

CONTRACT FOR INDIGENT REPRESENTATION

THIS CONTRACT entered into on the 22nd day of September, 2000; and pursuant to the provisions of SDCL 23A-40 et. seq., and any and all other applicable provisions of law; by and between Pennington County, a political subdivision of the State of South Dakota (hereinafter "County"), and Black Hills Legal Services, Inc., a private, non-profit corporation organized under the laws of the State of South Dakota for the purpose of providing high-quality legal services to the poor (hereinafter "Attorney");

WITNESSETH:

WHEREAS, County is required to provide legal counsel on an ongoing basis to certain persons who are determined to be indigent and who appear in Magistrate and Circuit Court for Pennington County; and

WHEREAS, Attorney has duly licensed attorneys on staff with experience in handling criminal and juvenile matters;

NOW, THEREFORE, County and Attorney mutually agree to bind themselves to the terms and conditions of this contract and to perform the rights, duties, and obligations contained herein, under the terms and conditions herein set forth:

1. TERM:

This contract shall commence on the 1st day of November, 2000, and continue until the 31st day of December, 2001, unless terminated prior thereto in accordance with the terms and conditions hereinafter set forth.

2. DUTIES:

Attorney shall represent indigent persons in accordance with SDCL 23A-40-6 who are appointed an attorney by the Unified Judicial Court System, including appointments by Magistrates, Circuit Judges, or Justices of the South Dakota Supreme Court, where the Pennington County Public Defender's Office has a conflict of interest or is otherwise unable to represent the particular person involved and such representation would otherwise be undertaken by Court-appointed private counsel.

All appointments shall be taken regardless of the case type or the potential punishment. In those cases with unusually difficult issues, Attorney may accept legal assistance from any

additional counsel appointed by the Court. In such case, Attorney shall not be responsible for the cost of providing such additional services.

Attorney shall, when appointed by a Court of competent jurisdiction in and for Pennington County, provide services to all persons in Habeas Corpus proceedings venued in Pennington County, South Dakota, provided that Petitioner is requesting relief from an action that arose out of a criminal matter originally venued in Pennington County.

Attorney shall, when appointed by a Court of competent jurisdiction in and for Pennington County, provide services on appeals of criminal convictions if the convictions were based upon actions within the jurisdiction of Pennington County, South Dakota.

Attorney shall, when appointed by a Court of competent jurisdiction in and for Pennington County, provide counsel for juveniles, parents, guardians, or custodians in actions based upon abuse and neglect petitions; Attorney will also, when appointed by a Court of competent jurisdiction in and for Pennington County, provide counsel to juveniles who are the subject of delinquency or child in need of supervision petitions, assuming they otherwise qualify.

Attorney shall, when appointed by a Court of competent jurisdiction in and for Pennington County or other legal body authorized by law to do so, represent persons alleged to be mentally ill at any hearing conducted in Pennington County, South Dakota.

3. PAYMENT:

County shall pay attorney the sum of Twelve-thousand Five Hundred Dollars (\$12,500.00) per month for each full calendar month this contract is performed by Attorney for the period specified in Paragraph 1, above. Payment shall be in County's normal course of business, but in no event shall payment be made less frequently than once per month. In the event this contract is terminated as hereinafter provided prior to the end of a respective month, County shall pay Attorney for all services rendered prior to the date of termination on a pro-rata basis. In the event Attorney is representing indigents pursuant to Court appointments made prior to the effective date of this contract, such representation will be governed by the terms of this contract after the effective date, and thereafter County

shall compensate Attorney according to the terms of this contract.

4. EXPENSES:

Attorney shall be responsible for payment of all expenses relating to the work performed under the terms of this contract including, but not limited to, mileage, telephone, utilities, rent, copies and postage, transcript expenses, subpoena expenses, witness fees, and investigative and expert witness expenses.

5. INDEPENDENT CONTRACTOR STATUS:

Attorney shall at all times during and after the expiration of this contract remain an independent contractor as that term is defined by South Dakota law. Attorney understands and agrees that at no time will Attorney or its employees or agents be deemed employees of or partners with County. Attorney will retain discretion and control over the manner in which its duties under this contract are performed and shall retain the final decision on all professional and legal issues involved in case management.

Attorney will be responsible for payment of its income taxes, FICA, withholding, and other wage-related obligations. Attorney will not be considered an employee of County for purposes of retirement, insurance programs, or other benefits.

6. LIABILITY:

Attorney shall at all times maintain professional liability insurance coverage, which includes the services covered by this contract, and furnish proof thereof to County upon request.

In addition, Attorney shall indemnify, defend, and hold County harmless for any and all cost, loss, and liability for all injury or damage caused in whole or in part by any negligent act or omission by Attorney or anyone directly or indirectly employed by or contracting with Attorney. Attorney further agrees to obtain, maintain, and pay for such general and/or contractual liability insurance coverage and endorsements as will insure the provisions of this paragraph, in an amount and upon such conditions as shall be agreed to by County.

Failure to maintain such insurance or comply with any of the terms and conditions of this paragraph shall be grounds to terminate this contract without further notice.

County hereby certifies that Attorney has provided sufficient proof of compliance with this paragraph and hereby accepts the type and amount of the same.

7. PROFESSIONAL LICENSING:

Upon the effective date of this contract and at all times this contract remains in full force and effect, Attorney's staff shall be licensed to practice law in the State of South Dakota and be members in good standing of the South Dakota State Bar Association. Failure to maintain such membership or licensing by Attorney's staff shall be cause to terminate this contract without further notice.

8. PROFESSIONAL STANDARDS:

Attorney shall provide legal services at all times in accordance with standards for competent counsel as set by the South Dakota Bar Association and the South Dakota Supreme Court. Any finding that Attorney has failed to so maintain said professional standards will be cause to terminate this contract.

9. CLIENT BILLING AND EXPENSES:

Attorney shall maintain individual bill and expense summaries for all clients represented under this contract; said summary shall include the actual expenses incurred on behalf of the respective client, the total hours of service provided to said client, and a reasonable charge of \$67.00 per hour for each hour or fraction thereof worked. Attorney shall prepare and provide County with itemized statements indicating the same at the conclusion of each case. Attorney shall advise client of the amount of each billing and the fact that said billing constitutes a lien on client's property and that client is obligated to repay County said amount, regardless of outcome.

10. CONFLICTS OF INTEREST:

Attorney shall be responsible for advising the Court of all cases where Attorney has a conflict of interest. In such cases, Attorney shall be excused from representation only by Order of the Court. If the Court as a result of the conflict appoints

another attorney, County shall assume the entire cost of said representation.

11. TERMINATION:

This contract may be terminated at any time by mutual agreement of both parties in writing. Further, either party may, at any time, terminate this contract for good cause.

In the event this contract is terminated by mutual agreement, by the expiration of this contract, by Attorney for good cause, or by County without good cause, Attorney shall continue to represent all clients to whom Attorney has already been appointed to represent and shall be paid for all services rendered thereafter at a rate of \$67.00 per hour and reimbursed for all expenses incurred thereafter.

In the event Attorney terminates without good cause, or County terminates for good cause, Attorney shall continue to provide representation to all clients to whom Attorney had been appointed to represent prior to termination; Attorney shall be responsible for completing said representation after said termination without further compensation.

12. MISCELLANEOUS:

This contract shall constitute the entire agreement between the parties; any and all oral or written agreements or representations not contained herein are not part of this contract and shall not be considered as part of either parties' intent. All conflicts shall be resolved by reference to this contract first.

This contract shall not be assigned, transferred, or sublet without written approval of County.

Attorney will advise County of the identity of any attorney who will be providing services under this contract; Attorney will immediately advise County of any changes or additions of any persons who will be providing services under this contract.

13. SEVERABILITY:

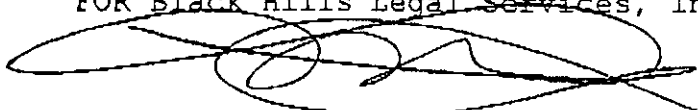
Should any part of this contract be declared to be illegal, unconstitutional, or unenforceable, the rest, residue, and remainder thereof is to remain in full force and effect, and

shall be interpreted without reference to that part or parts so declared illegal, unconstitutional, or unenforceable.

14. CERTIFICATION OF AUTHORITY:

The undersigned hereby certify that they have read the foregoing contract; that they understand the terms and conditions therein and fully agree to the same; that they have full and legal authority to bind the parties herein; and that they hereby affix their hands and official seals on the dates indicated for the express purposes of binding Black Hills Legal Services, Inc., and Pennington County, South Dakota, to the terms and conditions therein contained.

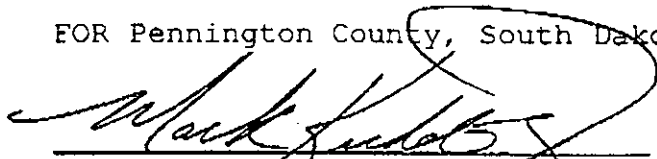
FOR Black Hills Legal Services, Inc.:



Larry Mamula, Executive Director

9/22/00
Date of Signature

FOR Pennington County, South Dakota:



Mark Kirkeby, Ch.
Pennington County Board of County
Commissioners

Date of Signature

ATTEST:

Julie Pearson
Pennington County Auditor

BY: _____
Deputy

AGREEMENT TO EXTEND AND MODIFY
CONTRACT FOR INDIGENT REPRESENTATION

THIS AGREEMENT, entered into on the 25th day of SEPTEMBER, 2001; and pursuant to the provisions of SDCL 23A-40 et. seq., and any and all other applicable provisions of law; by and between Pennington County, a political subdivision of the State of South Dakota (hereinafter "County"), and Black Hills Legal Services, Inc., a private, non-profit corporation organized under the laws of the State of South Dakota for the purpose of providing high-quality legal services to the poor (hereinafter "Attorney");

WITNESSETH:

WHEREAS, the Parties herein have previously entered into a Contract on or about the 1st day of November, 2000, regarding the provision of legal representation to indigent persons in criminal and juvenile cases (inter alia) in Pennington County; and

WHEREAS, the Parties are desirous of extending said Agreement and modifying certain terms and conditions thereof; and consideration for the same being present herein;

NOW, THEREFORE, County and Attorney mutually agree to bind themselves to the terms and conditions of this Agreement and to perform the rights, duties, and obligations contained herein, under the terms and conditions herein set forth:

1. EXTENSION OF TERM:

The Parties hereby agree that the term of the November 1, 2000 Contract, currently set to expire on the 31st day of December, 2001, be and hereby is extended until the 31st day of December, 2004.

2. PAYMENT:

Beginning with the January 2002 payment, County shall pay Attorney the sum of Fourteen-thousand Dollars (\$14,000.00) per month for each full calendar month this contract is performed by Attorney for the period of extension specified herein.

3. ASSIGNMENT OF CONTRACT:

County has been fully informed and advised in the premises of Attorney's merger with Dakota Plains Legal Services, Inc., on or about the 1st day of January, 2002; County hereby expressly consents and agrees to said Dakota Plains Legal Services' assumption of all rights and responsibilities under this Contract and assignment of all payments due thereunder to said entity.

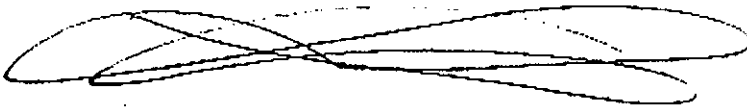
4. TERMS OF EXISTING CONTRACT:

The Parties hereby agree that all other terms and provisions of the existing November 1, 2000, Contract shall remain in full force and effect.

5. CERTIFICATION OF AUTHORITY:

The undersigned hereby certify that they have read the foregoing contract; that they understand the terms and conditions therein and fully agree to the same; that they have full and legal authority to bind the parties herein; and that they hereby affix their hands and official seals on the dates indicated for the express purposes of binding Black Hills Legal Services, Inc., and Pennington County, South Dakota, to the terms and conditions therein contained.

FOR Black Hills Legal Services, Inc.:

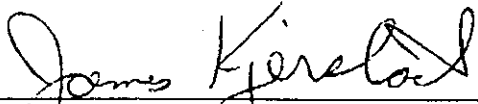


Larry Mamula, Executive Director

9-25-01

Date of Signature

FOR Pennington County, South Dakota:



James Kjerstad, Ch.
Pennington County Board of County
Commissioners

9/25/01

Date of Signature

ATTEST:

Julie Pearson
Pennington County Auditor

BY: *[Handwritten Signature]*, Deputy Auditor
Deputy