

**TOOELE COUNTY
LEGAL DEFENDER AGREEMENT
JUVENILE COURT – PARENTAL DEFENSE**

THIS AGREEMENT is entered into this 5 day of November 2019, by and between **TOOELE COUNTY**, a political subdivision of the State of Utah, 47 South Main, Tooele, Utah 84074 (hereinafter referred to as “County”), and **DAVID C. CUNDICK**, 483 Windy Garden Lane, Salt Lake City, Utah 84107 (hereinafter referred to as “Legal Defender”).

WHEREAS, County recognizes its obligation as a political subdivision of the State of Utah to provide legal counsel for certain indigent persons who are subject to the jurisdiction of the various courts located in Tooele County; and

WHEREAS, it is in the public interest to memorialize an agreement between County and Legal Defender to provide legal counsel to certain indigent persons;

NOW, THEREFORE, County and Legal Defender hereby agree as follows:

1. IDENTITY OF LEGAL DEFENDER. Legal Defender is an attorney at law, duly licensed by the Utah State Bar to practice before the state and federal courts of the State of Utah. Legal Defender hereby accepts the legal defender position as an independent contractor and not as an employee of County. Legal Defender may not associate himself with other attorneys for the purpose of providing services under this agreement.

2. DUTIES. In parental defense cases, Legal Defender agrees to represent one-third (1/3) of all persons who are found to be indigent by any magistrate of the juvenile court having jurisdiction in Tooele County and who are entitled to appointed legal counsel by County pursuant to the constitution and laws of Utah and the Constitution of the United States and as required by Title 77, Chapter 32, Part 3 of Utah Code Annotated 1953, as amended. Legal Defender agrees to provide competent legal services in accordance with law and the Code of Professional Ethics.

The remaining two-thirds (2/3) of the legal defender cases will be handled by other attorneys/firms. The Court will apportion cases as equally as possible among all the contracting legal defenders. Appeals from legal defender cases shall be handled by separate contract.

3. DISCOVERY. Discovery on all legal defender cases will be provided electronically, via email, at no charge. Legal Defender shall have an email account in place that will allow for delivery of large files that are common when dealing with discovery.

4. COMPENSATION. In consideration of such representation, County shall pay Legal Defender the monthly sum of four thousand four hundred three dollars and zero cents (\$4,403.00).

5. CONFLICTS OF INTEREST. The parties hereto recognize that occasions may arise when a legal defender may be disqualified from representing a particular person because of a conflict of interest perceived by the person, legal defender, or the court. In such instances where it has been determined that Legal Defender has a legal conflict of interest, the other legal defender attorneys/firms under contract shall undertake the representation of such person. For delinquency cases, Legal Defender agrees to represent one-third (1/3) of all persons who are found to be indigent by any magistrate of the juvenile court if the primary delinquency legal defender is unable to represent the person. In instances where all legal defenders under contract with County have been determined by the court to have a conflict of interest with such persons, County shall employ other counsel at such rates and terms as it shall negotiate with counsel.

6. VACANCIES. The parties hereto recognize that vacancies may arise with respect to other Tooele County legal defender contracts. Upon request, Legal Defender agrees to serve as counsel when there is a vacancy on a Tooele County Legal Defender Contract. Legal Defender

shall serve as counsel until such time as the vacant contract is filled and shall be compensated for said additional work in an amount equal to what would have been paid for the legal defender contract which has been vacated.

7. COSTS. County agrees to pay all indigent transcript costs and any other court costs required by law for any person represented under this agreement.

8. RECOUPMENT OF FEES. Should any court order a person to pay for some or all of the attorney's fees of Legal Defender acting under this agreement, Legal Defender shall immediately pay such fees to County or have the person pay County directly. Legal Defender agrees that County shall bear the responsibility for collecting such fees.

9. CONTINUING LEGAL EDUCATION. Legal Defender shall maintain an "active" and in "good standing" status with the Utah State Bar Association. As part of the continuing legal education ("CLE") required by the Utah State Bar Association and in an effort to ensure that Tooele County provides indigent persons properly trained legal representation, Legal Defender agrees to attend CLE focused on subjects including, but not limited to, criminal defense, juvenile defense, and issues regarding parental rights. Tooele County will reimburse Legal Defender up to four hundred dollars and zero cents (\$400.00) annually for tuition and travel expenses associated with CLE related to the work performed by Legal Defender under this contract. CLE shall be pre-approved by the Tooele County Attorney prior to Legal Defender's attendance in order to be eligible for reimbursement herein.

10. COOPERATION WITH IDC REPORTING. Legal Defender shall cooperate with County by providing the necessary data and reports as required by the grant from the Indigent Defense Commission ("IDC") to Tooele County. In addition, Legal Defender shall cooperate and

participate with the IDC and County's Managing Legal Defender in reporting required information in a timely manner and with any investigations, audits, and/or reviews of indigent defense services. If Legal Defender fails to comply with this provision, County may elect to withhold payment until the failure to cooperate or participate is cured, or it may terminate this agreement.

11. FILES. Upon termination of this agreement, Legal Defender agrees to turn over all active files to his successor.

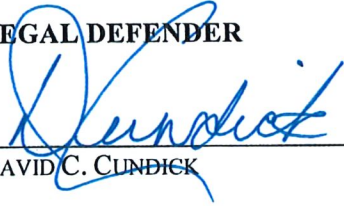
12. EFFECTIVE DATE – TERM. This agreement shall take effect upon November 1, 2019 and shall continue until terminated in writing by any party hereto upon thirty (30) days written notice. Amendments to this agreement shall be made only with the same formality as provided by this agreement.

13. NON-ASSIGNABILITY. This agreement is in the nature of a contract for personal services and is not assignable by any party without the prior written consent of the other parties hereto.

14. NON-DISCRIMINATION. Legal Defender shall not discriminate against any person they represent pursuant to this agreement on the basis of race, creed, sex, religion, national origin, or age.


15. TERMINATION OF PREVIOUS CONTRACTS. All previous legal defender contracts between the parties are terminated as of the effective date of this agreement. The Tooele County Legal Defender Conflicts Agreement ("Conflicts Agreement") dated the 15th day of March 2016 (a copy of which is attached hereto and incorporated herein by reference) is excepted from this agreement and shall continue in full force and effect until the terms of said Conflicts Agreement are completed.

LEGAL DEFENDER



DAVID C. CUNDICK

TOOELE COUNTY

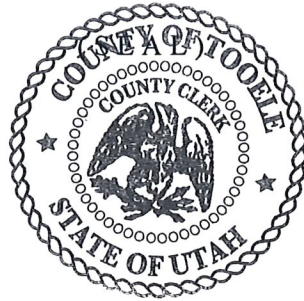
 20 Dec '19

TOM TRIPP, Chairman
Tooele County Commission

ATTEST:



MARILYN K. GILLETTE, Clerk



TOOELE COUNTY
LEGAL DEFENDER
CONFLICTS AGREEMENT
Dated March 15, 2016
Exhibit to November 5, 2019
Tooele County
Legal Defender Agreement
Juvenile Court - Parental Defense

**TOOELE COUNTY LEGAL DEFENDER
CONFLICTS AGREEMENT**

THIS AGREEMENT entered into this 15th day of March 2016, is by and between **TOOELE COUNTY**, a political subdivision of the State of Utah, 47 South Main, Tooele, Utah 84074 (hereinafter "County"), and **DAVID C. CUNDICK**, 483 Windy Garden Lane, Salt Lake City, Utah 84107 (hereinafter "Attorney").

WHEREAS, County regularly contracts with independent legal defenders to provide legal services for certain persons, but such legal defenders on occasion have conflicts of interest which prevent them from performing their duties as legal counsel; and

WHEREAS, Attorney is willing to provide legal representation for County when such conflicts arise.

NOW, THEREFORE, County and Attorney hereby enter into the following agreement:

1. **APPOINTMENT OF LEGAL DEFENDER:** David C. Cundick is an attorney at law, duly licensed by the Utah State Bar to practice before the State and Federal courts of the State of Utah. County hereby contracts with Attorney to serve as a legal defender, subject to the court's appointment of Attorney to so act in such cases. Attorney hereby accepts such appointment as an independent contractor and not as an employee of County.

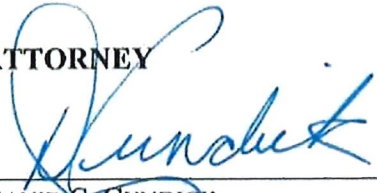
2. **COMPENSATION:** In consideration of such representation, County agrees to pay Attorney the sum of Seventy-Five dollars (\$75.00) per hour. Attorney shall not be entitled to any additional compensation for his services from County, other than as provided for by this agreement.

3. **OTHER COMPENSATION:** It is specifically understood that Attorney will accept no other payment for the work provided herein other than that received from County pursuant to


this agreement. In the event the court orders recoupment of attorney fees from defendants, all of such recoupment shall belong to County.

4. **NON-ASSIGNABILITY:** This agreement is in the nature of a contract for personal services and is not assignable by any party without the prior written consent of the other party hereto.

5. **NON-DISCRIMINATION:** Attorney shall not discriminate against any person he represents pursuant to this agreement on the basis of race, creed, sex, religion, national origin, or age.

ATTORNEY


DAVID C. CUNDICK

TOOELE COUNTY


WADE B. BITNER, Chairman

ATTEST:


MARILYN K. GILLETTE, Clerk/Auditor

