

**FOURTH AMENDMENT TO AGREEMENT BY AND BETWEEN  
THE COUNTY OF LASSEN AND DAN A. HOWE FOR PRISON PROSECUTION**

This Fourth Amendment to Agreement (hereinafter "Amendment") is made on this \_\_\_\_\_, 2017, between LASSEN COUNTY (hereinafter "County"), and DAN A. HOWE (hereinafter "Howe"), who agree as follows:

1. **Recitals:** This Fourth Amendment is made with reference to the following facts and objectives:

The County, the Lassen County District Attorney, and Howe entered into a written Agreement for the term of January 1, 2010, to December 31, 2011, as amended by Amendment to Agreement for the term January 1, 2012, through June 30, 2014, a Second Amendment to Agreement for the term July 1, 2014, through June 30, 2016, and then a Third extended the term of the Agreements for twenty-four (24) months, commencing July 1, 2016, through June 30, 2018, in which Howe has agreed to provide specialized attorney's services and advice, in legal matters related to the prosecution of criminal cases generated by the two California Department of Corrections and Rehabilitation state prisons located within the County of Lassen, State of California (incorporated by reference.)

2. **Amendments:** The parties, County, District Attorney, and Howe, agree to amend the Agreements, as follows:

The parties desire to increase the hourly rate paid to Howe to a comparable rate paid to private appointed indigent criminal defense. Superior Court General Order 2017-04 became effective October 1, 2017. The order increased compensation for court appointed counsel. This amendment provides for prosecution and defense to be compensated at equal rates by the State of California. Therefore, Section 1 of the Contract for Legal Services is deleted and replaced with the following:

1. The County hereby engages Contractor and Contractor hereby agrees to perform for the District Attorney the services hereinafter set forth for the compensation hereinafter set forth;

Legal and professional services for the prosecution of criminal cases being prosecuted by the District Attorney in the County of Lassen, State of California, as submitted by the California Department of Corrections' institutions known as the California Correctional Center and High Desert State Prison. Said services to be limited to meetings with officers, investigators and correctional staff relative to cases referred to the District Attorney's Office by the California Correctional Center and High Desert State Prison; meetings with investigative, prosecutorial and clerical staff in the District Attorney's Office; preparation for and court appearances for the conduct of law and motion hearings, preliminary hearings and other hearings

on motions in cases being handled by the District Attorney's Office; preparation for and court appearances for the conduct of court and jury trials and/or contested jurisdictional hearings in cases being handled by the District Attorney's Office; preparation and drafting of motions and responses to motions in cases being handled by the District Attorney's Office; preparation and drafting of correspondence in cases being handled by the District Attorney's Office.

For services provided by contractor as described above, the County hereby agrees to compensate Contractor at the rate of:


First Degree Murder	:	\$110.00 per hour
For All Cases Charged Under PC 667(b)-(I)	:	\$ 95.00 per hour
For All Other Felonies	:	\$ 85.00 per hour

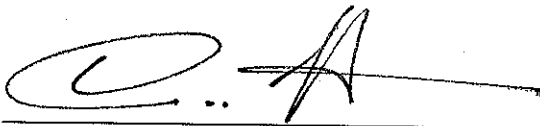
"This Agreement shall commence on the first day of October, 2017, which shall be the date on which Contractor commences work under this Agreement, payable retroactively, from date of execution of the Fourth Amendment to the Agreement of October 1, 2017 for services rendered and shall terminate at the close of business on the 30<sup>th</sup> day of June, 2018, unless terminated by either party prior to that date."

3. **Effectiveness of Agreement:** Except as set forth in this Fourth Amendment to Agreement, all provisions of the Agreement dated December 22, 2009, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Fourth Amendment of the Agreement to be executed on the date first above written.

COUNTY OF LASSEN:

  
\_\_\_\_\_  
STACKYL L. MONTGOMERY  
Lassen County District Attorney

  
\_\_\_\_\_  
DAN A. HOWE  
Special Prosecutor

\_\_\_\_\_  
RICHARD EGAN  
County Administrative Officer

\_\_\_\_\_  
AARON ALBAUGH, Chairman  
Lassen County Board of Supervisors

APPROVED AS TO FORM:

Dated: 12/6/2017

  
\_\_\_\_\_  
FOR LASSEN COUNTY COUNSEL

**FILED**  
Clerk of the Superior Court  
County of Lassen

**SEP 29 2017**

By *Paula M. Little*  
DEPUTY CLERK

**THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LASSEN**

**GENERAL ORDER  
2017-04**

**This Order Revokes and Restates in the Entirety  
General Order 2006-01;  
General Orders 2005-02, Rescinded and Replaced by  
General Order 2015-02 dated 12/29/2015; and  
General Order 2015-02**

**1. FEES FOR PRIVATE APPOINTED CONFLICT PUBLIC DEFENDERS.**

It has been approximately 13 years since court-appointed conflict defense attorneys for criminal prosecutions where the defendant is indigent received an hourly pay rate increase. General Order 2005-02 set the hourly pay rate that was adopted in General Order 2015-02. Previous to this General Order, 2017-04, the hourly pay rate setting court-appointed conflict defense attorneys for criminal prosecutions where the defendant is indigent has remained the same since December 7, 2004. The court has determined that it is both necessary and equitable to adjust and set new hourly rates for private appointed indigent defense counsel for the following reasons:

(1) The number of cases requiring appointed private counsel has substantially decreased with the functioning of the Lassen County Public Defender Office. There has been a correlating decrease in the number of appointments available to support continued dedication of time by those attorneys who have in the past designed their practice to accommodate the court's need for appointed counsel.

(2) For nearly 13 years the rate paid to private conflict counsel has not increased, while the average fees charged in the private sector in this community have increased.

(3) In the past year the number of attorneys willing to accept appointments for conflict public defense has decreased to a level where there are not adequate numbers of available attorneys to meet all of the cases to which assignment is necessary. The primary reason provided for declining assignment is inadequate compensation.

On the foregoing, it is hereby ordered that effective for work performed beginning October 1, 2017, private appointed indigent criminal defense and juvenile counsel assigned by the Lassen Superior Court shall be compensated as follows:

- For First Degree Murder defense: \$110.00 per hour
- For "Three Strike" (25 to Life) defense: \$95.00 per hour
- For all other Felony defense: \$85.00 per hour
- For all Juvenile Delinquency defense: \$80.00 per hour
- For all Misdemeanor defense: \$80.00 per hour
- For Writs: \$75.00 per hour
- For Civil Contempt: \$75.00 per hour
- For Misdemeanor Appeals: \$75.00 per hour

All counsel submitting fee claims shall give due regard in computing the time and amount thereof to the guidance of Penal Code section 987.2, where it is provided that an assigned attorney "...shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court..."

Counsel accepting appointment under this fee order shall do so with clear understanding that the court will make an independent determination of the necessity and justification for hours spent, and may reduce a claim for hours found not to be reasonably necessary for the representation of the defendant or spent on unfounded motions or procedures. In reviewing fee claims the court will consider the time spent and amount claimed with reference to the following:

1. Customary fees in the locality.
2. Time reasonably required for the matter.
3. Difficulty of the defense.
4. Unusual legal issues dealt with.
5. Degree of professional skill and experience required and exercised by counsel.
6. The professional character, qualification, and standing of the attorney.