

DRAFT CONTRACT for PRO TEM COURT REPORTER SERVICES  
THURSTON COUNTY SUPERIOR COURT/ **[CONTRACTOR NAME]**

**THIS CONTRACT** is entered into in duplicate originals between **THURSTON COUNTY**, through Thurston County Superior Court, with its principal offices at 2000 Lakeridge Drive S.W., Olympia, Washington 98502, hereinafter "**County**," and **[legal name of Contractor]**, a **[Washington Corporation, Limited Liability Company, Sole Proprietorship, Partnership]** with its principal offices at **[physical address of Contractor]**, hereinafter "**Contractor**," collectively referred to as "parties" and individually as "party."

In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

**GENERAL TERMS AND CONDITIONS**

**1. DURATION OF CONTRACT**

The term of this Contract shall begin on **MM/DD/YYYY** and shall remain in effect through **MM/DD/YYYY** unless renewed or terminated sooner as provided herein.

**2. SERVICES PROVIDED BY THE CONTRACTOR**

The Contractor represents that it is qualified and possesses the necessary expertise, knowledge, training, and skills, and has the necessary licenses and certifications to perform the services set forth in this Contract.

The Contractor shall perform the following services:

**Pro tem Court Reporter services on a non-exclusive, on-call basis**

a. A detailed description of the services to be performed by the Contractor is set forth in Exhibit A, attached hereto and incorporated herein by reference.

b. The Contractor agrees to provide its own labor and materials. Unless otherwise provided for in the Contract, no material, labor, or facilities will be furnished by the County.

c. The Contractor shall perform according to standard industry practice of the work specified by this Contract.

**3. CONTRACT REPRESENTATIVES**

Each party to this Contract shall have a contract representative. Each party may change its representative by providing written notice to the other party. The parties' representatives are as follows:

a. For Contractor:

Name of Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

b. For County:

Name of Representative: Elsa Anderson

Title: Administrative Service Manager

Mailing Address: 2000 Lakeridge Drive SW

City, State and Zip Code: Olympia, WA 98502

Telephone Number: 360-754-4544

E-mail Address: [anderse@co.thurston.wa.us](mailto:anderse@co.thurston.wa.us)

## 5. **COMPENSATION**

a. For the services performed hereunder, the Contractor shall be paid at a flat rate of **\$350.00 per half day**.

b. The Contractor may submit invoices for payment of completed work on a weekly (or monthly) basis. The County shall pay the Contractor for services rendered following the actual delivery or scheduled delivery and lack of 24 hours cancellation notice of the work and will remit payment within thirty days from the date of receipt of invoice.

c. No payment shall be made for any work performed by the Contractor, except for work identified and set forth in this Contract. The Contractor shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the County. Unless otherwise provided for in this Contract, the Contractor will not be paid for any invoices presented for payment prior to the execution of the Contract or after its termination.

d. In the event the Contractor fails to perform any obligation under this Contract and such failure has not been cured within ten days following notice from the County, then the County may, in its sole discretion, upon written notice to the Contractor, withhold any and all monies due and payable to the Contractor, without penalty, until such failure to perform is cured or otherwise adjudicated.

## 6. **AMENDMENTS AND CHANGES IN WORK**

a. In the event of any errors or omissions by the Contractor in the performance of any work required under this Contract, the Contractor shall make any and all necessary corrections without additional compensation. All work submitted by the Contractor shall be certified by the

Contractor and checked for errors and omissions. The Contractor shall be responsible for the accuracy of the work, even if the work is accepted by the County.

b. No amendment, modification or renewal shall be made to this Contract unless set forth in a written Contract Amendment, signed by an authorized representative of each party.

## **7. HOLD HARMLESS AND INDEMNIFICATION**

a. To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County, its officers, officials, employees, agents and volunteers, harmless from and against any and all "Claims" by any and all persons or entities which are (1) caused in whole or in part by any act or omission, negligent or otherwise, of the Contractor, its employees, former employees, agents, representatives, volunteers, partners, shareholders, subcontractors in any tier or anyone for whose acts any of them may be liable, or (2) directly or indirectly arise out of, result from, or are connected with the performance or the failure to perform under this Contract. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the Claims are caused by the sole negligence of the County. "Claims" shall include, but not be limited to, claims, demands, actions, suits, liabilities, losses, damages, judgments, and expenses, including without limitation court and appeal costs, alternative dispute resolution costs, attorneys' fees, and expert witnesses fees and costs, of any nature whatsoever, and assertions that information supplied or used by the Contractor or subcontractors in any tier violates or infringes any patent, proprietary information, copyright, trademark, trade name, service mark or otherwise results in an unfair trade practice.

b. The hold harmless and indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or subcontractor in any tier under the Washington State Industrial Insurance Act, Title 51 RCW, or by application of any other workers' compensation act, disability benefit act, or other employee benefit act, it being clearly agreed and understood by the parties hereto that the Contractor expressly waives any immunity the Contractor might have had under such acts. **By executing the Contract, the Contractor acknowledges that the foregoing waiver has been mutually negotiated by the parties.** The Contractor shall similarly require that each subcontractor it retains in connection with this Contract comply with the terms of this subsection, waive any immunity granted under Title 51 RCW, and assume all liability for actions brought by employees of the subcontractor.

c. The Contractor's hold harmless and indemnification obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all Claims.

d. In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors in any tier shall indemnify the County on a basis equal to or exceeding the Contractor's indemnity obligations to the County.

## **8. THIRD PARTY CLAIMS HANDLING**

a. A party seeking indemnification for a Claim ("Indemnified Party") shall promptly notify the other party from whom indemnification is sought ("Indemnifying Party") in writing of any Claim asserted against it. The notice shall include a copy of the Claim, and any summons, process, pleading or notice issued in any lawsuit or Claim.

b. The Indemnifying Party reserves the right to control the investigation, trial and defense of the Claim and any lawsuit, action (including all negotiations to effect settlement), and appeal arising from it and employ or engage attorneys of its own choice.

c. The Indemnified Party may, at its sole cost, participate in the investigation, trial and defense of the lawsuit or action and any appeal without waiving the Indemnifying Party's obligations under this Contract.

d. The parties, their officers, employees, agents, and representatives shall fully cooperate in the defense of the Claim or lawsuit, and shall provide one another all available information concerning the Claim.

## 9. **INSURANCE**

### 1. Contractor shall provide evidence of:

- a. **Commercial General Liability Insurance** using Insurance Services Office "Commercial General Liability" policy form CG 00 01, with an edition date prior to 2004, or the exact equivalent. Coverage for an additional insured shall not be limited to its vicarious liability. The insurance policy must cover defense costs without affecting limits available for third party liability payments as required herein. Limits shall be no less than \$ 1,000,000 (\$1M min) per occurrence for all covered losses. Coverage must include employer's liability limits of no less than \$1,000,000 per accident for all covered losses.
  - i. Contractor agrees to endorse third party liability coverage required herein to include the County, its officials, employees and agents, as additional insureds using ISO endorsement CG 20 10 with an edition date prior to 2004.
  - ii. The policy shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- b. **Workers' Compensation.** Contractor shall maintain coverage as required by Title 51 RCW, and shall provide evidence of coverage or exemption to the Thurston County Risk Management Division upon request. Contractor domiciled out of state shall maintain coverage under applicable workers' compensation law and provide proof of coverage on a state-approved form.
- c. **Excess or Umbrella Liability Insurance** (Over Primary), if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Such policy or policies shall include as insureds those covered by the underlying policies, including additional insureds. Coverage shall be "pay on behalf", with defense costs payable in addition to policy limits. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to County for injury to employees of Contractor, subcontractors or others involved in the performance of services under this Contract. The scope of coverage provided is subject to approval by the County following receipt of proof of insurance as required herein.

- d. **Professional Legal Liability** on a policy form appropriate to Contractor's profession. Limits shall be no less than \$ 1,000,000 (\$1M min) per claim. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract.
- e. Liability insurance with equivalent coverage as required in subsections (a) and (c) through (e) obtained by a Contractor who is a government entity through a government risk pool approved by the state of Washington is a substitute form of coverage acceptable to the County.

## 2. Other Insurance Requirements:

- a. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees, agents or volunteers.
- b. **The Contractor shall include all subcontractors as insureds under its policy or shall furnish separate certificates and endorsements for each subcontractor.** All coverage for subcontractors shall be subject to all of the requirements stated herein.
- c. The Contractor shall maintain all required policies in force from the time services commence until services are completed. Where Professional Legal Liability coverage is written on a claims made form, the Contractor must provide evidence of the purchase of an extended reporting period or "tail" coverage for a three-year period after project completion, or otherwise maintain the coverage for the three-year period. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced.
- d. Contractor agrees to waive rights of recovery against County regardless of the applicability of any insurance proceeds, and to require all indemnifying parties to do likewise.
- e. All insurance coverage maintained or procured by Contractor or required of others by Contractor pursuant to this Contract shall be endorsed to delete the subrogation condition as to County, or must specifically allow the named insured to waive subrogation prior to a loss.
- f. All coverage types and limits required are subject to approval, modification and additional requirements by the County. Contractor shall not make any reductions in the scope or limits of coverage that may affect County's protection without County's prior written consent. The County reserves the right at any time during the term of the Contract to change the amounts and types of insurance required by giving the Contractor ninety days advance written notice of such change. If such change results

in substantial additional cost to the Contractor, the County and the Contractor may renegotiate Contractor's compensation.

- g. Written notice of cancellation or change shall reference the project name and contract number and shall be mailed to the County at the following address:  
Attn: Risk Analyst  
Human Resources  
2000 Lakeridge Drive S.W.  
Olympia, Washington 98502
- h. The parties acknowledge that all insurance coverage required to be provided by Contractor or indemnifying party shall apply first and on a primary non-contributing basis in relation to any other insurance or self-insurance available to County.
- i. Contractor agrees not to self-insure or to use any self-insured retentions on any portion of the insurance required herein without the express agreement of the County and further agrees that it will not allow any indemnifying party to self-insure its obligations to County. If Contractor's existing coverage includes a self-insured retention, the self-insured retention must be declared to the County. The County may review options with the Contractor, which may include reduction or elimination of the self-insured retention, substitution of other coverage, or other solutions.
- j. The limits of insurance above shall be minimum requirements. The insurance limits are not intended to be an indication of exposure nor are they limitations on indemnification. Should the Contractor or a subcontractor in any tier maintain insurance with limits of liability that exceed the required limits or coverage that is broader than as outlined above, those higher limits and broader coverage shall be deemed to apply for the benefit of any person or organization included as an additional insured, and those limits shall become the required minimum limits of insurance of this Contract.

### **3. Verification of Coverage and Acceptability of Insurers:**

- a. The Contractor shall place insurance with insurers licensed to do business in the state of Washington and having A.M. Best Company ratings of no less than A-, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the state of Washington.
- b. Proof of compliance with these insurance requirements, consisting of endorsements and certificates of insurance, shall be delivered to County prior to the execution of this Contract. If such proof of insurance is not delivered as required, or if such insurance is canceled at any time and no replacement coverage is provided, the County may, in its sole discretion, obtain any insurance it deems necessary to protect its interests. Any premium so paid by County shall be charged to and promptly paid by Contractor or deducted from sums due Contractor.

- c. Contractor shall maintain the required coverage during the entire term of this Contract. Coverage for activities under the Contract shall not be affected if the Contract is canceled or terminated for any reason.
- d. The Contractor or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Thurston County Risk Management Division.
- e. The Contractor must provide proof of a Faithful Performance bond in the amount of \$2,000 per year.

#### 10. **TERMINATION**

a. The County may terminate this Contract for convenience in whole or in part whenever the County, in its sole discretion, determines that such termination is in the best interests of the County. The County may terminate this Contract upon giving ten calendar days written notice by Certified Mail to the Contractor. In that event, the County shall pay the Contractor for all costs incurred by the Contractor in performing the Contract up to the termination date specified in the notice. Payment shall be made in accordance with Section 5 of this Contract.

b. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract and prior to normal completion, the County may elect to suspend or terminate this Contract, in whole or in part, as a termination for convenience with a ten calendar day notice to Contractor, to the extent possible, subject to renegotiation at the County's discretion under those new funding limitations and conditions. Termination or suspension under this paragraph shall be effective upon the date specified in the written notice of termination or suspension sent by the County to the Contractor. After the effective date, no charges incurred under this Contract are allowable.

Notwithstanding any provision to the contrary, funding under this Contract beyond the current appropriation year is conditional upon the appropriation by the Board of County Commissioners of sufficient funds to support the work described in this Contract. Should such an appropriation not be approved, this Contract shall terminate at the close of the current appropriation year, and the County shall not be obligated for the Contractor's performance hereunder or by any provision of this Contract after the date of termination.

c. If the Contractor breaches any of its obligations hereunder, and fails to cure the breach within ten calendar days of written notice to do so by the County, the County may terminate this Contract, in which case the County shall pay the Contractor only for the costs of services accepted by the County, in accordance with Section 5 of this Contract. Upon such termination, the County, at its discretion, may obtain performance of the work elsewhere, and the Contractor shall bear all costs and expenses incurred by the County in completing the work and all damage sustained by the County by reason of the Contractor's breach. If, subsequent to termination, it is determined for any reason that (1) the Contractor was not in default, or (2) the Contractor's failure to perform was not its fault or its subcontractor's fault or negligence, the termination shall be deemed to be a termination for convenience.

**11. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING**

a. The Contractor shall perform the terms of this Contract using only its bona fide employees or agents who have the qualifications to perform under this Contract. The obligations and duties of the Contractor under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the County. Any work or services assigned or subcontracted for hereunder shall be subject to each provision of this Contract.

b. The Contractor warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for the Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

**12. NON-WAIVER OF RIGHTS**

The parties agree that the excuse or forgiveness of performance or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time.

**13. INDEPENDENT CONTRACTOR**

a. The Contractor's services shall be furnished by the Contractor as an Independent Contractor and not as an agent, employee or servant of the County. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Contract.

b. The Contractor acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and the Contractor is not entitled to any County benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to Thurston County employees.

c. The Contractor shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent or representative of the Contractor shall be or deem to be or act or purport to act as an employee, agent or representative of the County.

d. The Contractor shall assume full responsibility for the payment of all payroll taxes, use, sales, income or other form of taxes, fees, licenses, excises, or payments required by any city, county, federal or state legislation which is now or may during the term of this Contract be enacted as to all persons employed by the Contractor and as to all duties, activities and requirements by the Contractor in performance of this Contract.

e. The Contractor agrees to immediately remove any of its employees, representatives or agents from assignment to perform services under this Contract upon receipt of a written request to do so from the County's Contract representative or designee.

14. **COMPLIANCE WITH LAWS**

The Contractor shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract, as now existing or hereafter adopted or amended.

15. **INSPECTION OF BOOKS AND RECORDS AND RETENTION**

The County or its authorized representatives may, at reasonable times, inspect and audit the books and records of the Contractor relating to the performance of this Contract. This includes work of Contractor, any subcontractor or any other person or entity that performed connected or related work under this Contract. Such inspection and audit shall occur in Thurston County, Washington, or other reasonable locations that the County selects. The Contractor shall supply or permit the County to copy such books and records. The Contractor shall ensure that inspection, audit and copying rights of the County is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform work under this Contract. The Contractor shall keep all books and records required by this Contract for six years after termination or expiration of this Contract. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six-year retention period.

16. **NONDISCRIMINATION**

The Contractor, its assignees, delegates or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color, creed, ethnicity, religion, national origin, age, sex, marital status, veteran or military status, sexual orientation or the presence of any disability. Implementation of this provision shall be consistent with RCW 49.60.400.

17. **DISPUTES**

Differences between the Contractor and the County, arising under and by virtue of this Contract, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor shall be decided by the County's Contract representative or designee. All rulings, orders, instructions and decisions of the County's Contract representative shall be final and conclusive, subject to the Contractor's right to seek judicial relief pursuant to Section 18.

18. **CHOICE OF LAW, JURISDICTION AND VENUE**

a. This Contract has been and shall be construed as having been made and delivered within the state of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the state of Washington, both as to its interpretation and performance.

b. Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Thurston County, Washington.

19. **CONFIDENTIALITY**

The Contractor, its employees, agents, and subcontractors and their employees, shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Contract in accordance with applicable law.

20. **SEVERABILITY**

a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

b. If any provision of this Contract is in direct conflict with any statutory provision of the state of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

c. Should the County determine that the severed portions substantially alter this Contract so that the original intent and purpose of this Contract no longer exists, the County may, in its sole discretion, terminate this Contract.

21. **ENTIRE CONTRACT**

The parties agree that this Contract is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

22. **NOTICES**

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in Section 4. Notice shall be deemed to be given three days following the date of mailing or immediately if personally served.

23. **SURVIVABILITY**

The terms and conditions contained in this Contract which, by their sense and context, are intended to survive the completion, expiration or termination of this Contract shall survive. Surviving terms include, but are not limited to: Hold Harmless and Indemnification, Third Party Claims Handling, Termination, Inspection of Books and Records and Retention, Ownership of Materials/Work Produced, Disputes, Choice of Law, Jurisdiction and Venue, Confidentiality, and Severability.

**The parties hereto acknowledge that the waiver of immunity set out in subsection 7.b. was mutually negotiated and specifically agreed to by the parties herein.**

This Contract is executed by the persons signing below who warrant that they have the authority to execute this Contract.

CONTRACTOR:

THURSTON COUNTY

Firm: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Authorized Representative)

Thurston County Superior Court

Date \_\_\_\_\_

Date \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

## EXHIBIT A

### SCOPE OF SERVICES

The services to be performed by the Contractor under this Contract, which are described in Section 2 of the Contract (Services Provided by the Contractor), are set forth as follows:

Contractor will provide professional court reporter services in compliance with the terms of the Request for Qualifications for Court Reporting Services in Thurston County Superior Court (RFQ), which is incorporated into this Contract by this reference. The standards and qualifications set forth in the RFQ shall be maintained during the term of this Contract.

**Requirements of RCW 2.32.270.** Before commencing services and throughout the term of this Contract, Contractor shall maintain compliance with RCW 2.32.270, including taking and abiding by the oath prescribed for the official court reporter and maintaining a bond.

**Equipment and Supplies.** Contractor shall provide equipment, supplies and materials to perform the services, including computer aided transcription equipment with Case Catalyst software that provides real time capability for use on the bench by the judicial officer, and all supplies and materials necessary for court reporting services. The contractor shall provide an electronic copy of the court reporter notes of all reported cases for court administration to store electronically. The Contractor will be responsible for preparing and providing transcripts requested by the Superior Court or any party and the Contractor shall arrange for payment of the transcript with the requesting party.

**Work Site.** The services performed during hearings and court proceedings will be at either the main Thurston County Courthouse, 2000 Lakeridge Drive SW, Bldg 2, Olympia, WA, or Family and Juvenile Court 2801 32nd Ave SW, Tumwater, WA. Each courtroom location is equipped with a chair. We will work with county IT prior to assignment to see how to best implement your "realtime" equipment. All other services to be performed by the Contractor, including preparing transcripts, will be performed at the Contractor's worksite.