

INTERLOCAL AGREEMENT BETWEEN THE CITY OF NORTH BEND AND THE CITY OF ISSAQUAH FOR PUBLIC DEFENDER & CONFLICT PUBLIC DEFENDER SERVICES

- A. The City of North Bend (hereafter "North Bend") is a municipal corporation organized under the laws of the State of Washington.
- B. The City of Issaquah (hereafter "Issaquah") is a municipal corporation organized under the laws of the State of Washington.
- C. North Bend desires to have public defender and conflict public defender services performed by Issaquah as set forth in the Agreement below.
- D. The Interlocal Cooperation Act, Chapter 39.34 RCW, authorizes municipal corporations to contract with one another to perform any act that each is independently authorized to perform.
- E. The parties enter this Agreement in consideration of the mutual covenants and promises set forth in this Agreement, the mutual benefits to be derived by each, and in the exercise of authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW.

AGREEMENT

1. Purpose of Agreement. The purpose of this Agreement is to contract for the provision of certain public defender and conflict public defender services by Issaquah to North Bend, through the use of contracted public defenders, to the maximum extent permitted by law, for the defense of North Bend's indigent clients; to set forth fees to be paid by North Bend for such services; and to specify the responsibilities of Issaquah and North Bend respectively for such public defender and conflict public defender services.
2. Public Defender and Conflict Public Defender Services Provided By Issaquah. The public defender and conflict public defender contracted by Issaquah to perform said services for North Bend shall provide indigent defense services in accordance with the standards adopted by North Bend, as the same exists or is hereafter amended.
3. Compensation and Other Costs. North Bend shall compensate Issaquah for providing all services as specified in Section 2 of this Agreement by payment on a per case basis, a case being defined as an incident and not a case number. North Bend shall pay Issaquah a fee of two hundred and fifty dollars (\$250.00) per new case for public defender services. In addition, North Bend shall pay Issaquah a fee of three hundred dollars (\$300.00) per new case for conflict public defender services. These fees shall be the sole compensation due Issaquah for all services provided. These fees

shall be paid regardless of whether the cases are later dismissed without a full adjudication.

4. Payment of Compensation. Issaquah shall bill North Bend monthly for amounts due under this Agreement. North Bend shall pay the amount due within 45 days of receipt. However, if North Bend has a good faith dispute with the amount of the invoice, North Bend shall pay the non-disputed amount within the time frame set forth in this section.

5. Adjustment of Filing Fees. Filing fees payable hereunder shall be subject to adjustment as follows:

5.1 Adjustment for Additional Duties. In the event that Issaquah's duties under this Agreement are enlarged or increased due to local, state, or federal mandates, or new requirements from North Bend, or an increase in rates by the contracted public defenders, Issaquah may increase the filing fees or add a supplemental monthly fee to North Bend to cover the costs to North Bend for the change. Issaquah shall notify North Bend of the effective date of the fee changes, which may be immediately. Either party may request mediation as to the amount of this fee change. North Bend shall timely pay the new fees from their effective date even if mediation is requested.

5.2 Termination. In the event of a rate adjustment under subparagraph 5.1, North Bend, at its option, may terminate this agreement upon provision of thirty (30) days written notice. North Bend shall remain obligated to pay for all costs or other charges incurred with respect to cases assigned prior to the termination date. In the event of early termination of this Agreement, the parties will work cooperatively to ensure the orderly transition of cases from the contracted prosecutor to the new prosecutor.

6. Factors Considered. In entering into this Agreement for public defender and conflict public defender services, North Bend and Issaquah have considered, pursuant to RCW 39.34.180, the anticipated costs of services, anticipated and potential revenues to fund the services, and fee recoupment.

7. North Bend Ordinances, Rules, and Regulations. In executing this Agreement, Issaquah does not assume liability or responsibility for or in any way release North Bend from any liability or responsibility which arises in whole or in part from the existence or effect of North Bend ordinances, rules, or regulations, policies or procedures. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any North Bend ordinance, rule, or regulation is at issue, North Bend shall defend the same at its sole expense and if judgment is entered or damages are awarded against North Bend, Issaquah, or both, North Bend shall satisfy the same, including all chargeable costs and attorneys' fees.

8. Indemnity. The parties shall each indemnify the other as follows:

8.1 Issaquah Indemnity. Issaquah shall protect, indemnify, and save harmless North Bend, its officers, elected officials, agents, volunteers, and employees from any and all costs, claims, judgments, or awards of damages (including costs and all attorney fees), arising out of or in any way resulting from the negligent acts, errors or omissions of Issaquah, its officers, employees, and agents in performing this Agreement.

8.2 North Bend Indemnity. North Bend shall protect, defend, indemnify, and save harmless Issaquah, its officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts, errors, or omissions of North Bend, its officers, employees, or agents in performing this Agreement.

8.3 Survival of Indemnitees. The provisions of this Section shall survive the expiration or termination of this Agreement. No obligation shall exist to indemnify for injuries caused by or resulting from events occurring after the last day of public defender and conflict public defender services under this Agreement.

9. Actions Contesting Agreement. Each party shall appear and defend any action or legal proceeding brought to determine or contest: (i) the validity of this Agreement and/or (ii) the legal authority of North Bend and/or Issaquah to undertake the activities contemplated by this Agreement. If both parties to this Agreement are not named as parties to the action, the party named shall give the other party prompt notice of the action and such party shall move to intervene. Each party shall bear any costs and expenses taxed by the court against it separately, provided any costs and expenses assessed by a court against both parties jointly shall be shared equally.

10. Financing. There shall be no financing of any joint or cooperative undertaking pursuant to this Agreement. There shall be no budget maintained for any joint or cooperative undertaking pursuant to this Agreement.

11. Property. This Agreement does not provide for the acquisition, holding, or disposal of real or personal property.

12. Joint Administrative Board. No separate legal or administrative entity is created by this Agreement. To the extent necessary, this Agreement shall be administered by the City Administrator for North Bend or his/her designee, and the City Administrator or his/her designee as a Joint Administrative Board.

13. Dispute Resolution. It is the parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at staff level. In the event disputes cannot be resolved informally at the staff level, resolution shall be sought by the City Administrators of each city and if unsuccessful, then the parties agree to submit the dispute to non-binding mediation/dispute resolution. If a dispute arises from or relates to this Agreement or the breach thereof and if the

dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under the American Arbitration Association's Rules before resorting to arbitration. The mediator may be selected by agreement of the parties or through the American Arbitration Association. Following mediation, any unresolved controversy or claim arising from or relating to this Agreement or breach thereof shall be settled through binding arbitration which shall be conducted under the American Arbitration Association's Arbitration Rules. The arbitrator may be selected by agreement of the parties or through the American Arbitration Association. All fees and expenses for mediation or arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

14. Independent Contractor. Each party to this Agreement is an independent contractor with respect to the subject matter herein. Nothing in this Agreement shall make any employee of North Bend an Issaquah employee for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded Issaquah employees by virtue of their employment. Nothing in this Agreement shall make any employee of Issaquah a North Bend employee for any purpose, including but not limited to for withholding taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded North Bend employees by virtue of their employment. At all times pertinent hereto, employees of Issaquah are acting as Issaquah employees and employees of North Bend are acting as North Bend employees.

15. Notices. Any notice or other communication given hereunder shall be deemed sufficient, if in writing and delivered personally to the addressee, or sent by certified or registered mail, return receipt requested, addressed as follows, or to such other address as may be designated by the addressee by written notice to the other party:

Issaquah:

Charlie Bush, Deputy City Administrator
City of Issaquah
130 E. Sunset Way
P.O. Box 1307
Issaquah, WA 98027

North Bend:

Londi Lindell, City Administrator
City of North Bend
211 Main Avenue
P.O. Box 896
North Bend, WA 98045

16. Partial Invalidity. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provision of this Agreement which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provisions hereof, and such other provisions shall remain in full force and effect.

17. Assignability. The rights, duties, and obligations of either party to this Agreement shall not be assignable.

18. Entire Agreement. This Agreement contains the entire understanding between the parties and supersedes any prior understandings and agreements between them regarding the subject matter hereof. There are no other representations, agreements, or understandings, oral or written, between the parties hereto relating to the subject matter of this Agreement. No amendment of, or supplement to, this Agreement shall be valid or effective unless made in writing and executed by the parties hereto.

19. Duration. The term of this Agreement shall commence upon execution by both parties effective as of June 1, 2013, and shall expire on December 31, 2015, unless terminated earlier pursuant to Section 19. This Agreement shall automatically be renewed and extended for successive additional two (2) year periods upon the same terms and conditions set forth herein, or as amended, unless terminated in accordance with Section 20, subject only to mutual agreements as to fees, which shall not be subject to Section 13 for extensions.

20. Termination of Agreement. Either party may give notice of termination for cause based on the breach of any material provision of this Agreement by the other party, provided the Agreement shall remain in full force and effect until the conclusion of Dispute Resolution pursuant to Section 13. North Bend shall provide written notice of its intent to renew or terminate this Agreement without cause not less than one hundred and eighty (180) days prior to expiration of this Agreement or renewal thereof. Issaquah shall provide written notice of its intent to terminate this Agreement not less than one hundred and eighty (180) days prior to expiration of this Agreement or any renewal thereof. Either party may give notice of termination for convenience upon sixty (60) days notice to the other party, without having to engage in dispute resolution. In the event of early termination of this Agreement or extension thereof, the parties will work cooperatively to ensure the orderly transition of cases from the contracted public defender or conflict public defender to the new public defender or conflict public defender.

21. Recording. Consistent with RCW 39.34.040, this Agreement shall be filed for recording with the King County Department of Records upon full execution or posted on Issaquah's and North Bend's respective websites listed by subject matter.

22. General Provisions. This Agreement contains all of the agreements of the parties with respect to any matter covered or mentioned in this Agreement. No provision of the Agreement may be amended or modified except by written agreement signed by the parties. Any provision of this Agreement which is declared invalid or illegal shall in no way affect or invalidate any other provision. Failure of a party to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.

23. Insurance. Each party shall be responsible for maintaining its own insurance.

DONE this ____ day of _____, 2013.

CITY OF ISSAQUAH

CITY OF NORTH BEND

Ava Frisinger
Mayor
City of Issaquah

Kenneth Hearing
Mayor
City of North Bend

ATTEST/AUTHENTICATED:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney