

**TOOELE COUNTY
LEGAL DEFENDER AGREEMENT
DISTRICT COURT**

THIS AGREEMENT is entered into this 17th day of January 2012, 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 **WAYNE A. FREESTONE**, 11576 South State Street, #504, Draper, Utah 84020 (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. Legal Defender agrees to represent one-third (1/3) of all persons who are found to be indigent by any magistrate of the district 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 Chapter 32 of Title 77, Rule 8 of the Utah Rules of Criminal Procedure, and Section 78-3a-913, 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 appoint Legal Defender to represent defendants the Court has determined to be indigent and will apportion cases as equally as possible among all the contracting legal defenders. Appeals from legal defender cases shall be handled by separate contract.

District Court matters are handled primarily on Tuesdays, excepting trials or special settings requested by the Court or Counsel. Ultimately, all court dates are set by the District Court and are subject to change. Legal Defender agrees to be available and prepared to begin handling cases at the time designated by the Court. The "day of court" shall not be used as the primary "attorney-client" contact day; more specifically, Legal Defender agrees to meet with clients in person or by phone on a day other than Tuesday in preparation for the regular Tuesday calendars. This provision is essential to the satisfactory performance of this contract because of the cascading impact that is created when cases are not ready to be handled at the designated time.

Legal Defender also agrees to serve as conflicts counsel for any cases arising out of the Third District Juvenile Court and Justice Court in Tooele.

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. Upon request, hard copies will be provided to Legal Defender and will be billed at the rate specified by Tooele County Ordinance 1-6-3(8) which is attached hereto as Exhibit A.

4. COMPENSATION. In consideration of such representation, County shall pay Legal Defender the monthly sum of two thousand five hundred and thirty-seven dollars and fifty cents (\$2,537.50).

5. TRIAL PAY. In addition to other pay as enumerated within this contract, Legal Defender shall be entitled to trial pay at a rate of five hundred dollars (\$500.00) per day for each day

a criminal trial is convened in representation of an indigent client for whom Legal Defender has been appointed by the Court. Settlement on the day of trial does not qualify for payment herein.

6. SPECIAL CASES. If Legal Defender has been appointed to represent an indigent person whose case requires an extraordinary amount of time or involves unusually complex legal issues, he may petition County for compensation in addition to that provided in Paragraph 4. Additional compensation shall be granted upon mutual agreement of the parties and shall be based upon the complexity and additional time that is involved in that special case.

7. 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 firm under contract shall undertake the representation of such person. Legal Defender agrees to take and handle cases where the other legal defender has been found to have a conflict of interest. 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.

8. 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.

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

10. 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.

11. 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 five hundred dollars (\$500) 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.

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

13. EFFECTIVE DATE - TERM. This agreement shall take effect upon January 1, 2012, and shall continue until terminated in writing by any party hereto upon thirty (30) days written notice. Unless terminated, this agreement shall automatically continue, provided that the compensation provided herein may be increased by a formal motion of the Tooele County Commission, which motion shall act as an amendment to this agreement. Any other amendments to this agreement shall be made only with the same formality as provided by this agreement.

14. 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.

15. 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.

16. TERMINATION OF PREVIOUS CONTRACTS. All previous legal defender contracts between the parties are terminated as of the effective date of this agreement.

LEGAL DEFENDER



WAYNE A. FREESTONE

TOOELE COUNTY



COLLEEN S. JOHNSON, Chairman
Tooele County Commission

ATTEST:



MARILYN K. GILLETTE, Clerk

