreement. Therefore, the Public Defender has personally signed this Agreement below to indicate that he/she is bound by its terms. This Agreement shall not be subcontracted without the express written consent of the City and refusal to subcontract may be withheld at the City's sole discretion. Any assignment of this Agreement by the Public Defender without the express written consent of the City shall be void.

Modification. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representatives of the City and the Public Defender. An additional attorney may be added to this Agreement by adding his or her signature to these agreements.

Entire Agreement; Prior Agreement Superseded. The written provisions in terms of this Agreement, together with any exhibit attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statement(s) shall not be effective or construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement. Upon execution, this Agreement shall supersede any and all prior agreements between the parties.

Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in the Agreement or such other address as may be hereinafter specified in writing:

CONTRACT ADMINISTRATOR
Byron Olson
Deputy City Manager 15 North 3rd Avenue
Walla Walla, WA 99362
Email: bolson@wallawallawa.gov
Phone: 509-524-4345

Nonwaiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of such covenants agreements, or options and the same shall be and remain in full force and effect.

Resolutions of Disputes, Governing Law. Should any dispute, misunderstanding or conflict arise as to the terms or conditions contained in this Agreement, the matter shall be referred to the Contract Administrator, whose decision shall be final. Provided, however, that any complaint regarding any violation of the Standards or which relate to any manner whatsoever to trial strategy or an ongoing case, shall be referred to the Judge of the City's Municipal/District Court or to the Washington State Bar Association as appropriate. Nothing herein shall be construed to obligate, require or permit the City, its officers, agents, or employees to inquire into any privileged communication between the Public Defender and any indigent defendant. In the event of any litigation arising out of this Agreement, the prevailing party shall be reimbursed for reasonable Public Defender's fees from the other party. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington and the rules of the Washington Supreme Court as applicable. Venue for an action arising out of this Agreement shall be in Snohomish County Superior Court.

IN WITNESS WHEREOF, the parties have executed this Agreement on the ___ day of _____, 20__

CITY OF WALLA WALLA

By: _____
Nabiel Shawa, City Manager

By _____
PUBLIC DEFENDER

ATTEST/AUTHENTICATED:

By _____
City Clerk, Kammy Hill

APPROVED AS TO FORM: OFFICE OF CITY ATTORNEY

By: _____
Timothy Donaldson, City Attorney

EXHIBIT A

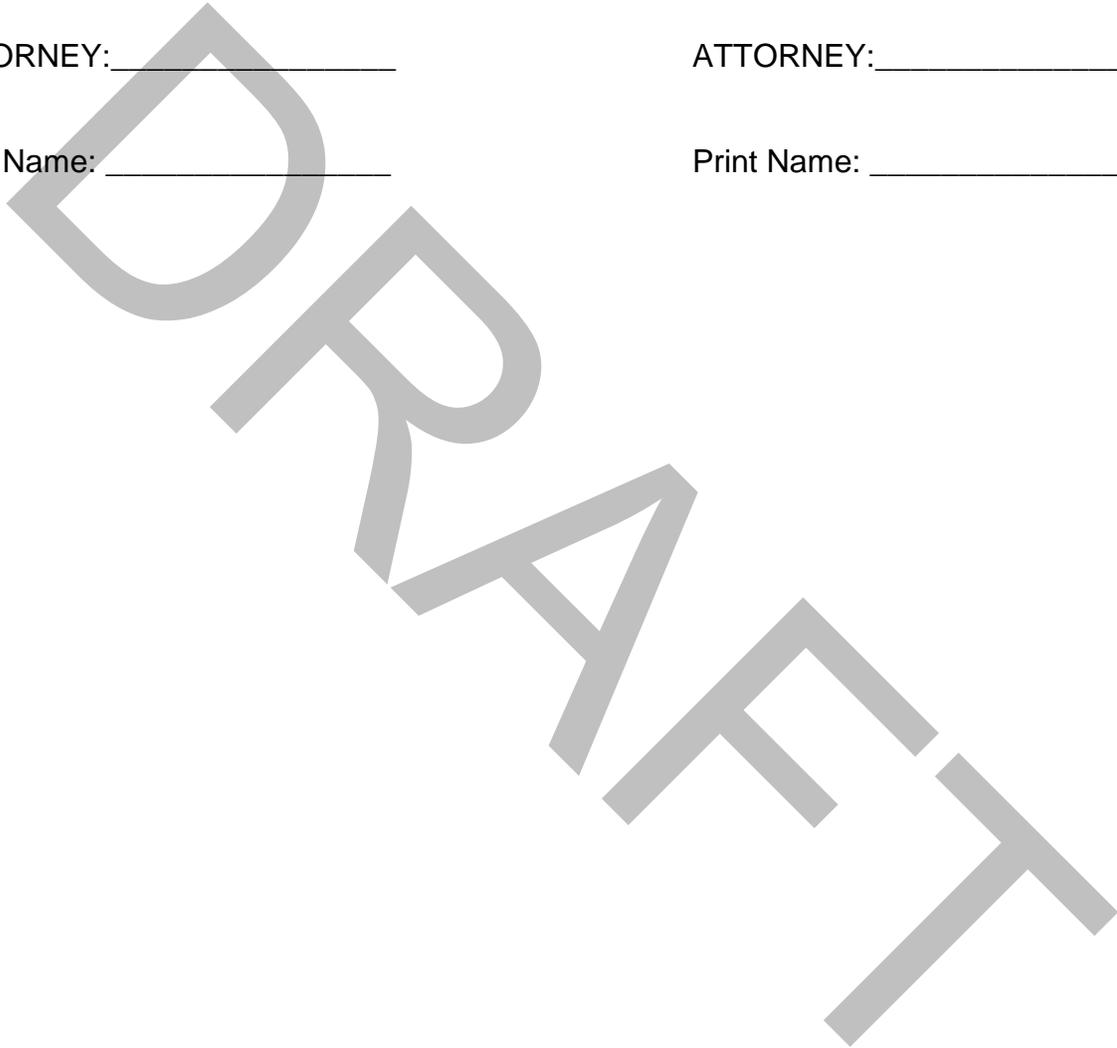
The undersigned Attorneys hereby personally warrants and certifies that as a condition of their performance of this Agreement on behalf of the Public Defender, they will commit to providing the services under this Agreement in accordance with the Standards set forth in sections 1, 4, and 7, and that the Attorney's personal warranty of that performance shall survive the Agreement in accordance with subsection 3.4 of this Agreement.

ATTORNEY: _____

ATTORNEY: _____

Print Name: _____

Print Name: _____



**ATTACHMENT D
CONTRACT FOR PUBLIC DEFENDER- CASE FEE CITY OF WALLA WALLA**

WHEREAS, the City of Walla Walla, Washington (hereinafter "City") provides public defense services pursuant to contract with attorneys practicing as _____ (herein the "Public Defender"), and

WHEREAS, a decision by the Federal Court for the Western District of Washington, the Honorable Robert Lasnik, in a case styled *Wilbur v. Mt. Vernon* (hereinafter the "Decision") emphasizes the need for the City to provide indigent defense services to misdemeanor clients in municipal and district courts in a manner which fully complies with the City's obligations under the Sixth Amendment to the United States Constitution, and

WHEREAS, the Washington Supreme Court has adopted standards regarding the caseload of Public Defenders and the Washington State Office of Public Defense has provided guidance regarding case weighting system and

WHEREAS, the City has conducted an evaluation of its public defense system, including the court system and appointment process, and

WHEREAS, the City desires to amend its contract to bring it into compliance with the guidance of the Decision, Supreme Court Standards and the standards for the provision of indigent defense services adopted by the City in Resolution/Ordinance No. 2015-112. NOW THEREFORE,

In consideration of the mutual benefits to be derived and the promises contained herein, the City of Walla Walla, Washington a municipal corporation ("City") and the individual Public Defender(s) services under this contract (the "Public Defender") have entered into this agreement.

Scope of Services, Standards and Warranties. The Public Defender will provide indigent defense services in misdemeanor in accordance with the standards adopted by the City in Ordinance/Resolution No 2015-112 as the same exists or is hereafter amended (hereinafter "Standards") and the Decision. The Public Defender individually warrants that he/she, and every Public Defender and/or intern employed by the Public Defender to perform services under this contract ("attorney service provider"), has read and is fully familiar with the provisions of the Standards adopted by the City and the Decision. Compliance with these Standards and the Decision goes to the essence of this Agreement.

The Public Defender, and every attorney and/or intern performing services under this Agreement shall certify compliance with Supreme Court Rule and governing case load quarterly with the Walla Walla District Court (hereinafter "Municipal Court") on the form established for that purpose by court rule. A copy of each and every such certification shall be provided to the City contemporaneously with filing. The Public Defender and every attorney and/or intern performing services under this agreement warrants that he/she shall conform to the case load limitations not only with respect to

services under this Agreement but also with respect to his/her practice as a whole, including other contracts for public defense and/or private practice.

Public Defender will maintain contemporaneous records on a daily basis documenting all work performed on a 1/10th of an hour basis on each assigned case. Public Defender will maintain and provide to the City a quarterly report detailing:

- the number of cases assigned during the period and the time spent on each case;
- the disposition of cases assigned indicating the number of cases dismissed, the number of cases in which charges were reduced, the number of cases tried, and the number of cases disposed of by plea;
- the number of cases in which a motion was brought with the Court as well as cases in which a motion was filed with the prosecutor and a reduced sentence or dismissal was negotiated;
- the number of cases in which an investigator was utilized;
- the number of cases which were set for trial including cases in which the defendant failed to appear;
- the number and type of criminal cases handled outside of this contract (including cases assigned by another public entity); and
- the percentage of the Public Defender's practice spent on civil or other non-criminal matters.

The Public Defender further warrants that his/her proposal, reflected in Section 2, Compensation, reflects all infrastructure, support, administrative services, routine investigation, and systems necessary to comply with the Decision and Standards except as provided in Section 2.4 below.

In addition to the detailed time reports referenced in Section 1.2 and its subsections, the Public Defender shall provide quarterly reports to the City regarding the training provided to each attorney/service provider and the time spent by the Public Defender supervising each attorney/service provider. Supervision shall be provided in accord with standards by a supervisor without a workload or with an appropriately reduced workload.

The Public Defender promises that he/she will promptly notify the City if any circumstance, including change in rule or law, renders it difficult or impossible to provide service in compliance with the Decision and/or the Standards. Compensation. Effective upon execution, the City shall pay to the Public Defender for services rendered under this Contract the sum of \$449 per case for the assigned cases.

The compensation amount represents the consideration adequate supplemented in Section 2.4 below to provide all required infrastructure, support, and systems necessary to comply with the Standards and Decision including by way of illustration and not limitation, training, investigation, translation, and mental and physical evaluation services. The parties believe that they have provided sufficient capacity to ensure that, in all respects and at all times, public defense service will comply with the Standards

and Decision with an adequate reserve capacity for each attorney. The Public Defender agrees and promises that he/she will devote his/her full effort to the performance of this agreement and will undertake no private practice of law or other public contract that would impede his/her ability to perform under this agreement or reduce the case count available to each Attorney below the level necessary to comply with case load standards.

Case Counts. Based upon case counts maintained by Public Defender and reviewed by the City, current estimate of annual case counts for all indigent cases filed by the City is approximately 850 cases per year. As provided in the Standards, the case counts also include the Public Defender's appearance at all arraignment calendars. The terms "case" and "credit" shall be defined in accordance with the Washington State Supreme Court rule and Washington Office of Public Defense guidelines. The City has adopted an unweighted case count.

Adjustment; Internal Allocation. As provided in the Standards, case counts may be revised upwards based upon a variety of factors. Upon the Public Defender's request, the City shall review any particular case with the Public Defender to determine whether greater weighting should be assigned, and upward revisions shall not be unreasonably refused. The annual caseload shall be reviewed annually on or about June 30th each year.

Base Compensation. Except as expressly provided in Section 2.4, the cost of all infrastructure, administrative, support and systems as well as standard overhead services necessary to comply with the established standards are included in the base payment provided in Section 2.1 above.

Payments in Addition to the Base Compensation. The City shall pay for the following case expenses when reasonably incurred and approved by the Com1 from funds available for that purpose:

Discovery. Discovery shall be provided in accordance with law and court rule by the City Prosecutor. For post-conviction relief cases, discovery includes the cost to obtain a copy of the defense, prosecuting attorneys making any charge or court files pertaining to the underlying case.

Preauthorized Non-Routine Expenses. Non-routine case expenses requested by the Public Defender and preauthorized by order of the Court. Unless the services are performed by Public Defender's staff or subcontractors, non-routine expenses include, but are not limited to:

- investigation expenses;
- medical and psychiatric evaluations;
- expert witness fees and expenses;
- interpreters;
- polygraph, forensic and other scientific tests;
- unusually extensive computerized legal research;
- any other non-routine expenses the Court finds necessary and proper for the investigation preparation, and presentation of a case. In the event any expense is found by the Court to be outside of its authority to approve, the Public Defender

may apply to the Contract Administrator for approval, such approval not to be unreasonably withheld.

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

Copying Clients' Files. The cost, if it exceeds \$25, of providing one copy of a client's or former client's case file upon client's or client's appellate, post-conviction relief or habeas corpus attorney's request, or at the request of counsel appointed to represent the client when the client has been granted a new trial;

Copying Direct Appeal Transcripts Supreme Court Rules for the Administration of Courts of Limited Jurisdiction RALJ Appeals. The cost, if it exceeds \$25, of making copies of direct appeal transcripts for representation in post-conviction relief cases. Public Defender is limited to no more than two copies;

Records. To the extent such materials are not provided through discovery, medical, school, birth, DMV, and other similar records, and 911 and emergency communication recordings and Jogs, when the cost of an individual item does not exceed \$75; and

Process Service. The normal reasonable cost for the service of a subpoena.

Review and Renegotiation.

Due to Increases or Decreases in Case Load. The City and the Public Defender shall, at the option of either party, renegotiate this contract if there is a significant increase or decrease in the number of cases assigned. Significant "decrease" shall mean a change of more than ten percent (10%) in the number of cases assigned. If cases are estimated to approach or exceed TBD cases per year or TBD cases per quarter, the parties may renegotiate this contract to adjust case coverage and compensation to Public Defender. At the request of either party, the City and Public Defender will periodically review case assignment trends, requests for additional credits and any other matters needed to determine contract compliance or necessary contract modifications. Public Defender shall promptly notify the City when quarterly caseloads can reasonably be anticipated to require use of overflow or conflict counsel to assure that cases assigned to Public Defender remain within the limits adopted in this contract and comply with state and local standards.

Renegotiation Due to Change in Rule or Standard. This contract may be renegotiated at the option of either party if the Washington State Supreme Court, the Washington State Bar or the City significantly modifies the Standards for Indigent Defense adopted pursuant to the Court rule or City Ordinance/Resolution.

Term. The term of this agreement shall be from the date of execution for a three-year initial term through December 31, 2021, unless sooner terminated as provided herein.

For Cause. This agreement may be terminated for good cause for violation of any material term of this agreement. "Material term" shall include any violation indicating a failure to provide representation in accordance with the rules of court, the ethical obligations established by the Washington State Bar Association, the willful disregard of the rights and best interests of the client, a willful violation of the Standards or the Decision, the provisions of Section 6 relating to insurance, conviction of a criminal charge, and/or a finding that the license of the Attorney or any Conflict Counsel providing service under this agreement, has been suspended or revoked. Any violation of the other provisions of this Contract shall be subject to cure. Written notice of contract violation shall be provided to the Conflict Counsel who shall have thirty (30) business days to cure the violation. Failure to correct the violation will give rise to termination for cause at the City's discretion. In lieu of terminating this contract, the City may agree in writing to alternative corrective measures.

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

Obligations survive Termination. In the event of termination of this agreement, the following obligations shall survive and continue:

Representation. The compensation established in this agreement compensates Public Defender on an hourly basis for services relating to each and every assigned case. Therefore, in the event this agreement is terminated, the Public Defender will continue to represent clients on assigned cases until either:

For those matters set for trial within sixty (60) calendar days of the final contract date, through trial or the failure of the defendant to appear (FTA) for trial, or

For all other matters, for a period of thirty (30) days, provided, however, that if the defendant fails to appear (FTA) for a court appearance, the Public Defender may withdraw following the FTA.

The provisions of sections 1 and 5, as well as this subsection 3.4 survive termination as to the Public Defender. The City shall remain bound by the provisions of Sections 2 and 2.4 with respect to additional fees and costs incurred with respect to cases concluded after the termination of this contract.

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

Indemnification. The Public Defender agrees to hold harmless and indemnify the City, its officers, officials agents, employees, and representatives from and against any and all claims, costs, judgments, losses, or suits including Public Defender's fees or awards, and including claims by Public Defender's own employees to which

Public Defender might otherwise be immune under Title 51 arising out of or in connection with any willful misconduct or negligent error, or omission of the Public Defender his/her officers or agents.

It is specifically and expressly understood that the indemnification provided herein constitutes the waiver of the Public Defender's waiver of immunity under Title 51 RCW solely for the purposes of this indemnification. The parties have mutually negotiated this waiver.

The City agrees to hold harmless and indemnify the Public Defender, his/her officers, officials, agents, employees, and representatives from and against any and all claims, costs, judgments, losses, or suits including Public Defender's fees or awards, arising out of or in connection with any willful misconduct or negligent error or omission of the City, its officers or agents.

This clause shall survive the termination or expiration of this agreement and shall continue to be in effect for any claims or causes of action arising hereunder.

Insurance. The Public Defender shall procure and maintain for the duration of this agreement insurance against claims for injuries to persons or property which may arise from or in connection with the performance of work hereunder by the Public Defender, or the agents, representatives, employees, or subcontractors of the Public Defender.

Minimum Scope of Insurance. The Public Defender shall obtain insurance of the types described below, naming the City as an additional named insured:

General Liability with a minimum limit of liability of \$1,000,000 combined single limit each occurrence bodily injury and property damage.

Automobile Liability covering owned and non-owned vehicles with a minimum limit of liability of \$1,000,000 combined single limit each occurrence bodily injury and property damage.

Professional Liability (Errors and Omissions) for Public Defender with a minimum limit of liability of \$1,000,000 each claim.

Workers' Compensation per statutory requirements of Washington industrial insurance RCW Title 51.

Verification of Coverage. Public Defender shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Service Provider before commencement of the work. Policies shall provide thirty (30) days written notice of cancellation to the City. The Public Defender shall provide the City with proof of insurance for "tail coverage" no later than December 31 of the year of termination of the Contract. The purpose of "tail coverage" is to provide insurance coverage for all claims that might arise from occurrences during the term of the Contract or extension(s) thereof, but not filed during the term of the Contract.

Work Performed by Public Defender. In addition to compliance with the Standards, in the performance of work under this Agreement, Public Defender shall comply with all federal, state and municipal laws, ordinances rules and regulations which are applicable to Public Defender's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

Work Performed at Public Defender's Risk. Public Defender shall be responsible for the safety of its employees, agents, and subcontractors in the performance of work hereunder, and shall take all protections reasonably necessary for that purpose. All work shall be done at the Attorney's own risk, and the Public Defender shall be responsible for any loss or damage to materials, tools, or other articles used or held in connection with the work. Public Defender shall also pay its employees all wages, salaries and benefits required by law and provide for taxes, withholding and all other employment related charges, taxes or fees in accordance with law and IRS regulations.

Personal Services, no Subcontracting. This Agreement has been entered into in consideration of the Public Defender's particular skills, qualifications, experience, and ability to meet the Standards incorporated in this Agreement. Therefore, the Public Defender has personally signed this Agreement below to indicate that he/she is bound by its terms. This Agreement shall not be subcontracted without the express written consent of the City and refusal to subcontract may be withheld at the City's sole discretion. Any assignment of this Agreement by the Public Defender without the express written consent of the City shall be void.

Modification. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representatives of the City and the Public Defender. An additional attorney may be added to this Agreement by adding his or her signature to these agreements.

Entire Agreement; Prior Agreement Superseded. The written provisions in terms of this Agreement, together with any exhibit attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statement(s) shall not be effective or construed as entering into or forming a pair of, or altering in any manner whatsoever, this Agreement. Upon execution, this Agreement shall supersede any and all prior agreements between the parties.

Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in the Agreement or such other address as may be hereinafter specified in writing:

CONTRACT ADMINISTRATOR
Byron Olson
Deputy City Manager 15 North 3rd Avenue
Walla Walla, WA 99362
Email: bolson@wallawallawa.gov
Phone: 509-524-4345

Nonwaiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of such covenants, agreements, or options and the same shall be and remain in full force and effect.

Resolutions of Disputes, Governing Law. Should any dispute, misunderstanding or conflict arise as to the terms or conditions contained in this Agreement, the matter shall be referred to the Contract Administrator, whose decision shall be final. Provided, however, that any complaint regarding any violation of the Standards or which relate to any manner whatsoever to trial strategy or an ongoing case, shall be referred to the Judge of the City' s Municipal/District Court or to the Washington State Bar Association as appropriate. Nothing herein shall be construed to obligate, require or permit the City, its officers, agents, or employees to inquire into any privileged communication between the Public Defender and any indigent defendant. In the event of any litigation arising out of this Agreement, the prevailing party shall be reimbursed for reasonable Public Defender's fees from the other party. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington and the rules of the Washington Supreme Court as applicable. Venue for an action arising out of this Agreement shall be in Snohomish County Superior Court.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day of _____, 2018.

CITY OF WALLA WALLA

PUBLIC DEFENDER

By: _____

By: _____

City Manager, Nabel Shawa

ATTEST/AUTHENTICATED:

By: _____

City Clerk, Kammy Hill

APPROVED AS TO FORM: OFFICE OF CITY ATTORNEY

By: _____

City Attorney, Timothy Donaldson

EXHIBIT A

The undersigned Attorneys hereby personally warrants and certifies that as a condition of their performance of this Agreement on behalf of the Public Defender, they will commit to providing the services under this Agreement in accordance with the Standards set forth in sections 1, 4, and 7, and that the Attorney's personal warranty of that performance shall survive the Agreement in accordance with subsection 3.4 of this Agreement.

ATTORNEY: _____

ATTORNEY: _____

Print Name: _____

Print Name: _____

DRAFT

ATTACHMENT E CONTRACT FOR CONFLICT PUBLIC DEFENDER

WHEREAS, the City of Walla Walla, Washington (hereinafter "City") provides public defense services pursuant to contract with a primary Public Defender and Conflict Public Defenders who serve in the event of conflict or when the primary Public Defender's case load could exceed Supreme Court Standards, and

WHEREAS, the City wishes to engage the services of an experienced defense counsel to cover conflict cases and overflow cases as defined herein in the absence of the primary Public Defender ("Public Defender").

WHEREAS, a decision by the Federal Court for the Western District of Washington, the Honorable Robert Lasnik, in a case styled *Wilbur, et al v. Mt. Vernon, et al* (hereinafter the "Decision") emphasizes the need for the City to provide indigent defense services to misdemeanor clients in municipal and district courts in a manner which fully complies with the City's obligations under the Sixth and Fourteenth Amendments to the United States Constitution and

WHEREAS, the Washington Supreme Court has adopted standards regarding the caseload of Public Defenders and the Washington State Office of Public Defense has provided guidance regarding case weighting system, and

WHEREAS, the City has conducted an evaluation of its public defense system, including the court system and appointment process, NOW, THEREFORE,

In consideration of the mutual benefits to be derived and the promises contained herein, the City of Walla Walla, Washington a municipal corporation ("City"), and the _____ (Conflict Public Defender) who will perform services under this contract have entered into this Agreement.

Scope of Services, Standards and Warranties. The Conflict Public Defender will provide indigent defense services in assigned misdemeanor cases in accordance with the standards adopted by the City in Ordinance/Resolution No 2015-112 in as the same exists or is hereafter amended (hereinafter "Standards"). The Conflict Public Defender individually warrants that he/she has read and is fully familiar with the provisions of the Standards adopted by the City. Compliance with these Standards goes to the essence of this Agreement.

The Conflict Public Defender shall certify compliance with Supreme Court Rule and governing case load quarterly with the Walla Walla District Court sitting as the City's Court (hereinafter "Municipal Court") on the form established for that purpose by court rule. A copy of each and every such certification shall be provided to the City contemporaneously with filing. The Conflict Public Defender warrants that he/she shall conform to the case load limitations not only with respect to services under this Agreement but also with respect to his/her practice as a whole, including other contracts for public defense and/or private practice.

Conflict Public Defender will maintain contemporaneous records documenting all work performed on each assigned case. Conflict Public Defender will maintain and provide to the City a report for each calendar quarter detailing:

the number of cases assigned during the period;

the disposition of cases assigned indicating the number of cases dismissed, the number of cases in which charges were reduced, the number of cases tried, and the number of cases disposed of by plea;

the number of cases in which a motion was brought with the Court as well as cases in which a motion was filed with the prosecutor and a reduced sentence or dismissal was negotiated;

the number of cases in which an investigator was utilized;

the number of cases which were set for trial including cases in which the defendant failed to appear;

the number and type of criminal cases handled outside of this contract (including cases assigned by another public entity); and

the percentage of the Public Defender's practice spent on civil or non-criminal matters.

The Conflict Public Defender further warrants that the payment reflected in Section 2, Compensation, reflects all infrastructure, support, administrative services, routine investigation, and systems necessary to comply with the Decision and Standards except as provided in Section 2.2 and the subparagraphs that follow.

The Conflict Public Defender promises that he/she will promptly notify the City if any circumstance, including change in rule or law, renders it difficult or impossible to provide service in compliance with the Decision and/or the Standards.

Compensation. Effective January 1, 2019, the City shall pay to the Conflict Public Defender for services rendered under this Contract \$449 per case for conflict and overflow assignments primarily in the Municipal Court. The term "case" and "credit" shall be defined in accordance with the Washington State Supreme Court rule and Washington office of Public Defense guidelines. The City adopts an unweighted case count. The Conflict Public Defender will bill the City monthly for services rendered. The City will pay the Conflict Public Defender upon assignment for assigned cases whether by the Court or the City. The Conflict Public Defender will receive assignments from the court in the event of conflict. The City may also assign cases in coordination with the primary Public Defender to assure compliance with case load standards.

The compensation amount represents the resources necessary to provide Public Defense services through the undersigned counsel as supplemented in Section 2.2 and the subparagraphs that follow, along with all infrastructure, support, and systems necessary to comply with the Standards and Decision including by way of illustration and not limitation, training, research, secretarial and office facilities. The parties believe that they have provided sufficient capacity through this contract as well as contracts with other counsel for conflict and overflow public defense cases, to ensure that, in all respects and at all times, public defense service will comply with the Standards and

Decision. The parties understand and agree that the Conflict Public Defender maintains a private practice and serves other communities.

Base Compensation. Except as expressly provided in Section 2.2 and the subparagraphs that follow, the cost of all infrastructure, administrative support and systems, as well as standard overhead services necessary to comply with the established standards, are included in the base payment provided in Section 2 above.

Payments in Addition to the Base Compensation. The City shall pay directly to the service provider or Conflict Public Defender, as appropriate, for the following case expenses when reasonably incurred and approved by the Court or Contract Administrator:

Discovery. Discovery shall be provided in accordance with law and court rule by the City Prosecutor. For post-conviction relief cases, discovery includes the cost to obtain a copy of any charging or court files pertaining to the underlying case.

Preauthorized Expenses. Case expenses may be requested by the Conflict Public Defender and preauthorized by order of the Court. Unless the services are performed by Conflict Public Defender's staff or subcontractor, such expenses include, but are not limited to:

- investigation expenses;
- medical and psychiatric evaluations;
- expert witness fees and expenses;
- interpreters;
- polygraph, forensic and other scientific tests;
- unusually extensive computerized legal research; and
- any other non-routine expenses the Court finds necessary and proper for the investigation, preparation and presentation of a case. In the event any expense is found by the Court to be outside of its authority to approve, the Public Defender may apply to the Contract Administrator for approval, such approval not to be unreasonably withheld.

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

Copying Clients' Files. The cost, if it exceeds \$25, of providing one copy of a client's or former client's case file upon client's or client's appellate, post-conviction relief or habeas corpus attorney's request, or at the request of counsel appointed to represent the client when the client has been granted a new trial;

Copying Direct Appeal Transcripts Supreme Court Rules for the Administration of Courts of Limited Jurisdiction RALJ Appeals. The cost, if it exceeds \$25, of making copies of direct appeal transcripts for representation in post-conviction relief cases. Public Defender is limited to no more than two copies;

Records. To the extent such materials are not provided through discovery, medical, school, birth, DMV, and other similar records, and 911 and emergency communication recordings and logs, when the cost of an individual item does not exceed \$75; and

Process Service. The normal, reasonable cost for the service of a subpoena.

Term. The term of this agreement shall be from the date of execution through December 31, 2021, unless sooner terminated as provided herein. The agreement may be extended on a month to month basis with the mutual agreement of the parties until such time as a successor agreement for Conflict Public Defense services is approved.

For Cause. This agreement may be terminated for good cause for violation of any material term of this agreement. "Material term" shall include any violation indicating a failure to provide representation in accordance with the rules of court, the ethical obligations established by the Washington State Bar Association, the willful disregard of the rights and best interests of the client, a willful violation of the Standards or the Decision, the provisions of Section 6 relating to insurance conviction of a criminal charge, and/or a finding that the license of the Attorney or any Public Defender providing service under this agreement, has been suspended or revoked. Any violation of the other provisions of this Contract shall be subject to cure. Written notice of contract violation shall be provided to the Conflict Public Defender who shall have thirty (30) business days to cure the violation. Failure to correct the violation will give rise to termination for cause at the City's discretion. In lieu of terminating this contract, the City may agree in writing to alternative corrective measures.

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

Obligations survive Termination. In the event of termination of this agreement, the following obligations shall survive and continue:

3.3.1 Representation. The compensation established in this agreement compensates Conflict Public Defender for services relating to each and every assigned case.

Therefore, in the event this agreement is terminated, the Conflict Public Defender will continue to represent clients on assigned cases as follows:

If a matter is set for trial within sixty (60) days of the date of termination, the trial is concluded.

Otherwise, for a period of thirty (30) days or until the defendant fails to appear for a scheduled court appearance.

3.3.2 The provisions of sections 1 and 5, as well as this subsection 3.3 survive termination as to the Conflict Public Defender. The City shall remain bound by the provisions of Section 2.2 and the subparagraphs that follow with respect to additional costs incurred with respect to cases concluded after the termination of this contract.

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

Indemnification. The Conflict Public Defender agrees to hold harmless and indemnify the City, its officers, officials, agents, employees, and representatives from and against any and all claims costs, judgments, losses, or suits including Conflict Public Defender's fees or awards, and including claims by Conflict Public Defender's own employees to which Public Defender might otherwise be immune under Title 51 arising out of or in connection with any willful misconduct or negligent error, or omission of the Conflict Public Defender his/her officers or agents.

It is specifically and expressly understood that the indemnification provided herein constitutes the waiver of the Conflict Public Defender's immunity under Title 51 RCW solely for the purposes of this indemnification. The parties have mutually negotiated this waiver.

The City agrees to hold harmless and indemnify the Conflict Public Defender, his/her officers, officials, agents, employees, and representatives from and against any and all claims, costs, judgments, losses or suits including Conflict Public Defender's fees or awards, arising out of or in connection with any willful misconduct or negligent error or omission of the City, its officers or agents.

This clause shall survive the termination or expiration of this agreement and shall continue to be in effect for any claims or causes of action arising hereunder.

Insurance. The Conflict Public Defender shall procure and maintain for the duration of this agreement insurance against claims for injuries to persons or property which may arise from or in connection with the performance of work hereunder by the Conflict Public Defender, or the agents, representatives, employees, or subcontractors of the Conflict Public Defender.

Liability Insurance. During the period of this Agreement and any extensions thereof, the Conflict Public Defender shall secure and maintain a policy of professional liability insurance and a policy of general liability and E&O coverage in the respective amounts of one million dollars (\$1,000,000) or more each against claims arising out of work provided for in this Agreement. All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The Conflict Public Defender shall submit a certificate of insurance to the City evidencing the coverage as specified above, together with an additional insurance endorsement naming the City, within fifteen (15) days of the execution of this Agreement. The certificates of insurance shall cover the work specified in or performed under this Agreement. No cancellation, reduction or modification of the foregoing policy shall be effective without thirty (30) days prior written notice to the City. Each year at policy renewal, the Attorney will provide an updated certificate of insurance to the City.

Verification of Coverage. Conflict Public Defender shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Service Provider before commencement of the work. Policies shall provide thirty (30) days written notice of cancelation to the City. The Conflict Public Defender shall provide the City with proof of insurance for "tail coverage" no later than December 31 of the year of termination of the Contract. The purpose of "tail coverage" is to provide insurance coverage for all claims that might arise from occurrences during the term of the Contract or extension(s) thereof, but not filed during the term of the Contract.

Work Performed by Conflict Public Defender. In addition to compliance with the Standards, in the performance of work under this Agreement, Conflict Public Defender shall comply with all federal, State and municipal laws, ordinances, rules and regulations which are applicable to Conflict Public Defender's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

Work Performed at Conflict Public Defender's Risk. Conflict Public Defender shall be responsible for the safety of its employees, agents, and subcontractors in the performance of work hereunder, and shall take all protections reasonably necessary for that purpose. All work shall be done at the Attorney's own risk, and the Conflict Public Defender shall be responsible for any loss or damage to materials, tools, or other articles used or held in connection with the work. Conflict Public Defender shall also pay its employees all wages, salaries and benefits required by law and provide for taxes, withholding and all other employment related charges, taxes or fees in accordance with law and IRS regulations.

Personal Services, no Subcontracting. This Agreement has been entered into in consideration of the Conflict Public Defender's particular skills, qualifications, experience, and ability to meet the Standards incorporated in this Agreement. Therefore, the Conflict Public Defender has personally signed this Agreement below to indicate that he/she is bound by its terms. This Agreement shall not be subcontracted without the express written consent of the

City and refusal to subcontract may be withheld at the City's sole discretion. Any assignment of this Agreement by the Conflict Public Defender without the express written consent of the City shall be void.

Modification. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representatives of the City and the Conflict Public Defender. An additional attorney may be added to this Agreement by adding his or her signature to these agreements.

Entire Agreement: Prior Agreement Superseded. The written provisions in terms of this Agreement, together with any exhibit attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statement(s) shall not be effective or construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement. Upon execution, this Agreement shall supersede any and all prior agreements between the parties.

Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in the Agreement or such other address as may be hereinafter specified in writing:

CONTRACT ADMINISTRATOR
Byron Olson
Deputy City Manager 15 North 3rd Avenue
Walla Walla, WA 99362
Email: bolson@wallawallawa.gov
Phone: 509-524-4345

Nonwaiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of such covenants, agreements, or options and the same shall be and remain in full force and effect.

Resolutions of Disputes, Governing Law. Should any dispute, misunderstanding or conflict arise as to the terms or conditions contained in this Agreement, the matter shall be referred to the Contract Administrator, whose decision shall be final. Provided, however, that any complaint regarding any violation of the Standards or which relate to any manner whatsoever to trial strategy or an ongoing case, shall be referred to the Judge of the City's Municipal/District Court or to the Washington State Bar Association as appropriate. Nothing herein shall be construed to obligate, require or permit the City, its officers, agents, or employees to inquire into any privileged communication between the Conflict Public Defender and any indigent defendant. In the event of any litigation arising out of this Agreement, the prevailing party shall be reimbursed for reasonable Conflict Public Defender's fees from the other party.

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington and the rules of the Washington Supreme Court as applicable. Venue for an action arising out of this Agreement shall be in Walla Walla County Superior Court.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day of _____, 2018.

CITY OF WALLA WALLA

CONFLICT PUBLIC DEFENDER

By: _____

By: _____

City Manager, Nabel Shawa

ATTEST/AUTHENTICATED:

By: _____

City Clerk, Kammy Hill

APPROVED AS TO FORM: OFFICE OF CITY ATTORNEY

By: _____

City Attorney, Timothy Donaldson

DRAFT